

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2021
SIXTIETH DAY

Charleston, West Virginia, Saturday, April 10, 2021

The Senate met at 11:06 a.m.

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

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

Thereafter, at the request of Senator Baldwin, and by unanimous consent, the prayer by Bishop Joe Thomas was extended in the Journal as follows:

BISHOP JOE THOMAS: Thank you, Mr. President.

We are doing something different today. We are here to offer a Senate Bill 101 (*Prayer still works*). May I explain the bill, Mr. President?

This bill, if you pass it, will bring us together. This bill, Mr. President, if we pass it, there is no amendments because Jesus paid it all.

For 10 years, I have walked the halls of this Senate and some can witness that there was good days and bad days . . . but prayer still works.

And I'm saying to every senator, male and female, if we adopt this bill, then we will find that the gun laws will come together; we'll find that the church and state can work . . . because Jesus said that prayer still works.

Mr. President, I urge the passage of this bill because prayer still works.

On May 5, I had a stroke. Sometimes I forget . . . but prayer still works.

My member got killed on Friday, her daughter is still living . . . but prayer still works.

All I'm trying to get us to see, Mr. President, throughout this year, we have been in a revival, and now the revival is ending . . . but prayer still works.

In Jesus name, it works.

Thank you, Mr. President.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William J. Ihlenfeld II, a senator from the first district.

Pending the reading of the Journal of Friday, April 9, 2021,

At the request of Senator Boley, 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 amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2021, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 34, Creating exemption to state sales and use tax for rental and leasing of equipment.

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:

On page seven, section nine, line one hundred sixty, by striking out the word "Control" and inserting in lieu thereof the following the words "For purposes of this subdivision, 'control'";

On page seven, section nine, line one hundred sixty-six, after the word "among" by striking out the remainder of the paragraph and inserting in lieu thereof the following: "corporations, partnerships, or limited liability companies when the entities are members of the same control group or are related taxpayers as defined in Section 267 of the Internal Revenue Code of 1986, as amended.";

And,

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

Eng. Com. Sub. for Senate Bill 34—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to the creation of an exemption to the State Sales and Use Tax for the rental of equipment among certain business entities.

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

Engrossed Committee Substitute for Senate Bill 34, 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, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Romano—1.

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. 34) passed with its House of Delegates amended title.

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

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, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Romano—1.

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 S. B. 34) takes effect July 1, 2021.

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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 263, Permitting online raffles to benefit charitable and public service organizations.

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:

On page four, after line seventy-seven, by inserting a new section, designated section fifteen, to read as follows:

§47-20-15. Payment of reasonable expenses from proceeds; net proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of bingo occasions, not to exceed ~~twenty-five~~ forty percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of bingo, including, but not limited to:

(1) Rent paid for the use of the premises: *Provided*, That a copy of the rental agreement was filed with the bingo license application and any changes to the rental agreement were filed within ten days of being made: *Provided, however*, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost of custodial services;

(3) The cost to the licensee organization for equipment and supplies used to conduct the bingo occasion;

(4) The cost to the licensee organization for advertising the bingo occasion;

(5) The cost of hiring security personnel, licensed pursuant to the provisions of article eighteen, chapter thirty of this code; and

(6) The cost of providing child care services to the raffle patrons: *Provided*, That any proceeds received from the provision of child care services shall be handled the same as raffle proceeds.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in section ten of this article, may be paid out of the gross proceeds of the conduct of bingo.

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the gross proceeds from the bingo occasion. The licensee shall expend all net bingo proceeds and any interest earned on the proceeds for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the bingo occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a bingo license or as provided in subsection (e) of this section for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) No gross proceeds from any bingo operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction or acquisition of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

(e) The Tax Commissioner has the authority to disapprove any contract for sale of goods or services to any charitable bingo licensee for use in or with relation to any charitable bingo operation or occasion, or any lease of real or tangible personal property to any charitable bingo licensee for use in or with relation to any charitable bingo operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Contracts or leases which are disapproved shall be considered to be in contravention of this article, and are void. Any attempt by any charitable bingo licensee to engage in transactions under the terms of any lease or contract that has been disapproved is grounds for revocation or suspension of the charitable bingo license and for refusal by the Tax Commissioner to renew the charitable bingo license.

(f) If a property owner or lessee, including his or her agent, has entered into a rental contract to hold super bingo occasions on his or her premises, the premises shall be rented, for super bingo occasions, to not more than four super bingo licensees during any period of four consecutive calendar weeks: *Provided*, That each of the charitable or public service organizations desiring to hold a super bingo occasion must possess its own super bingo license. Subject to this limitation, the premises may be used for super bingo occasions during two consecutive days during a conventional weekend. For purposes of this subsection, the term "conventional weekend" means Saturday and Sunday: *Provided, however*, That the super bingo occasions may occur at the same facility no more often than alternating weekends during a calendar month.

(g) Any licensee which, in good faith, finds itself unable to comply with the requirements of this provision shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than sixty days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file such periodic reports with the commissioner as the commissioner directs until the proceeds are expended.;

And,

On page seven, after line eighty-nine, by inserting a new section, designated section fifteen, to read as follows:

§47-21-15. Payment of reasonable expenses from proceeds; net_proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of raffle occasions, not to exceed twenty-five percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of the raffle, including, but not limited to:

(1) Rent paid for the use of the premises: *Provided*, That a copy of the rental agreement was filed with the raffle license application with any modifications to the rental agreement to be filed within ten days of being made: *Provided*, however, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost of custodial services;

(3) The cost to the licensee organization for equipment and supplies used to conduct the raffle occasion;

(4) The cost to the licensee organization for advertising the raffle occasion;

(5) The cost of hiring security personnel, licensed pursuant to the provisions of article eighteen, chapter thirty of this code; and

(6) The cost of providing child care services to the raffle patrons: *Provided*, That any proceeds received from the provision of child care services shall be handled the same as raffle proceeds.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in section eleven of this article, may be paid out of the gross proceeds of the conduct of raffle.

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the gross proceeds from the raffle occasion. The licensee shall expend all net raffle proceeds and any interest earned on the net raffle proceeds for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a raffle license or as provided in subsection (e) of this

section for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) No gross proceeds from any raffle operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, or improvement, of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

(e) The Tax Commissioner has the authority to disapprove any contract for sale of goods or services to any charitable raffle licensee for use in or with relation to any charitable raffle operation or occasion, or any lease of real or tangible personal property to any charitable raffle licensee for use in or with relation to any charitable raffle operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Disapproved contracts or leases shall be considered to be in contravention of this article, and are void. Any attempt by any charitable raffle licensee to engage in transactions under the terms of any disapproved lease or contract is grounds for revocation or suspension of the charitable raffle license and for refusal by the Tax Commissioner to renew the charitable raffle license.

(f) Any licensee which, in good faith, finds itself unable to comply with the requirements of the subsections (a) through (e) of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than sixty days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file such periodic reports with the commissioner as the commissioner directs until the proceeds are expended.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 263) were reported by the Clerk, considered simultaneously, and adopted:

On page seven, section fifteen, subsection (a), by striking out the word "twenty-five";

And,

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

Eng. Com. Sub. for Senate Bill 263—A Bill to amend and reenact §47-20-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §47-20-15 of said code; to amend and reenact §47-21-2 of said code and to amend and reenact §47-21-15 of said code, all relating to charitable bingo and charitable raffles generally; authorizing charitable and public service organizations to raise funds by conducting raffles and bingo virtually over the Internet and authorizing reasonable, necessary, and actual expenses in operating charitable bingo and lottery occasions to not exceed forty percent of gross proceeds; and defining terms.

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

Engrossed Committee Substitute for Senate Bill 263, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Azinger and Roberts—2.

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. 263) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Azinger and Roberts—2.

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 S. B. 263) takes effect from passage.

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 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 Com. Sub. for Senate Bill 318, Relating generally to public notice of unclaimed property held by State Treasurer.

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 8. UNIFORM UNCLAIMED PROPERTY ACT

§36-8-9. Notice and publication of lists of abandoned property.

(a) Publication of Bulletin. —

~~(1) The administrator shall publish a notice not a bulletin no later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the administrator of each year, listing the names of the apparent owners of up to 15,000 properties recently paid or delivered to the administrator. The notice bulletin must be published in a newspaper of general circulation in the each county of this state in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner, or the address is outside this state, the notice must be published in the county in which the holder has its principal place of business within this state or another county that the administrator reasonably selects. The advertisement bulletin must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form bulletin must contain:~~

~~(1) (A) The name of each person appearing to be the owner of the property listed, as set forth in the report filed by the holder;~~

~~(2) (B) The municipality in which the last known address or location of each person appearing to be the owner of the listed property is located, if an address or location is set forth in the report filed by the holder;~~

~~(3) (C) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator; and~~

~~(4) (D) A statement that information about the unclaimed property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the administrator.~~

~~(b)(2) The administrator is not required to advertise the name and address or location of an owner of property having include any property in the bulletin described in this subsection that has a total value of less than \$50 or information concerning any property that is a traveler's check, money order, or similar instrument.~~

(b) Exception to Bulletin Requirement. –

(1) The administrator is not required to publish the bulletin described in subsection (a) of this section in a county, if the administrator makes a determination that the bulletin is not a cost-effective method of promoting awareness of unclaimed property in that county. The determination shall be based on the cost to publish the bulletin in the county and the following criteria:

(A) The population of the county;

(B) Relevant geographic or demographic characteristics of the county;

(C) Residents' access to Internet within the county;

(D) Available data on the circulation and readership of newspapers within the county;

(E) The existence of alternative media outlets to newspapers in the county, through which the administrator may more effectively promote awareness of unclaimed property; and

(F) County-specific data collected by the administrator in previous years concerning the most effective methods of promoting awareness of unclaimed property within the county.

(2) During each year in which the administrator does not publish the bulletin described in subsection (a) of this subsection in a county, pursuant to subdivision (1) of this subsection, the administrator shall publish an advertisement in a newspaper of general circulation in the county by November 30 of that year. The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property and must contain:

(A) A statement notifying the reader that the administrator holds unclaimed property and that the reader might be entitled to claim unclaimed property in the administrator's custody;

(B) A brief description of the types of property that are commonly held by the administrator;

(C) Instructions for accessing the searchable database of unclaimed property on the administrator's website; and

(D) Instructions for requesting information regarding unclaimed property from the administrator by telephone or by mail.

(c) Online Database. — The administrator shall maintain a database on the administrator's website that is accessible by the public and electronically searchable which contains the names reported to the administrator of all apparent owners for whom property is being held by the administrator: *Provided*, That the administrator is not required to include in the database the name or location of an owner of property having a total value less than \$50 or information concerning a traveler's check, money order, or similar instrument.;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 318—A Bill to amend and reenact §36-8-9 of the Code of West Virginia, 1931, as amended, relating generally to requirements for public notice of unclaimed property held by the State Treasurer; eliminating the requirement that the Treasurer annually publish a list of all unclaimed properties received the previous year in newspapers; requiring the Treasurer to annually publish a newspaper bulletin in each county of the state listing apparent owners of up to 15,000 recently received unclaimed properties; providing that the Treasurer is not required to publish said bulletin in a county if the Treasurer makes a determination that the bulletin is not a cost-effective method of promoting awareness of unclaimed property in that county; providing criteria for making a determination of cost-effectiveness; requiring the Treasurer to annually publish an advertisement regarding unclaimed property in a newspaper in each county in which the bulletin is not published; setting forth required content for said advertisement; and requiring the Treasurer to maintain a searchable online database of persons appearing to be the owners of unclaimed property.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 318, 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 Com. Sub. for S. B. 318) passed with its House of Delegates amended title.

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

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

The Senate again 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 with its House of Delegates amended title, of

Eng. Senate Bill 359, Informing landowners when fencing that may contain livestock is damaged due to accident.

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

Eng. Com. Sub. for Senate Bill 398, Limiting eligibility of certain employers to participate in PEIA plans.

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:

By striking out everything after the section heading and inserting in lieu thereof the following:

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

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

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

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

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

Engrossed Committee Substitute for Senate Bill 398, 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, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, and Romano—7.

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. 398) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, and Romano—7.

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 S. B. 398) takes effect from passage.

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 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 334, Establishing license application process for needle exchange programs.

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

ARTICLE 63. SYRINGE SERVICES PROGRAMS.**§16-63-1. Definitions.**

As used in this article, the term:

“Administrator” means a person having the authority and responsibility for operation of the syringe services program and serves as the contact for communication with the director of the Harm Reduction Program.

“Applicant” means the entity applying for a license under this article.

“Board of Review” means the board established in §9-2-6(13) of this code.

“Director” means the Director of the Office of Health Facility Licensure and Certification.

“Fixed site” means a building or single location where syringe exchange services are provided.

“Harm reduction program” means a program that provides services intended to lessen the adverse consequences of drug use and protect public health and safety, by providing direct access to or a referral to: syringe services program; substance use disorder treatment programs; screenings; vaccinations; education about overdose prevention; wound care; opioid antagonist distribution and education; and other medical services.

“HIV” means the etiologic virus of AIDS or Human Immunodeficiency Virus.

“License” means the document issued by the office authorizing the syringe services program to operate.

“Local health department” means a health department operated by local boards of health, created, established, and maintained pursuant to §16-2-1 *et seq.* of this code.

“Location” means a site within the service area of a local health department. A location can be a fixed site or a mobile site.

“Mobile site” means a location accessible by foot or vehicle that is not at a fixed indoor setting.

“Syringe services program” means a community based program that provides access to sterile syringes, facilitates safe disposal of used syringes, and is part of a harm reduction program.

“Syringe stick injury” means a penetrating wound from a syringe that may result in exposure to blood.

“Syringe stick injury protocol” means policies and procedures to prevent syringe stick injury to syringe exchange staff, including volunteers, community members, and to syringe exchange participants.

“Service area” means the territorial jurisdiction of the syringe services program.

“Sharps waste” means used syringes and lancets.

“Staff” means a person who provides syringe services or harm reduction services on behalf of a program.

“Syringe” means both the needle and syringe used to inject fluids into the body.

§16-63-2. Application for license to offer a syringe services program.

(a) All new and existing syringe services programs shall obtain a license from the Office for Health Facility Licensure and Certification.

(b) To be eligible for a license, a syringe services program shall:

(1) Submit an application on a form approved and provided by the office director;

(2) Provide the name of the program;

(3) Provide a description of the harm reduction program it is associated with and the harm reduction services provided in accordance with §16-2-3;

(4) Provide the contact information of the individual designated by the applicant as the administrator of the harm reduction program;

(5) Provide the hours of operation, location, and staffing. The description of hours of operation must include the specific days the syringe services program is open, opening and closing times, and frequency of syringe exchange services. The description of staffing must include number of staff, titles of positions, and descriptions of their functions;

(6) Provide a specific description of the applicant’s ability to refer to or facilitate entry into substance use treatment;

(7) Provide a specific description of the applicant’s ability to encourage usage of medical care and mental health services as well as social welfare and health promotion;

(8) Pay an application fee in amount not to exceed \$500, to be determined by the director by legislative rule; and

(9) Provide a written statement from a majority of the county commission or a majority of governing body of a municipality in which it is located or is proposing to locate, that the needle exchange program.

§16-63-3. Program requirements.

(a) To be approved for a license, a syringe services program shall be part of a harm reduction program which offers or refers an individual to the following services which shall be documented in the application:

(1) HIV, hepatitis and sexually transmitted diseases screening;

(2) Vaccinations;

(3) Birth control and long-term birth control;

(4) Behavioral health services;

(E) Overdose prevention supplies and education;

(F) Syringe collection and sharps disposal;

(G) Educational services related to disease transmission;

(H) Assist or refer an individual to a substance use treatment program;

(I) Refer to a health care practitioner or treat medical conditions; and

(J) Programmatic guidelines including a sharps disposal plan, a staff training plan, a data collection and program evaluation plan, and a community relations plan.

(b) A syringe services program:

(1) Shall offer services, at every visit, by a qualified licensed health care provider;

(2) Shall exclude minors from participation in the syringe exchange, but may provide minors with harm reduction services;

(3) Shall ensure a syringe is unique to the syringe services programs;

(4) Shall distribute syringes with a goal of a 1:1 model;

(5) May substitute weighing the volume of syringes returned versus dispensed as specified. This substitution is only permissible if it can be done accurately and in the following manner:

(A) The syringes shall be contained in a see-through container; and

(B) A visual inspection of the container shall take place prior to the syringes being weighed;

(6) Shall distribute the syringe directly to the program recipient;

(7) Shall require proof of West Virginia identification upon providing the syringe;

(8) Shall train staff on:

(A) The services and eligibility requirements of the program;

(B) The services provided by the program;

(C) The applicant's policies and procedures concerning syringe exchange transactions;

(D) Disposing of infectious waste;

(E) Sharps waste disposal education that ensures familiarity with the state law regulating proper disposal of home-generated sharps waste;

(F) Procedures for obtaining or making referrals;

(G) Opioid antagonist administration;

(H) Cultural diversity and sensitivity to protected classes under state and federal law; and

(I) Completion of attendance logs for participation in mandatory training.

(9) Maintain a program for the public to report syringe litter and shall endeavor to collect all syringe litter in the community.

(c) A syringe dispensing plan including, but not limited to:

(1) Maintain records of returned syringes by participants for two years;

(2) Prevention of syringe stick injuries;

(3) Tracking the number of syringes dispensed;

(4) Tracking the number of syringes collected;

(5) Tracking the number of syringes collected as a result of community reports of syringe litter;

(6) Eliminating direct handling of sharps waste;

(7) Following a syringe stick protocol and plan;

(8) A budget for sharps waste disposal or an explanation if no cost is associated with sharps waste disposal; and

(9) A plan to coordinate with the continuum of care, including the requirements set forth in this section.

(d) If an applicant does not submit all of the documentation required in §16-63-2 of this code, the application shall be denied and returned to the applicant for completion.

(e) If an applicant fails to comply with the program requirements, the application shall be denied and returned to the applicant for completion.

(f) A license is effective for one year.

§16-63-4. Procedure for revocation or limitation of the syringe services programs.

(a) The director may revoke, suspend or limit a syringe services program's ability to offer services for the following reasons:

(1) The syringe services program provides false or misleading information to the director;

(2) An inspection indicates the syringe services programs is in violation of the law or legislative rule; or

(3) The syringe services program fails to cooperate with the director during a complaint investigation.

(b) The director shall send written notice to the syringe services program of revocation, suspension, or limitation of its operations. The written notice shall include the following:

(1) Effective date of the revocation, suspension, or limitation;

(2) The basis for the revocation, suspension or limitation;

(3) The location to which the revocation, suspension or limitation applies;

(4) The remedial measures the syringe services programs shall take, if any, to consider reinstatement of the program or removal of the limitation; and

(5) Steps to appeal of the decision.

§16-63-5. Administrative due process.

(a) A syringe services program who disagrees with an administrative decision may, within 30 days after receiving notice of the decision, appeal the decision to the department's board of review.

(b) All pertinent provisions of §29A-5-1 et seq. and §69-1-1 et seq. of this code apply to and govern any hearing authorized by this statute.

(c) The filing of a request for a hearing does not stay or supersede enforcement of the final decision of the director. The director may, upon good cause shown, stay such enforcement.

§16-63-6. Administrative appeals and judicial review.

(a) A syringe services program who disagrees with the final administrative decision may, within 30 days after the date the appellant received notice of the decision of the board of review, appeal the decision to the Circuit Court of Kanawha County or in the county where the petitioner resides or does business.

(b) The filing of the petition for appeal does not stay or supersede enforcement of the final decision or order of the director. An appellant may apply to the circuit court for a stay of or to supersede the final decision or order for good cause shown.

(c) No circuit court has jurisdiction to consider a decision of the board if the petitioner has failed to file a request for review with the board of review within the time frame set forth in this article.

§16-63-7. Reporting requirements; renewal; rulemaking.

(a) A syringe services program shall renew its license annually on the anniversary date of license approval.

(b) A syringe services program shall file an annual report with the director. The report shall include:

(1) The total number of persons served;

(2) The total numbers and types of syringes and syringe s dispensed, collected, and disposed of;

(3) The total number of syringe stick injuries to non-participants;

(4) Statistics regarding the number of individuals entering substance use treatment; and

(5) The total and types of referrals made to substance use treatment and other services.

(c) The office shall promulgate an emergency rule by July 1, 2021, which shall require compliance of the provisions of this article by December 1, 2021. The emergency rule shall effectuate the provisions of this article in accordance with evidence-based practices.

§16-63-8. Immunity.

(a) Notwithstanding any provision of this code to the contrary, an employee, volunteer, or participant of a licensed syringe services program may not be arrested, charged with or prosecuted for possession of any of the following:

(1) Sterile or used syringes, hypodermic syringes, injection supplies obtained from or returned to a program, or other safer drug use materials obtained from a program established pursuant to this article, including testing supplies for illicit substances.

(2) Residual amounts of a controlled substance contained in a used syringe, used injection supplies obtained from or returned to a program.

(b) A law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section is not liable for the arrest or filing of charges.

(c) An individual who is wrongly detained, arrested or prosecuted under this section shall have the public record associated with the detention, arrest or prosecution expunged.

(d) A health care professional, or an employee or volunteer of a licensed syringe services program is not subject to professional sanction, detention, arrest or prosecution for carrying out the provisions of this article.

§16-63-9. Civil penalties and injunctive relief.

(a) The Office of Health Facilities Licensure and Certification may assess an administrative penalty of not less than \$10 nor more than \$500 per a violation of this article.

(b)The Office of Health Facilities Licensure and Certification may seek injunctive relief to enforce the provisions of this article.

(c) Any person who operates in this state without a license or operates under a license that has been inactive, revoked, or suspended as a result of disciplinary action, or surrendered to the office, is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$10,000 or imprisoned in a correctional facility for not more than one year, or both fined and imprisoned.

§16-63-10. Coordination of care.

(a) A syringe service program shall coordinate with other health care providers in its services to render care to the individuals as set forth in the program requirements.

(b) In the event that the syringe services program is closed, the syringe services program shall notify the participant of the closure of the service, prior to closure, in a conspicuous location, and provide an individual with a transition care plan

(c) The Bureau for Medical Service shall submit a state plan amendment to permit harm reduction programs to be an eligible provider, except that the syringe exchange services shall not be eligible for reimbursement under the state plan.;

And,

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

Eng. Com. Sub. for Senate Bill 334—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-63-1, §16-63-2, §16-63-3, §16-63-4, §16-63-5, §16-63-6, §16-63-7, §16-63-8, §16-63-9, and §16-63-10, all relating to syringe services programs; defining terms; providing license application requirements and process; establishing program requirements; providing procedure for revocation or limitation of the syringe services programs; setting forth administrative due process; providing for administrative and judicial appeal; establishing reporting requirements and renewal provisions; providing for rulemaking; providing criminal immunity in certain circumstances; providing civil immunity in certain circumstances; providing for expungement; providing immunity from professional sanction, detainment, arrest, or prosecution in certain circumstances; providing for administrative penalties and allowing Office of Health Facilities Licensure and Certification to seek injunctive relief; requiring a syringe services program to coordinate with health care providers; requiring that a syringe services program that is closing to post notice and provide transition care plan for individuals; and requiring the Bureau of Medical Services to amend the state plan.

On motion of Senator Maroney, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 334) were reported by the Clerk and considered simultaneously:

On page two, section two, subsection (a), subdivision (9), after the word “statement” by inserting the words “of support”;

On page three, section three, subsection (b), after subdivision (6) by inserting a new subdivision, designated subdivision (7), to read as follows:

“(7) Proof of West Virginia identification upon dispensing of the needles;”;

And by renumbering the remaining subdivisions;

On page six, section seven, subsection (c), after “2021” by striking out the comma and remainder of the sentence;

On page seven, section ten, after subsection (c) by inserting a new subsection, designated subsection (d), to read as follows:

(d) Upon passage, any existing provider not offering the full array of harm reduction services as set forth in this section shall cease and desist offering all needle exchange services. Any provider offering the full array of harm reduction services shall have until January 1, 2022, to come into compliance with this section. Any new provider shall have until January 1, 2022, to come into compliance with the provisions of this section.;

And,

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

Eng. Com. Sub. for Senate Bill 334—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-63-1, §16-63-2, §16-63-3, §16-63-4, §16-63-5, §16-63-6, §16-63-7, §16-63-8, §16-63-9, and §16-63-10, all relating to syringe services programs; defining terms; providing license application requirements and process; establishing program requirements; providing procedure for revocation or limitation of the syringe services programs; setting forth administrative due process; providing for administrative and judicial appeal; establishing reporting requirements and renewal provisions; providing for rulemaking; providing criminal immunity in certain circumstances; providing civil immunity in certain circumstances; providing for expungement; providing immunity from professional sanction, detainment, arrest, or prosecution in certain circumstances; providing for administrative penalties and allowing Office of Health Facilities Licensure and Certification to seek injunctive relief; requiring a syringe services program to coordinate with health care providers; requiring that a syringe services program that is closing to post notice and provide transition care plan for individuals; requiring the Bureau of Medical Services to amend the state plan; and providing for effective date.

Following discussion,

The question being on the adoption of Senator Maroney's amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 334), the same was put and prevailed.

Senator Takubo moved that the Senate concur in the House of Delegates amendments, as amended.

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 334, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Beach, Caputo, Ihlenfeld, Romano, Stollings, Stover, and Unger—7.

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. 334) passed with its Senate 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 Com. Sub. for Senate Bill 464, Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 502, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect July 1, 2021, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 532, Limiting claims for state tax credits and rebates.

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, section five-ee, line ten, by striking out the word “least” and inserting in lieu thereof the word “most”.

Senator Takubo moved that the Senate concur in the House of Delegates amendment to the bill.

Following discussion,

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

Engrossed Senate Bill 532, 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. S. B. 532) passed with its title.

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

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. S. B. 532) takes effect July 1, 2021.

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 passage of

Eng. Senate Bill 537, Relating generally to kidnapping.

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 Com. Sub. for Senate Bill 542, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants.

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:

On page three, after line twenty-four, by inserting a new section, designated section twenty-two, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Two representatives of labor unions;

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

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

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

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

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

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

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

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

(d) As used in this section:

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

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

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

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

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 542—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; and to amend said code by adding thereto three new sections, designated §24-2-1q, §24-2-21 and §24-2-22, all relating to the Public Service Commission; making legislative findings; requiring that all public electric utilities maintain a contract for a 30-day aggregate fuel supply for the remainder of the life of existing coal-fired plants; requiring that public electric utilities provide advance notice of retirement, shutdown, or sale of electricity-generating units; establishing the Coal Community Comeback Advisory Committee; providing for appointment to the committee; providing for expense reimbursement to committee members; directing the committee to develop a plan and recommendations to revitalize coal communities in the state that address economic, workforce and other actions for revitalization of coal communities; providing for public hearings and other actions for the committee; providing for submission of a committee report; defining terms; and providing for expiration of committee."

Senator Takubo moved that the Senate refuse to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 542) and request the House of Delegates to recede therefrom.

Following extended discussion,

The question being on the adoption of Senator Takubo's aforesated motion, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Boley, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—21.

The nays were: Baldwin, Beach, Caputo, Clements, Hamilton, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—13.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's aforesated motion had prevailed.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Stollings regarding Senator Takubo's aforesated motion were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the consideration of

Eng. Com. Sub. for Senate Bill 334, Establishing license application process for needle exchange programs.

Passed by the Senate in earlier proceedings today,

The bill still being in the possession of the Senate,

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Beach, Caputo, Ihlenfeld, Romano, Stollings, Stover, and Unger—7.

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 S. B. 334) takes effect from passage.

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 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 636, Requiring certain history and civics courses be taught in schools.

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:

On page two, section nine, line thirteen, after the words “Thomas Jefferson” by inserting a comma and the words “and the treatment and contributions of historic minorities, including but not limited to African Americans, Native Americans and women”;

On page five, section nine, after line one hundred six, by adding a new subsection, designated subsection (g), to read as follows:

(g) Beginning with the 2021 - 2022 school year, each public high school student shall complete a one credit course of study in personal finance as a requirement for high school graduation in place of existing economics coursework requirements. This coursework must include an end-of-course examination. The State Board of Education shall develop the curriculum for this coursework before July 1, 2021.;

And,

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

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

Senator Takubo moved that the Senate refuse to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 636) and request the House of Delegates to recede therefrom.

Following discussion,

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

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, to take effect July 1, 2021, of

Eng. Com. Sub. for Senate Bill 641, Allowing counties to use severance tax proceeds for litter cleanup programs.

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 642, Requiring legal advertisements by State Auditor be posted to central website.

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 655, Eliminating sunset and legislative audit provisions for certain PSC rules.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 657, Relating to free expression on state institution of higher education campuses.

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 658, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children.

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

Eng. Senate Bill 661, Permitting retailers to assume sales or use tax assessed on tangible personal property.

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

Eng. Senate Bill 674, Clarifying that unpaid restitution does not preclude person from obtaining driver's license.

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 677, Relating generally to miners' safety, health, and training standards.

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

Com. Sub. for Senate Concurrent Resolution 3, Urging Congress reopen public lands in WV.

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

Senate Concurrent Resolution 55, Supporting Atlantic Coast Pipeline.

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

Eng. Com. Sub. for House Bill 2770, Including home confinement officers in definition of law-enforcement officers.

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

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

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

CHAPTER 15A DEPARTMENT OF HOMELAND SECURITY.

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant:

(1) Arrest or order confinement of any parolee or probationer under his or her supervision; and

(2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) (1) Notwithstanding any other provision of this Code, the Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(2) Additionally, any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §92B if the following criteria are met:

(A) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes; including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) For those state parole officers wishing to avail themselves of the provisions of this subdivision, there shall be in place in the Division of Corrections and Rehabilitation a requirement that those state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers who meet the provisions of this subdivision, as law-enforcement employees of the Division of Corrections and Rehabilitation pursuant to the provisions of §30-29-12 of this code.

(3) Any state parole officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(4) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that state parole officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(5) The privileges authorized by the amendments in this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law enforcement official under this chapter.~~

(b) (1) Any juvenile probation officers may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing juvenile probation officers to carry a concealed firearm for self-defense purposes, including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place a requirement that the juvenile probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Supreme Court of Appeals issues a photographic identification and certification card which identify the juvenile probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(2) Any juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those juvenile probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that juvenile probation officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

~~(b)~~ (c) The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under this article. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

(e) (d) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: Provided, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or §49-4-719 ~~chapter 49~~ of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission or a sheriff pursuant to §61-11B-7a of this code, in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, in performance of his or her duties;

~~(C)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (I) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided*, That:

(i) When he or she is occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 et seq. of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT

§62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.

(a) The county commission may employ one or more persons with the approval of the circuit court and who ~~shall be~~ is subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. Any ~~person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) (1) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes; including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(2) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that home incarceration supervisors, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants ~~so appointed~~.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary

and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may to hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) (1) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes, including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place a requirement that the probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Supreme Court of Appeals issues a photographic identification and certification card which identify the probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(2) Any probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that state probation officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.;

And,

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

Eng. Com. Sub. for House Bill 2770—A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code, and to amend and reenact §62-12-5 of said code, all relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers are qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to federal law; requiring annual firearm training pursuant to federal law; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing findings delineating the rationale by which home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers are to be considered as law enforcement officers; and setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 2770) were reported by the Clerk, considered simultaneously, 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 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant: (1) Arrest or order confinement of any parolee or probationer under his or her supervision; and (2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(d) In recognition of their duties in their employment which constitute law enforcement, state parole officers are determined to be qualified law enforcement officers as that term is used in 18 U.S.C §926B.

(e) Any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes;

(2) There shall be in place in the Division of Corrections and Rehabilitation a requirement that state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers as law-enforcement employees of the home incarceration program as that term is contemplated by 18 U.S.C §926B.

(4) Any policy instituted pursuant to this subsection includes provisions which: (A) Preclude or remove a person from participation in the concealed firearm program; (B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any state parole officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law enforcement official under this chapter.~~

(b) In recognition of their duties in their employment which constitute law enforcement, state juvenile probation officers are determined to be qualified law enforcement officers as that term is used in 18 U.S.C 926B.

(c) Any state juvenile probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing a state juvenile probation officer to carry a concealed firearm for self-defense purposes;

(2) There shall be in place in the Supreme Court of Appeals a requirement that state juvenile probation officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state juvenile probation officers as law-enforcement employees as that term is contemplated by 18 U.S.C §926B.

(4) Any policy instituted pursuant to this subsection includes provisions which: (A) preclude or remove a person from participation in the concealed firearm program; (B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any state juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state juvenile probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(d) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

~~(b)~~ (e) The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under this article. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

~~(e)~~ (f) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: Provided, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or §49-4-719 of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state juvenile probation officer appointed pursuant to §15A-7-5 of this code, while in performance of his or he official duties;

~~(G)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (I) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: Provided, That:

(i) When he or she is occupying the vehicle the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 et seq. of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-

11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT.

§62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.

(a) The county commission may employ one or more persons with the approval of the circuit court and who ~~shall be~~ is subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. Any ~~person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) In recognition of the duties in their employment which constitute law enforcement, home confinement supervisors are determined to be qualified law enforcement officers as that term is used in 18 U.S.C. §926B.

(c) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes.

(2) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(3) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program of §30-29-12 of this code.

(4) Any policy instituted pursuant to subsection (b) of this section shall include provisions which: (A) preclude or remove a person from participation in the concealed firearm program; (B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

(7) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said~~the order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical ~~assistants~~so appointed.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be

approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may to hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) In recognition of their duties in their employment which constitute law enforcement, state probation officers are determined to be qualified law enforcement officers as that term is used in 18 U.S.C. §926B. (i) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes.

(2) There is in place a requirement that the state probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to this subsection shall include provisions which: (A) Preclude or remove a person from participation in the concealed firearm program; (B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any state juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B consistent with subsection (i) of this section.

(d) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

§62-12-6. Powers and duties of probation officers.

(a) Each probation officer shall:

(1) Investigate all cases which the court refers to the officer for investigation and shall report in writing on each case;

(2) Conduct a standardized risk and needs assessment, using the instrument adopted by the Supreme Court of Appeals of West Virginia, for any probationer for whom an assessment has not been conducted either prior to placement on probation or by a specialized assessment officer. The results of all standardized risk and needs assessments are confidential;

(3) Supervise the probationer and enforce probation according to assessment and supervision standards adopted by the Supreme Court of Appeals of West Virginia;

(4) Furnish to each person released on probation under the officer's supervision a written statement of the probationer's conditions of probation together with a copy of the rules prescribed by the Supreme Court of Appeals of West Virginia;

(5) Stay informed concerning the conduct and condition of each probationer under the officer's supervision and report on the conduct and condition of each probationer in writing as often as the court requires;

(6) Use all practicable and suitable methods to aid and encourage the probationer to improve his or her conduct and condition;

(7) Perform random drug and alcohol testing on probationers under his or her supervision as directed by the circuit court;

(8) Maintain detailed work records; and

(9) Perform any other duties the court requires.

(b) The probation officer may, with or without an order or warrant, arrest any probationer as provided in section ten of this article, and arrest any person on supervised release when there is reasonable cause to believe that the person on supervised release has violated a condition of release. A person on supervised release who is arrested shall be brought before the court for a prompt and summary hearing.

(c) Notwithstanding any provision of this code to the contrary:

(1) Any probation officer appointed on or after July 1, 2002, may carry handguns in the course of the officer's official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency and Correction. The qualifications shall include the successful completion of handgun training, which is comparable to the handgun training provided to law-enforcement officers by the West Virginia State Police and includes a minimum of four hours' training in handgun safety.

(2) Probation officers may only carry handguns in the course of their official duties after meeting the specialized qualifications set forth in subdivision (1) of this subsection.

~~(3) Nothing in this subsection includes probation officers within the meaning of law-enforcement officers as defined in section one, article twenty nine, chapter thirty of this code.~~

(d) The Supreme Court of Appeals of West Virginia may adopt a standardized risk and needs assessment with risk cut-off scores for use by probation officers, taking into consideration the assessment instrument adopted by the Division of Corrections under subsection (h), section thirteen of this article and the responsibility of the Division of Justice and Community Services to evaluate the use of the standardized risk and needs assessment. The results of any standardized risk and needs assessment are confidential.;

And,

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

Eng. Com. Sub. for House Bill 2770—A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code; to amend and reenact §62-12-5, of said code and to amend and reenact §62-12-6 of said code, all relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state adult probation officers, juvenile probation officers, and state parole officers are qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to applicable federal law; requiring annual firearm training pursuant to federal law; removing inconsistent language relating to probation officers; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing for training to enable home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers to fully qualify as law enforcement officers if they have not previously done so; and setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers.

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

Engrossed Committee Substitute for House Bill 2770, 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 H. B. 2770) passed with its Senate 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 Senate amendment, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

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

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

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

Eng. House Bill 3288—A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation and adding a new item of appropriation to Executive, Governor's Office, fund 0101, fiscal year 2021, organization 0100, by decreasing existing items of appropriation from the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511 and from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2021, organization 0506 and increasing an existing item of appropriation to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511, by supplementing and amending appropriations for the fiscal year ending June 30, 2021.

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

Engrossed House Bill 3288, 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. H. B. 3288) passed with its House of Delegates amended 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.

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 with its Senate amended title, to take effect from passage, of

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

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 with its Senate amended title, of

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

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Engrossed Committee Substitute for House Bill 3072**.

Senator Takubo also announced that in the same meeting, the Committee on Rules, in accordance with Rule 17 of the Rules of the Senate, had reordered the Senate calendar as shown on the Senate Chamber Automation System.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 76, Requesting study on mental health parity in WV.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, 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 and request concurrence therein.

Senate Concurrent Resolution 77, Requesting study on fiscal impact of elimination or reduction of current tangible property tax.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Stollings, 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 and request concurrence therein.

Senate Resolution 47, Recognizing AARP WV and Capitol Advocacy Team volunteers.

On unfinished business, coming up in regular order, was reported by the Clerk.

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

Senate Resolution 48, Recognizing 60th anniversary of WVU at Parkersburg.

On unfinished business, coming up in regular order, was reported by the Clerk.

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

On motion of Senator Takubo, at 12:46 p.m., the Senate recessed until 1 p.m. today.

The Senate reconvened at 1:05 p.m. and, at the request of Senator Takubo, and by unanimous consent, returned to the fourth order of business.

Senator Boley, from the Committee on Confirmations, submitted the following report, which was received:

Your Committee on Confirmations has had under consideration

Senate Executive Message 2, dated April 7, 2021, requesting confirmation by the Senate of the nominations mentioned therein. The following list of names from Executive Message 2 is submitted:

1. For Member, Motor Vehicle Dealers Advisory Board, Dennis Sheets, Bluefield, Mercer County, for the term ending June 30, 2022.

2. For Member, Motor Vehicle Dealers Advisory Board, Margaret Wills, Fairmont, Marion County, for the term ending June 30, 2022.

3. For Member, Motor Vehicle Dealers Advisory Board, Wally Thornhill, Pecks Mill, Logan County, for the term ending June 30, 2021.

4. For Member, Board of Pharmacy, Jenna Misiti, Huntington, Cabell County, for the term ending June 30, 2023.

5. For Member, West Virginia Northern Community and Technical College Board of Governors, Ron Scott, Jr., Wheeling, Ohio County, for the term ending June 30, 2022.

6. For Member, Election Commission, Matthew G. Chapman, Wheeling, Ohio County, for the term ending June 4, 2026.

7. For Member, Surface Mine Board, Richard Flanigan, Kenova, Wayne County, for the term ending June 30, 2021.

8. For Member, West Virginia Municipal Pensions Oversight Board, Sarah H. Long, Charleston, Kanawha County, for the term ending January 1, 2024.

9. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Frederick B. Morgan, Bluefield, Virginia, for the term ending June 30, 2024.

10. For Member, Board of Accountancy, Horace W. Emery, Charleston, Kanawha County, for the term ending June 20, 2023.

11. For Member, Board of Accountancy, Theodore A. Lopez, Bridgeport, Taylor County, for the term ending June 30, 2023.

12. For Member, Board of the College Prepaid Tuition and Savings Program, Terri Underhill-Rader, Charleston, Kanawha County, for the term ending June 30, 2025.

13. For Member, West Virginia Board of Chiropractic, Barry A. Stowers, Fayetteville, Fayette County, for the term ending June 30, 2023.

14. For Member, West Virginia Board of Architects, Todd Boggess, Princeton, Mercer County, for the term ending June 30, 2025.

15. For Member, Natural Resources Commission, Byron K. Chambers, Romney, Hampshire County, for the term ending June 30, 2027.

16. For Member, Board of Pharmacy, Dennis Lewis, Chapmanville, Logan County, for the term ending June 30, 2025.

17. For Member, Marshall University Board of Governors, Angela R. Moore, Charleston, Kanawha County, for the term ending June 30, 2024.

18. For Member, Marshall University Board of Governors, Samuel R. Moore, Huntington, Cabell County, for the term ending June 30, 2024.

19. For Member, Marshall University Board of Governors, Donald R. Holcomb, Daniels, Raleigh County, for the term ending June 30, 2024.

20. For Member, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, Tyson C. Judy, Scott Depot, Putnam County, for the term ending June 30, 2023.

21. For Member, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, Roxanne E. Clay, Alum Creek, Lincoln County, for the term ending June 30, 2023.

22. For Chief Administrative Law Judge, Office of Tax Appeals, A.M. Pollack, Elkview, Kanawha County, for the term ending June 30, 2024.

23. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Todd A. Smith, Princeton, Mercer County, for the term ending June 30, 2024.

24. For Member, Real Estate Commission, Margaret Shockey Bartles, Martinsburg, Berkeley County, for the term ending June 30, 2024.

25. For Member, Marshall University Board of Governors, Kathy D'Antoni, Barboursville, Cabell County, for the term ending June 30, 2024.

26. For Member, Board of Directors of the West Virginia United Health System, James Ferguson, Summersville, Nicholas County, for the term ending October 15, 2022.

27. For Member, Statewide Independent Living Council, Brenda Lamkin, Buckhannon, Upshur County, for the term ending June 30, 2023.

28. For Member, Statewide Independent Living Council, Cara T. Price, Philippi, Barbour County, for the term ending June 30, 2023.

29. For Member, Statewide Independent Living Council, Beverley Jones, Hurricane, Putnam County, for the term ending June 30, 2023.

30. For Member, Statewide Independent Living Council, Emily Robinson, Grantsville, Calhoun County, for the term ending June 30, 2023.

31. For Member, Statewide Independent Living Council, Robert Roswall, Charleston, Kanawha County, for the term ending June 30, 2023.

32. For Member, Statewide Independent Living Council, Michelle Wilshere, Charleston, Kanawha County, for the term ending June 30, 2021.

33. For Member, Statewide Independent Living Council, Ray B. Woods, Jr., St. Albans, Kanawha County, for the term ending June 30, 2021.

34. For Member, Statewide Independent Living Council, Carissa Davis, St. Albans, Kanawha County, for the term ending June 30, 2021.

35. For Member, Statewide Independent Living Council, Sandra Haberbosch, Shinnston, Harrison County, for the term ending June 30, 2023.

36. For Member, Statewide Independent Living Council, Darla R. Ervin, Morgantown, Monongalia County, for the term ending June 30, 2021.

37. For Member, Statewide Independent Living Council, Tara Martinez, Charleston, Kanawha County, for the term ending June 30, 2023.

38. For Member, Statewide Independent Living Council, Genette Eltringham, Weirton, Brooke County, for the term ending June 30, 2023.

39. For Member, Statewide Independent Living Council, Ameer Shah, Vienna, Wood County, for the term ending June 30, 2023.

40. For Member, Statewide Independent Living Council, Lynsay Frye, Paden City, Wetzel County, for the term ending June 30, 2023.

41. For Member, Statewide Independent Living Council, Nichole Roberts, Hinton, Summers County, for the term ending June 30, 2023.

42. For Member, Racing Commission, JB Akers, Charleston, Kanawha County, for the term ending April 1, 2024.

43. For Director/State Forester, West Virginia Division of Forestry, C. Tom Cover, Jr., Lewisburg, Greenbrier County, to serve at the will and pleasure of the Governor.

44. For Member, Board of Examiners of Psychologists, Susannah Poe, Fairmont, Marion County, for the term ending June 30, 2023.

45. For Member, Board of Examiners of Psychologists, Charley W. Bowen, Jr., Culloden, Putnam County, for the term ending June 30, 2023.

46. For Member, Board of Optometry, David W. Harshberger, New Martinsville, Wetzel County, for the term ending June 30, 2023.

47. For Member, West Virginia University Board of Governors, James T. Jones, Morgantown, Monongalia County, for the term ending June 30, 2024.

48. For Member, West Virginia University Board of Governors, Taunja Willis-Miller, Morgantown, Monongalia County, for the term ending June 30, 2024.

49. For Member, West Virginia University Board of Governors, Patrice A. Harris, Atlanta, Georgia, for the term ending June 30, 2024.

50. For Member, West Virginia Board of Medicine, Christopher Tipton, Kistler, Logan County, for the term ending September 30, 2022.

51. For Member, Fairmont State University Board of Governors, Deborah M. Prezioso, Fairmont, Marion County, for the term ending June 30, 2024.

52. For Member, Fairmont State University Board of Governors, Wendy G. Adkins, Morgantown, Monongalia County, for the term ending June 30, 2024.

53. For Member, West Liberty University Board of Governors, Jack C. Adams, McMurray, Pennsylvania, for the term ending June 30, 2024.

54. For Member, West Liberty University Board of Governors, Jamie Evick, Benwood, Marshall County, for the term ending June 30, 2024.

55. For Member, West Liberty University Board of Governors, Michael J. Baker, Wheeling, Ohio County, for the term ending June 30, 2023.

56. For Member, New River Community and Technical College Board of Governors, Roger F. Topping, Princeton, Mercer County, for the term ending June 30, 2022.

57. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Richard Casto, Madison, Boone County, for the term ending June 30, 2026.

58. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Steven B. Solomon, Morgantown, Monongalia County, for the term ending June 30, 2026.

59. For Member, Board of Dentistry, William A. Klenk, Fayetteville, Fayette County, for the term ending June 30, 2025.

60. For Member, Fairmont State University Board of Governors, Jason C. Pizatella, Charleston, Kanawha County, for the term ending June 30, 2024.

61. For Member, West Liberty University Board of Governors, Richard H. Carter, Wheeling, Ohio County, for the term ending June 30, 2024.

62. For Member, West Virginia Board of Medicine, Ashish P. Sheth, Charleston, Kanawha County, for the term ending September 30, 2024.

63. For Executive Director, West Virginia Parkways Authority, Jeffrey A. Miller, Beckley, Raleigh County, to serve at the will and pleasure of the Governor.

64. For Member, West Virginia Municipal Pensions Oversight Board, Michael Payne, Weirton, Hancock County, for the term ending January 1, 2025.

65. For Member, West Virginia Municipal Pensions Oversight Board, Jason M. Matthews, Parkersburg, Wood County, for the term ending January 1, 2023.

66. For Member, West Virginia Municipal Pensions Oversight Board, David W. Lanham, Charleston, Kanawha County, for the term ending January 1, 2025.

67. For Member, West Virginia Archives and History Commission, Darla Spencer, Charleston, Kanawha County, for the term ending June 30, 2023.

68. For Member, West Virginia Archives and History Commission, Tracy L. Burch, Culloden, Cabell County, for the term ending June 30, 2023.

69. For Member, West Virginia Archives and History Commission, David Trowbridge, Huntington, Cabell County, for the term ending June 30, 2023.

70. For Member, West Virginia Archives and History Commission, Nathan J. Randolph, Huntington, Cabell County, for the term ending June 30, 2021.

71. For Member, West Virginia Archives and History Commission, Audy M. Perry, Huntington, Cabell County, for the term ending June 30, 2022.

72. For Member, West Virginia Board of Professional Surveyors, Douglas C. McElwee, Charleston, Kanawha County, for the term ending June 30, 2024.

73. For Member, West Virginia Board of Hearing Aid Dealers, Marsha Mattingly, Huntington, Cabell County, for the term ending June 30, 2021.

74. For Member, West Virginia Board of Hearing Aid Dealers, Jason Kaposy, Petersburg, Grant County, for the term ending June 30, 2024.

75. For Member, West Virginia Board of Hearing Aid Dealers, Jenny Cross, Elkins, Randolph County, for the term ending June 30, 2021.

76. For Member, West Virginia Board of Hearing Aid Dealers, Nancy B. Mullins Gillispie, Sumerco, Lincoln County, for the term ending June 30, 2021.

77. For Member, Fire Commission, William D. Camp, Parkersburg, Wood County, for the term ending June 30, 2024.

78. For Member, Fire Commission, Grant K. Gunnoe, Winfield, Putnam County, for the term ending June 30, 2024.

79. For Member, Fire Commission James L. Oldaker, Alum Creek, Lincoln County, for the term ending June 30, 2025.

80. For Member, West Virginia Archives and History Commission, Robert S. Conte, Union, Monroe County, for the term ending June 30, 2023.

81. For Member West Virginia Archives and History Commission, Dan Gatts, Moundsville, Marshall County, for the term ending June 30, 2023.

82. For Member, Aeronautics Commission, Gerald R. Sites, Petersburg, Grant County, for the term ending June 30, 2024.

83. For Member, Aeronautics Commission, James W. Wallace, Beverly, Randolph County, for the term ending June 30, 2024.

84. For Member, Aeronautics Commission, Tracy K. Miller, Bridgeport, Harrison County, for the term ending June 30, 2023.

85. For Member, West Virginia Emergency Medical Services Advisory Council, David J. Weller, Falling Waters, Berkeley County, for the term ending June 30, 2023.

86. For Member, West Virginia Emergency Medical Services Advisory Council, Patricia Watson, Hamlin, Lincoln County, for the term ending June 30, 2023.

87. For Member, West Virginia Emergency Medical Services Advisory Council, Brian Doughty, Charleston, Kanawha County, for the term ending June 30, 2023.

88. For Member, West Virginia Emergency Medical Services Advisory Council, Brian W. Potter, Buckhannon, Upshur County, for the term ending June 30, 2023.

89. For Member, West Virginia Board of Hearing Aid Dealers, Deborah Chewning Barnes, Elkins, Randolph County, for the term ending June 30, 2023.

90. For Member, Commission on the Arts, Barbara A. Polgar, Follansbee, Brooke County, for the term ending June 30, 2021.

91. For Member, Commission on the Arts, Charles H. Friddle III, Elkins, Randolph County, for the term ending June 30, 2023.

92. For Member, Jobs Investment Trust Board, William B. Goode, Hurricane, Putnam County, for the term ending June 30, 2024.

93. For Member, Jobs Investment Trust Board, Timothy S. Millne, Huntington, Cabell County, for the term ending June 30, 2024.

94. For Member, Public Employees Insurance Agency Finance Board, William G. Milam, Charleston, Kanawha County, for the term ending June 30, 2024.

95. For Member, Public Employees Insurance Agency Finance Board, Jason Myers, Parsons, Tucker County, for the term ending June 30, 2023.

96. For Member, Public Employees Insurance Agency Finance Board, Jared Robertson, Grassy Meadows, Greenbrier County, for the term ending June 30, 2022.

97. For Member, Public Employees Insurance Agency Finance Board, Melody Duke, Winfield, Putnam County, for the term ending June 30, 2022.

98. For Member, New River Community and Technical College Board of Governors, Jim S. Ferguson, Bluefield, Mercer County, for the term ending June 30, 2021.

99. For Member, New River Community and Technical College Board of Governors, Thomas F. Lemke, Daniels, Raleigh County, for the term ending June 30, 2024.

100. For Member, New River Community and Technical College Board of Governors, Thomas R. Cochran, Daniels, Raleigh County, for the term ending June 30, 2023.

101. For Member, New River Community and Technical College Board of Governors, The Honorable Linda Sumner, Beckley, Raleigh County, for the term ending June 30, 2024.

102. For Member, New River Community and Technical College Board of Governors, Yvonne D. Seay, Beckley, Raleigh County, for the term ending June 30, 2021.

103. For Member, Public Employees Insurance Agency Finance Board, Michael T. Smith, Milton, Cabell County, for the term ending June 30, 2023.

104. For Member, Water Development Board, John M. Miller III, Gerrardstown, Berkley County, for the term ending June 30, 2026.

105. For Member, New River Community and Technical College Board of Governors, John Barnes, Lewisburg, Greenbrier County, for the term ending June 30, 2023.

106. For Member, Board of Directors of the West Virginia United Health System, Bernard P. Twigg, Glen Dale, Marshall County, for the term ending October 15, 2026.

107. For Member, Election Commission, Benjamin M. Sullivan, Charleston, Kanawha County, for the term ending June 4, 2023.

108. For Member, Board of Risk and Insurance Management, Joseph M. Price, Charleston, Kanawha County, for the term ending June 30, 2024.

109. For Member, West Virginia Contractor Licensing Board, Amy Fairman, Fairmont, Marion County, for the term ending June 30, 2024.

110. For Member, Industrial Council, Anna M. Dailey, Charleston, Kanawha County, for the term ending June 30, 2024.

111. For Member, Industrial Council, Bengy K. Swanson, Core, Monongalia County, for the term ending June 30, 2024.

112. For Member, Industrial Council, Patrick M. Smith, South Charleston, Kanawha County, for the term ending June 30, 2023.

113. For Member, Municipal Home Rule Board, Dan Vriendt, St. Albans, Kanawha County, to serve at the will and pleasure of the Governor.

114. For Member, West Virginia Board of Education, Arthur S. Maynard, Huntington, Cabell County, for the term ending November 4, 2029.

115. For Member, Fire Commission, Steven L. Byers, Jr., Weston, Lewis County, for the term ending June 30, 2023.

116. For Member, West Virginia Real Estate Appraiser Licensing and Certification Board, Joseph A. Chico III, Morgantown, Monongalia County, for the term ending June 30, 2023.

117. For Member, Glenville State College Board of Governors, Frederick W. Parsons, Ripley, Jackson County, for the term ending June 30, 2024.

118. For Member and Chair, Flatwater Trail Commission, William R. Currey, St. Albans, Kanawha County, for the term ending December 31, 2024.

119. For Member, Flatwater Trail Commission, Amanda J. Pitzer, Thornton, Preston County, for the term ending December 31, 2022.

120. For Member, Flatwater Trail Commission, George Levitsky, Fairmont, Marion County, for the term ending December 31, 2021.

121. For Member, Flatwater Trail Commission, John S. Wilson, Jr., Bridgeport, Harrison County, for the term ending December 31, 2023.

122. For Member, Flatwater Trail Commission, John Burchett, Williamson, Mingo County, for the term ending December 31, 2021.

123. For Member, Board of Control for Southern Regional Education, Sarah Armstrong Tucker, Charleston, Kanawha County, for the term ending June 30, 2024.

124. For Member, West Virginia Regional Jail and Correctional Facility Authority Board, Charles N. Zerkle, Jr., Huntington, Cabell County, for the term ending June 30, 2023.

125. For Member, West Virginia Regional Jail and Correctional Facility Authority Board, David Blair Couch, Vienna, Wood County, for the term ending June 30, 2024.

126. For Member, Glenville State College Board of Governors, Douglas S. Morris, Naples, Florida, for the term ending June 30, 2024.

127. For Member, West Virginia Parole Board, Jack G. Roop, Beckley, Raleigh County, for the term ending June 30, 2022.

128. For Adjutant General, Brigadier General William E. Crane, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.

129. For Member, Workforce Development Board, Diane W. Strong-Treister, Charleston, Kanawha County, for the term ending June 30, 2021.

130. For Member, Workforce Development Board, Stephanie Ahart, Morgantown, Monongalia County, for the term ending June 30, 2021.

131. For Member, Workforce Development Board, John Moses, Wheeling, Ohio County, for the term ending June 30, 2022.

132. For Member, Workforce Development Board, Stephanie J. Smith, Charleston, Kanawha County, for the term ending June 30, 2022.

133. For Member, Workforce Development Board, Ray G. Burke, Nitro, Kanawha County, for the term ending June 30, 2022.

134. For Member, Workforce Development Board, Myisha Robinson, South Charleston, Kanawha County, for the term ending June 30, 2023.

135. For Member, Workforce Development Board, Michael Bombard, Fairmont, Marion County, for the term ending June 30, 2023.

136. For Member, Workforce Development Board, Steve Cox, Bidwell, Ohio, for the term ending June 30, 2023.

137. For Member, Workforce Development Board, Randall C. Rapp, Vienna, Wood County, for the term ending June 30, 2023.

138. For Member, Workforce Development Board, Michelle Foster, Charleston, Kanawha County, for the term ending June 30, 2023.

139. For Member, Workforce Development Board, Michael Sirockman, Winfield, Putnam County, for the term ending June 30, 2023.

140. For Member, Workforce Development Board, Brian L. Ulery, South Charleston, Kanawha County, for the term ending June 30, 2023.

141. For Member, Workforce Development Board, Marijane K. Waldron, Huntington, Cabell County, for the term ending June 30, 2023.

142. For Member, Workforce Development Board, Bryan Johnson, Kenova, Wayne County, for the term ending June 30, 2023.

143. For Member, Workforce Development Board, Bill J. Crouch, Charleston, Kanawha County, for the term ending June 30, 2023.

144. For Member, Workforce Development Board, Roy E. Hamilton, Hurricane, Putnam County, for the term ending June 30, 2022.

145. For Member, Workforce Development Board, Matthew J. Watts, Charleston, Kanawha County, for the term ending June 30, 2021.

146. For Member, Workforce Development Board, Natalie Oliverio, Clarksburg, Harrison County, for the term ending June 30, 2021.

147. For Member, Workforce Development Board, Marie Beaver, Charleston, Kanawha County, for the term ending June 30, 2021.

148. For Member, Workforce Development Board, Scott A. Adkins, Charleston, Kanawha County, for the term ending June 30, 2023.

149. For Member, Workforce Development Board, R. Andrew Skidmore, Winfield, Putnam County, for the term ending June 30, 2021.

150. For Member, Workforce Development Board, Heather Vanater, Charleston, Kanawha County, for the term ending June 30, 2021.

151. For Member, Workforce Development Board, Jeff Rowe, South Point, Ohio, for the term ending June 30, 2022.

152. For Member, Workforce Development Board, Brian Stanley, Parkersburg, Wood County, for the term ending June 30, 2023.

153. For Member, Workforce Development Board, Lee Ann Belmont, Charleston, Kanawha County, for the term ending June 30, 2022.

154. For Member, Workforce Development Board, Traci L. Nelson, Charleston, Kanawha County, for the term ending June 30, 2023.

155. For Member, Workforce Development Board, Sarah Boley, Friendly, Tyler County, for the term ending June 30, 2022.

156. For Member, Workforce Development Board, Clinton C. Burch, Winfield, Putnam County, for the term ending June 30, 2023.

157. For Member, Workers' Compensation Board of Review, Bradley A. Crouser, Charleston, Kanawha County, for the term ending December 31, 2026.

158. For Member, Southern West Virginia Community and Technical College Board of Governors, J. Chris Adkins, Danville, Boone County, for the term ending June 30, 2023.

159. For Member, Southern West Virginia Community and Technical College Board of Governors, Eddie J. Canterbury, Logan, Logan County, for the term ending June 30, 2024.

160. For Member, Southern West Virginia Community and Technical College Board of Governors, Samuel A. Stewart, Matheny, Wyoming County, for the term ending June 30, 2024.

161. For Member, Southern West Virginia Community and Technical College Board of Governors, Robert Baldwin, Chapmanville, Logan County, for the term ending June 30, 2024.

162. For Member, Southern West Virginia Community and Technical College Board of Governors, David H. Gresham, Chapmanville, Logan County, for the term ending June 30, 2021.

163. For Member, Housing Development Fund, Robert L. Nistendirk, Charleston, Kanawha County, for the term ending October 30, 2024.

164. For Member, Housing Development Fund, Sam G. Kapourales, Williamson, Mingo County, for the term ending October 30, 2023.

165. For Member, Housing Development Fund, John Gianola, Charleston, Kanawha County, for the term ending October 30, 2024.

166. For Member, Housing Development Fund, Kristina D. Raynes, Eleanor, Putnam County, for the term ending October 30, 2022.

167. For Chief Administrative Law Judge, Workers' Compensation Office of Judges within the Office of the Insurance Commissioner, Ted A. White, Wheeling, Ohio County, for the term ending December 31, 2023.

168. For Member, West Virginia Regional Jail and Correctional Facility Authority Board, David L. Hinkle, Bridgeport, Taylor County, for the term ending June 30, 2024.

169. For Member, Industrial Council, The Honorable Jeff Mullins, Daniels, Raleigh County, for the term ending June 30, 2021.

170. For Member, West Virginia Parole Board, Harold L. Hughes, Alum Creek, Kanawha County, for the term ending June 30, 2025.

171. For Member, West Virginia Hospital Finance Authority, Derek T. Snyder, Parkersburg, Wood County, for the term ending January 9, 2024.

172. For Member, West Virginia Board of Medicine, David A. Mullins, Princeton, Mercer County, for the term ending September 30, 2025.

173. For Member, West Virginia Board of Medicine, Mustafa Rahim, Beckley, Raleigh County, for the term ending September 30, 2024.

174. For Member, West Virginia Board of Medicine, Kiran R. Patel, Charleston, Kanawha County, for the term ending September 30, 2025.

175. For Member, West Virginia Board of Chiropractic, Karl Boone, Buckhannon, Upshur County, for the term ending June 30, 2022.

176. For Member, Board of Veterinary Medicine, Shawn D. Sette, Hurricane, Putnam County, for the term ending June 30, 2023.

177. For Member, Board of Veterinary Medicine, Jesse A. Fallon, Morgantown, Monongalia County, for the term ending June 30, 2022.

178. For Member, Board of Registration for Foresters, Dan Hackett, Buckhannon, Upshur County, for the term ending June 30, 2024.

179. For Member, Board of Registration for Foresters, Todd A Lotter, Buckhannon, Upshur County, for the term ending June 30, 2025.

180. For Member, Board of Registration for Foresters, Denzil Linton, Canvas, Nicholas County, for the term ending June 30, 2023.

181. For Member, Real Estate Commission, Joseph T. Bevil, Nimitz, Summers County, for the term ending June 30, 2023.

182. For Member, Oil and Gas Conservation Commission, Randall M. Albert, Bluefield, Mercer County, for the term ending July 27, 2026.

183. For Member, West Virginia State University Board of Governors, Charles E. Jones, Jr., Charleston, Kanawha County, for the term ending June 30, 2024.

184. For Member, West Virginia State University Board of Governors, E. Gail Pitchford, Charleston, Kanawha County, for the term ending June 30, 2023.

185. For Member, West Virginia State University Board of Governors, Ian C. Flores, Cross Lanes, Kanawha County, for the term ending June 30, 2024.

186. For Member, West Virginia State University Board of Governors, Lester Raines, Charleston, Kanawha County, for the term ending June 30, 2023.

187. For Director, Geological and Economic Survey, Jessica Pierson Moore, Morgantown, Monongalia County, to serve at the will and pleasure of the Governor.

188. For Member, West Virginia Investment Management Board of Trustees, David H. Gardner, Sr., Charleston, Kanawha County, for the term ending January 31, 2027.

189. For Secretary, West Virginia Department of Environmental Protection, Harold D. Ward, Lake, Logan County, to serve at the will and pleasure of the Governor.

190. For Member, Bluefield State College Board of Governors, Cathy Deeb, Bluefield, Mercer County, for the term ending June 30, 2024.

191. For Member, West Virginia Board of Osteopathic Medicine, Sharon Horton Rowe, Lewisburg, Greenbrier County, for the term ending June 30, 2025.

192. For Member, West Virginia Board of Osteopathic Medicine, Jimmy W. Adams, Barboursville, Cabell County, for the term ending June 30, 2025.

193. For Member, West Virginia Board of Osteopathic Medicine, Terry V. Cox, Hurricane, Putnam County, for the term ending June 30, 2022.

194. For Member, West Virginia Board of Treasury Investments, Mark A. Mangano, Chester, Hancock County, for the term ending June 30, 2023.

195. For Member, Housing Development Fund, Christopher A. Stansbury, Charleston, Kanawha County, for the term ending October 30, 2024.

196. For Director, Division of Emergency Management, GE McCabe, Jr., Milton, Cabell County, to serve at the will and pleasure of the Governor.

197. For Member, Board of Directors of the West Virginia United Health System, Randy Williams, Morgantown, Monongalia County, for the term ending October 15, 2022.

198. For Member, Board of Directors of the West Virginia United Health System, Michelle Rotellini, Daniels, Raleigh County, for the term ending October 15, 2026.

199. For Member, State Conservation Committee, Eli McCoy, Charleston, Kanawha County, for the term ending September 6, 2021.

200. For Member, State Conservation Committee, Angela Rosser, Prociuous, Clay County, for the term ending September 6, 2023.

201. For Member, State Conservation Committee, Britney Hervey Farris, Wellsburg, Brooke County, for the term ending September 6, 2022.

202. For Member, Board of Funeral Service Examiners, Eric B. Nichols, Charleston, Kanawha County, for the term ending June 30, 2024.

203. For Member, West Virginia Investment Management Board of Trustees, The Honorable Mike Hall, Winfield, Putnam County, for the term ending January 31, 2024.

204. For Member, West Virginia Board of Social Work Examiners, Charles S. Inghram, Athens, Mercer County, for the term ending June 30, 2025.

205. For Member, West Virginia Board of Social Work Examiners, Natalie Buskirk Murphy, Huntington, Cabell County, for the term ending June 30, 2025.

206. For Member, West Virginia Board of Social Work Examiners, Joanne Mahood Boileau, Ghent, Raleigh County, for the term ending June 30, 2025.

207. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Gloria Hollen, Inwood, Berkeley County, for the term ending June 30, 2023.

208. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Roy B. Forman, Williamstown, Wood County, for the term ending June 30, 2023.

209. For Member, West Virginia Commission for the Deaf and Hard of Hearing, John W. Burdette, Ronceverte, Greenbrier County, for the term ending June 30, 2023.

210. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Paul See, Moorefield, Hardy County, for the term ending June 30, 2023.

211. For Member, Catastrophic Illness Commission, Victoria Shuman, Caldwell, Greenbrier County, for the term ending August 31, 2022.

212. For Member, Catastrophic Illness Commission, Sandra L. Cotton, Morgantown, Monongalia County, for the term ending August 31, 2023.

213. For Member, Catastrophic Illness Commission, John R. Davidson, Jr., Charleston, Kanawha County, for the term ending August 31, 2024.

214. For Member, Catastrophic Illness Commission, Jacques R. Williams, Morgantown, Monongalia County, for the term ending August 31, 2022.

215. For Member, Board of the College Prepaid Tuition and Savings Program Board of Trustees, Patrick M. Smith, South Charleston, Kanawha County, for the term ending June 30, 2021.

216. For Member, West Virginia Board of Social Work Examiners, Robert D. Musick, Morgantown, Monongalia County, for the term ending June 30, 2025.

217. For Member, Board of Barbers and Cosmetologists, Catherine Donahoe, Barboursville, Cabell County, for the term ending June 30, 2025.

218. For Member, Board of Optometry, Sheena H. Hunt, Elkins, Randolph County, for the term ending June 30, 2023.

219. For Member, West Virginia Massage Therapy Licensure Board, Laurie Lively, Lewisburg, Greenbrier County, for the term ending June 30, 2021.

220. For Member, West Virginia Massage Therapy Licensure Board, John D. Skelton, Shady Spring, Raleigh County, for the term ending June 30, 2022.

221. For Member, West Virginia Massage Therapy Licensure Board, Marsha D. Starr, Charleston, Kanawha County, for the term ending June 30, 2022.

222. For Member, West Virginia Massage Therapy Licensure Board, Tina M. Turner, Huntington, Cabell County, for the term ending June 30, 2021.

223. For Member, National Coal Heritage Area Authority, William R. Archer, Bluefield, Mercer County, for the term ending June 30, 2024.

224. For Member, National Coal Heritage Area Authority, James C. Gaal, Hinton, Summers County, for the term ending June 30, 2023.

225. For Member, National Coal Heritage Area Authority, Debrina J. Williams, Logan, Logan County, for the term ending June 30, 2022.

226. For Member, National Coal Heritage Area Authority, Kris Mitchell, Spurlockville, Boone County, for the term ending June 30, 2024.

227. For Member, National Coal Heritage Area Authority, Sharon Cruikshank, Fayetteville, Fayette County, for the term ending June 30, 2022.

228. For Member, National Coal Heritage Area Authority, Christy L. Laxton, Pineville, Wyoming County, for the term ending June 30, 2024.

229. For Member, West Virginia Public Employees Grievance Board, Alesia Green, Hurricane, Putnam County, for the term ending June 30, 2022.

230. For Member, West Virginia Public Employees Grievance Board, Maria V. Eshenaur, Point Pleasant, Mason County, for the term ending June 30, 2021.

231. For Member, Consolidated Public Retirement Board, Donald Murray, Chester, Hancock County, for the term ending June 30, 2023.

232. For Member, Consolidated Public Retirement Board, David Nelson, Julian, Boone County, for the term ending June 30, 2025.

233. For Member, Consolidated Public Retirement Board, Reginald Patterson, Hurricane; Putnam County, for the term ending June 30, 2025.

234. For Member, West Virginia University - Parkersburg Board of Governors, Donna M. Smith, Vienna, Wood County, for the term ending June 30, 2024.

235. For Member, West Virginia University - Parkersburg Board of Governors, Jason Landers, Vienna, Wood County, for the term ending June 30, 2024.

236. For Member, West Virginia University - Parkersburg Board of Governors, John P. Hushion, Vienna, Wood County, for the term ending June 30, 2024.

237. For Member, West Virginia University - Parkersburg Board of Governors, Joseph R. Oliverio, Belmont, Pleasants County, for the term ending June 30, 2024.

238. For Member, West Virginia University - Parkersburg Board of Governors, Arni L. Shaver, Vienna, Wood County, for the term ending June 30, 2022.

239. For Member, West Virginia Massage Therapy Licensure Board, Roland W. Meffert, Hurricane, Putnam County, for the term ending June 30, 2021.

240. For Member, National Coal Heritage Area Authority, Frederick A. Barkey, Charleston, Kanawha County, for the term ending June 30, 2023.

241. For Member, West Virginia Contractor Licensing Board, Mary N. Cleland, Charleston, Kanawha County, for the term ending June 30, 2024.

242. For Member, Consolidated Public Retirement Board, Mike P. McKown, Charleston, Kanawha County, for the term ending June 30, 2025.

243. For Member, Consolidated Public Retirement Board, Rhonda Bolyard, Morgantown, Monongalia County, for the term ending June 30, 2023.

244. For Member, Bridge Valley Community and Technical College Board of Governors, Mark C. Blankenship, Charleston, Kanawha County, for the term ending June 30, 2024.

245. For Member, Bridge Valley Community and Technical College Board of Governors, Megan Callaghan Bailey, Charleston, Kanawha County, for the term ending June 30, 2024.

246. For Member, Bridge Valley Community and Technical College Board of Governors, Barry Holstein, Charleston, Kanawha County, for the term ending June 30, 2024.

247. For Member, Bridge Valley Community and Technical College Board of Governors, Larry Pack, Jr., East Bank, Kanawha County, for the term ending June 30, 2024.

248. For Member, Bridge Valley Community and Technical College Board of Governors, Ashley N. Deem, South Charleston, Kanawha County, for the term ending June 30, 2024.

249. For Member, School Building Authority, The Honorable Kenneth W. Mann, Greenville, Monroe County, for the term ending July 31, 2022.

250. For Member, Auctioneers Board of Review, Shelby L. Crouse, St. Albans, Kanawha County, for the term ending January 1, 2022.

251. For Member, Auctioneers Board of Review, James W. Frio, Valley Grove, Ohio County, for the term ending January 1, 2023.

252. For Member, Auctioneers Board of Review, Oscar E. Click, Leon, Mason County, for the term ending January 1, 2024.

253. For Member, National Coal Heritage Area Authority, James H. Lackey, Huntington, Wayne County, for the term ending June 30, 2023.

254. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Kim Nuckles, Charleston, Kanawha County, for the term ending January 31, 2023.

255. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Douglas Auten, Morgantown, Monongalia County, for the term ending January 31, 2023.

256. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Susannah Carpenter, Charleston, Kanawha County, for the term ending January 1, 2023.

257. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, John F. Hyre, Kingwood, Preston County, for the term ending January 1, 2023.

And reports the same back with the recommendation that the Senate do advise and consent to all nominations listed above.

Respectfully submitted,

Donna J. Boley,
Chair.

The time having arrived for the special order of business to consider the list of nominees for public office submitted by His Excellency, the Governor, the special order thereon was called by the President.

Thereupon, Senator Blair (Mr. President) laid before the Senate the following executive message:

Senate Executive Message 2, dated April 7, 2021 (*shown in the Senate Journal of that day, pages 76 to 93, inclusive*).

Senator Boley then moved that the Senate advise and consent to all of the executive nominations referred to in the foregoing report from the Committee on Confirmations.

The question being on the adoption of Senator Boley's aforesaid motion,

The roll was then taken; and

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, 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: Maynard—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Boley's motion had prevailed and that all the executive nominations referred to in the foregoing report from the Committee on Confirmations had been confirmed.

Consideration of executive nominations having been concluded,

The Senate proceeded to the eighth order of business.

Eng. House Bill 2895, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance.

On third reading, coming up out of 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. 2895) 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. 2895) takes effect from passage.

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

Eng. House Bill 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund.

On third reading, coming up out of 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. 2900) 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. 2900) takes effect from passage.

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

Eng. House Bill 3313, Making supplemental appropriation to the Division of Motor Vehicles.

On third reading, coming up out of 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. 3313) 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. 3313) takes effect from passage.

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

Eng. House Bill 3314, Making supplemental appropriation to West Virginia State Police.

On third reading, coming up out of 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. 3314) 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. 3314) takes effect from passage.

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

Eng. House Bill 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund.

On third reading, coming up out of 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. 3315) 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. 3315) takes effect from passage.

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

Eng. House Bill 3316, Supplemental appropriation to the Department of Education, State Board of Education.

On third reading, coming up out of 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. 3316) 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. 3316) 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 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.

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

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

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

On page seventy-six, section eight-d, after the words “close proximity, for private outdoor street dining” by inserting the words “or private outdoor dining”.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2025), as amended on yesterday, Friday, April 9, 2021, and as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Martin, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Azinger, Grady, Karnes, Maynard, Roberts, Smith, and Sypolt—7.

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. 2025) 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 2025—A Bill to amend and reenact §7-1-3ss of the Code of West Virginia, 1931, as amended, to amend and reenact §11-16-3, §11-16-9, and §11-16-18 of said code; to amend said code by adding thereto four new sections, designated §11-16-6d, §11-16-6e, §11-16-6f and §11-16-11c; to amend said code by adding thereto two new sections, designated §19-2-12 and §19-2-13; to amend and reenact §60-1-5a of said code; to amend said code by adding thereto a new section, designated §60-3A-3b; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend said code by adding thereto a new section, designated §60-4-3c; to amend and reenact §60-6-8 of said code; to amend and reenact §60-7-2, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto five new sections, designated §60-7-8b, §60-7-8c, §60-7-8d, §60-7-8e, and §60-7-8f; to amend and reenact §60-8-2, §60-8-3, §60-8-4, §60-8-18, §60-8-20, §60-8-29 and §60-8-34 of said code; to amend said code by adding thereto five new sections, designated §60-8-6c, §60-8-6d, §60-8-6e, §60-8-6f and §60-8-32a; to amend said code by adding thereto a new article, designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, and §60-8A-6; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, nonintoxicating craft beer, liquor, wine, and hard cider sales in this state; providing for changing the beginning time for nonintoxicating beer, nonintoxicating craft beer, liquor, and wine sales to begin at 6:00 a.m. on all days for on and off premises licensees; authorizing Class A and Class B retailers and third parties to obtain a license to deliver nonintoxicating beer and nonintoxicating craft beer; allowing the sale, ordering, and delivery of nonintoxicating beer and nonintoxicating craft beer by a telephone, mobile ordering application or web-based software program; setting forth sale, delivery and telephone, mobile ordering application or web-based software program requirements; providing for enforcement; exempting certain licensees from an additional licensing fee, and establishing a license fee for third parties, and requiring a nonintoxicating beer retail transportation permit for delivery vehicles; establishing a nonintoxicating beer and nonintoxicating craft beer direct shippers license to allow shipping in state and out of state; providing license requirements, shipping requirements, limitations, and fees; requiring the payment of fees and taxes, the maintenance of records and the preparation of reports; providing for penalties, criminal penalties, and jurisdiction; authorizing Class A and Class B licensees to sell and deliver sealed nonintoxicating beer and nonintoxicating craft beer for consumption off the premises if certain conditions are met; providing certain licensees with the authority to sell, serve, and furnish nonintoxicating beer and nonintoxicating craft beer in approved outdoor dining areas, and outdoor street dining areas if certain requirements are met; defining terms; authorizing in-person or in-vehicle pick up of purchased food or meals and nonintoxicating beer or nonintoxicating craft beer orders-to-go; creating an unlicensed brewer or home brewer temporary special license for providing samples at licensed fairs and festivals, specifying

requirements, setting a license fee and requiring a nonintoxicating beer or nonintoxicating craft beer transportation permit; reducing the fee for a nonintoxicating beer or nonintoxicating craft beer floorplan extension; permitting licensees to employ persons 16 years of age in sale and service of liquor, beer, and wine when supervised by an employee who is 21 years of age or older; establishing the Agriculture Development Fund to fund the hard cider development program created to foster the development and growth of the hard cider industry in this state; creating a private liquor delivery license for retail liquor outlets and third parties with sale and delivery requirements; establishing a private liquor bottle delivery permit; authorizing retail liquor outlets to sell sealed bottles of liquor through a window in a drive-up or drive-through; creating a private manufacturer club license for distilleries, mini-distilleries, micro-distilleries, wineries, and farm wineries, setting forth requirements, and providing for a license fee; authorizing distilleries, mini-distilleries, and micro-distilleries to also operate wineries, farm wineries, brewers, and resident brewers; authorizing wineries and farm wineries to operate and be licensed as distilleries, mini-distilleries, micro-distilleries, to operate and be licensed as wineries, farm wineries, brewery, or as resident brewers; removing prohibition against a single person having more than one winery or farm winery license or both a winery and farm winery license; declaring that agricultural use designation is unchanged for building code and property tax classification upon opening any type of distillery or winery; establishing a private direct shippers license to allow distilleries, mini-distilleries and micro-distilleries to ship liquor in state and out of state; providing license requirements, shipping requirements, limitations, and fees; authorizing the ability to pre-mix alcoholic liquors, establishing certain requirements, and creating a permit; creating a private direct shipper license, setting forth requirements and providing for a license fee; creating private caterer license, a private club bar license, a private club restaurant license, a private manufacturer club license, a private farmers market license, a private multi-sport complex license, a private tennis club license, a private professional sports stadium license, a private wedding venue or barn license, a one-day charitable rare, antique, or vintage liquor auction license for charitable purposes, and a private multi-vendor fair and festival license and setting forth requirements and providing for license fees; reducing license fees for two years due to Covid -19 pandemic; creating private outdoor dining and private outdoor street dining areas as legally demarcated areas that are not a public place where a private club licensee may sell and furnish alcoholic liquors; authorizing and creating craft cocktail growlers and setting forth requirements and limitations, and exempting certain licenses from a license fee; creating a private cocktail delivery license for licensed private club restaurants, private manufacturer clubs and third parties, setting forth requirements, including specific requirements for craft cocktail growlers, specifying limitations, and requiring a private cocktail delivery permit for delivery vehicles; authorizing in-person or in-vehicle pick up of purchased food or a meal and craft cocktail growler orders-to-go; providing for wine definitions to clarify various aspects of wine, including the alcohol by volume percentage for table wine, wine, and fortified wine; removing restriction on number of one-day licenses which may be issued in a single year to a nonprofit to sell and serve wine and requiring applicant to file state regarding gross proceeds; clarifying penalties for failure to meet wine licensure requirements; replacing wine bond requirements that secure the payment of taxes by distributors, suppliers, certain wineries, and certain farm wineries, who are acting as either suppliers or distributors in a limited capacity, with an affidavit of compliance; providing penalties for failure to pay taxes and maintain good standing with the state; authorizing wineries and farm wineries to sell wine growlers and provide samples and establishing requirements and limitations; authorizing certain Class A and Class B licensees to sell sealed wine and wine growlers, and setting forth requirements and limitations; authorizing legislative rules; creating a private wine delivery license for Class A wine licensees and third parties, setting forth requirements and limitations, providing fees for certain licensees; creating a private wine retail transportation permit, setting forth requirements, and requiring no additional fee; creating private wine outdoor dining and private

wine outdoor street dining areas as legally demarcated areas that are not a public place where wine may be sold and furnished; authorizing in-person or in-vehicle pick up of purchased food or a meal and wine orders-to-go; defining the term “hard cider” ;providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor’s license and its fee and permitting other current and valid licensees to distribute hard cider without an additional license fee; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for the application of West Virginia Tax Procedures and Administration Act and West Virginia Tax Crimes and Penalties Act to the hard cider gallon tax; providing for an internal effective date; providing for a tax credit against the hard cider tax; providing for applicability of other laws; requiring the filing of regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption on the licensed premises; providing for complimentary samples to be offered; establishing requirements for complimentary samples; permitting the sale of wine growlers; setting forth wine growler requirements, and providing a license fee; and providing additional exceptions to the criminal penalty for the unlawful admission of children to dance house for certain private clubs with approved age verifications systems.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Martin, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Azinger, Grady, Karnes, Maynard, Roberts, Smith, and Sypolt—7.

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. 2025) takes effect from passage.

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 2368, Mylissa Smith’s Law, creating patient visitation privileges.

On third reading, coming up out of regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, April 9, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

CHAPTER 16. PUBLIC HEALTH.**ARTICLE 39. PATIENT SAFETY AND VISITATION ACT.****§16-39-1. Short title.**

This article may be cited as the "Patient Safety Act of 2001." The amendments made to this article during the 2021 Regular Session of the Legislature shall be known as "MyliSSa Smith's Law."

§16-39-2. Legislative findings and purpose.

[Repealed.]

§16-39-3. Definitions.

For purposes of this article, the following words and phrases have the following meanings:

(1) "Appropriate authority" means a federal, state, county, or municipal government body, agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste or any member, officer, agent, representative, or supervisory employee ~~thereto~~ thereof;

(2) "Commissioner" means the commissioner of the division of health;

(3) "Direct patient care" means health care that provides for the physical, diagnostic, emotional, or rehabilitational needs of a patient or health care that involves examination, treatment, or preparation for diagnostic tests or procedures.

(4) "Discrimination or retaliation" includes any threat, intimidation, discharge, or any adverse change in a health care worker's position, location, compensation, benefits, privileges, or terms or conditions of employment that occurs as a result of a health care worker engaging in any action protected by this article.

(5) "Good faith report" means a report of conduct defined in this article as wrongdoing or waste that is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true.

(6) "Health care entity" includes a health care facility, such as a hospital, clinic, nursing facility, or other provider of health care services.

"Health care facility" means:

(1) A hospital licensed pursuant to §16-5B-1 et seq. of this code;

(2) A nursing home licensed pursuant to §16-5C-1 et seq. of this code;

(3) An assisted living residence licensed pursuant to §16-5D-1 et seq. of this code; and

(4) Hospice licensed pursuant to §16-5I-1 et seq. of this code.

(7) "Health care worker" means a person who provides direct patient care to patients of a health care entity and who is an employee of the health care entity, a subcontractor, or independent contractor for the health care entity, or an employee of ~~such~~ the subcontractor or independent contractor. The term includes, but is not limited to, a nurse, nurse's aide, laboratory technician, physician, intern, resident, physician assistant, physical therapist, or any other ~~such~~ person who provides direct patient care.

"Patient" means a person living or receiving services as an inpatient at a healthcare facility.

"Public Health State of Emergency" means a federal or state declaration of a state of emergency arising from or relating to a public health crisis.

"Visitor" means any visitor from the patient's family, hospice or clergy visiting a patient in a healthcare facility.

(8) "Waste" means the conduct, act, or omission by a health care entity that results in substantial abuse, misuse, destruction, or loss of funds, resources, or property belonging to a patient, a health care entity, or any federal or state program.

(9) "Wrongdoing" means a violation of any law, rule, regulation, or generally recognized professional or clinical standard that relates to care, services, or conditions and which potentially endangers one or more patients or workers or the public.

§16-39-8. Visitation of a patient in a health care facility.

(a) During a declared public health state of emergency for a contagious disease, a health care facility shall permit visitation of a patient. If the patient's death is imminent, the health care facility shall allow visitation upon request at any time and frequency. In all other instances, the health care facility shall allow visitation not less than once every five days. *Provided*, That visitation permitted by any health care entity may not be inconsistent with any applicable federal law, rule, policy, or guidance in effect for the same emergency.

(b) A visitor shall comply with the applicable procedures established by the health care facility.

(c) The health care facility may deny a visitor entry to the health care facility, may subject a visitor to expulsion from the facility, or may permanently revoke visitation rights to a visitor who does not comply with the applicable procedures established by the health care facility.

(d) A healthcare facility is not liable to a person visiting another person, nor to any other patient or resident of the health care facility, for any civil damages for injury or death resulting from or related to actual or alleged exposure during, or through the performance of, the visitation in compliance with this section, unless the health care facility failed to substantially comply with the applicable health and safety procedures established by the health care facility.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2368), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2368 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. 2368) 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 2368—A Bill to repeal §16-39-2 the Code of West Virginia, 1931, as amended, and to amend and reenact §16-39-1 and §16-39-3, and to amend said code by adding thereto a new section designated §16-39-8 of the code, all relating to the short title; defining terms; and, providing for visitation of a patient in a health care facility during a declared state of emergency.

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. 2368) takes effect from passage.

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 2363, Relating to “Best Interests of the Child Protection Act of 2021”.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2363 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes and Martin—2.

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. 2363) 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 2363—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto five new sections, designated §48-1-239a, §48-1-239b, §48-1-241a, §48-1-241b, and §48-9-105; to amend and reenact §48-1-220, §48-1-239, §48-9-102, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-209, §48-9-301, §48-9-403, §48-9-601, §48-9-603 of said code, all relating to “Best Interests of the Child Protection Act of 2021”; providing definitions; amending definitions; clarifying the authority of parents to make emergency and non-elective healthcare decisions; requiring the court to consider parenting functions in determining best interests of the child; adding meaningful contact between a child and his or her siblings, including half-siblings, as an objective of the best interests of the child; providing for venue of custody actions outside of divorce proceedings; requiring the court to consider parenting functions in temporary parenting plans and allocation of custody; adding a preference time allocated to the parent resulting in the child being under the care of that parent is preferred to the parent resulting in time allocated to the parent resulting in the child being under the care of a third party as an objective in allocation determinations; adding an objective for reasonable access to the child by telephone or other electronic contact as an objective in allocation determinations; requiring that, in the absence of agreement of the parents, a final allocation determination must be made pursuant to hearing which cannot be conducted exclusively by presentation of evidence by proffer; adding neglect and abandonment as criteria that may overcome presumption that joint decision-making responsibility is in the best interests of the child; clarifying criteria of interference with the other parent’s relationship with the child; providing notice requirements during a court-ordered investigation; requires that a hearing cannot take place until after the investigation report is provided to the parties; allowing for continuance of a hearing following an investigation; providing a mechanism for the adjudication of requests for relocation of a parent with a child; providing circumstances for which relocation of a parent constitutes a substantial change in the circumstances of the child; requiring the relocating parent to file a verified petition for the court for modification of the parenting plan; identifying consequences of failure to comply with the requirements of this section; requiring a copy of the petition to be served on the other parent and all other persons allocated custodial time with the child; establishing requirements for the petition for modification of the parenting plan; requiring a hearing to be held on the petition at least 30 days in advance of the proposed date of relocation; providing for an expedited hearing; authorizing the court to revise the parenting plan; authorizing the court to allocate costs between the parties; establishing the burden of proof for the relocating parent; defines when a relocation is for a legitimate purpose; establishing a move with a legitimate purpose is unreasonable unless the relocating parent proves that the purpose is not substantially achievable without moving and

that moving to a location that is substantially less disruptive of the other parent's relationship to the child is not feasible; requiring the court to consider the best interests of the child when modifying the parenting plan; requiring the court to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements; setting forth the opportunity for parties to file a modified parenting plan signed by all parties; conditionally requiring an initial permanent parenting plan to be established before a relocation is considered; requiring interviewing or questioning of the child to be conducted in accordance with Rule 17 of the Rules of Practice and Procedure for Family Court; providing for parental access to a child's vital records; requiring notice to the other party if the child is a victim of a crime unless the other party is the perpetrator; providing an effective date; providing that the 2021 amendments shall not, without more, be considered a substantial change in circumstances for modification of a parenting plan order; and providing that existing orders remain in effect unless modified by a court of competent jurisdiction.

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 2581, Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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:

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

§11-1C-10. Valuation of industrial property and natural resources property by Tax Commissioner; penalties; methods; values sent to assessors.

(a) As used in this section:

(1) "Industrial property" means real and personal property integrated as a functioning unit intended for the assembling, processing and manufacturing of finished or partially finished products.

(2) "Natural resources property" means coal, oil, natural gas, limestone, fireclay, dolomite, sandstone, shale, sand and gravel, salt, lead, zinc, manganese, iron ore, radioactive minerals, oil shale, managed timberland as defined in section two of this article, and other minerals.

(b) All owners of industrial property and natural resources property each year shall make a return to the State Tax Commissioner and, if requested in writing by the assessor of the county where situated, to such county assessor at a time and in the form specified by the commissioner of all industrial or natural resources property owned by them. The commissioner may require any information to be filed which would be useful in valuing the property covered in the return. Any penalties provided for in this chapter or elsewhere in this code relating to failure to list any property or to file any return or report may be applied to any owner of property required to make a return pursuant to this section.

(c) The State Tax Commissioner shall value all industrial property in the state at its fair market value within three years of the approval date of the plan for industrial property required in subsection (e) of this section. The commissioner shall thereafter maintain accurate values for all such property. The Tax Commissioner shall forward each industrial property appraisal to the county assessor of the county in which that property is located and the assessor shall multiply each such appraisal by sixty percent and include the resulting assessed value in the land book or the personal property book, as appropriate for each tax year. The commissioner shall supply support data that the assessor might need to evaluate the appraisal.

(d) Within three years of the approval date of the plan required for natural resources property required pursuant to subsection (e) of this section, the State Tax Commissioner shall determine the fair market value of all natural resources property in the state. ~~The commissioner shall~~ and thereafter maintain accurate values for all such property.

(1) In order to qualify for identification as managed timberland for property tax purposes the owner must annually certify, in writing to the Division of Forestry, that the property meets the definition of managed timberland as set forth in this article and contracts to manage property according to a plan that will maintain the property as managed timberland. In addition, each owner's certification must state that forest management practices will be conducted in accordance with approved practices from the publication "Best Management Practices for Forestry". Property certified as managed timberland shall be valued according to its use and productive potential. The Tax Commissioner shall promulgate rules for certification as managed timberland.

(2) In the case of all other natural resources property, the commissioner shall develop an inventory on a county by county basis of all such property and may use any resources, including, but not limited to, geological survey information; exploratory, drilling, mining and other information supplied by natural resources property owners; and maps and other information on file with the state Division of Environmental Protection and office of miners' health, safety and training. Any information supplied by natural resources owners or any proprietary or otherwise privileged information supplied by the state Division of Environmental Protection and office of miner's health, safety and training shall be kept confidential unless needed to defend an appraisal challenged by a natural resources owner. Formulas for natural resources valuation may contain differing variables based upon known geological or other common factors. The Tax Commissioner shall forward each natural resources property appraisal to the county assessor of the county in which that property is located and the assessor shall multiply each such appraisal by sixty percent and include the resulting assessed value in the land book or the personal property book, as appropriate, for each tax year. The commissioner shall supply support data that the assessor might need to explain or defend the appraisal. The commissioner shall directly defend any challenged appraisal when the assessed value of the property in question exceeds \$2 million or an owner challenging an appraisal holds or controls property situated in the same county with an assessed value exceeding \$2 million. At least every five years, the commissioner shall review current technology for the recovery of natural resources property to determine if valuation methodologies need to be adjusted to reflect changes in value which result from development of new recovery technologies.

(3) The Tax Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code regarding valuation of property producing oil, natural gas, natural gas liquids, or any combination thereof. For the purposes of this subdivision, "natural gas liquids" means propane, ethane, butanes, and pentanes (also referred to as condensate), or a combination of them that are subject to recovery from raw gas liquids by processing in field separators, scrubbers, gas processing and reprocessing plants, or cycling plants.

(e) The Tax Commissioner shall develop a plan for the valuation of industrial property and a plan for the valuation of natural resources property. The plans shall include expected costs and reimbursements, and shall be submitted to the property valuation training and procedures commission on or before January 1, 1991, for its approval on or before July 1, of such year. Such plan shall be revised, resubmitted to the commission and approved every three years thereafter.

(f) To perform the valuation duties under this section, the State Tax Commissioner has the authority to contract with a competent property appraisal firm or firms to assist with or to conduct the valuation process as to any discernible species of property statewide if the contract and the entity performing such contract is specifically included in a plan required by subsection (e) of this section or otherwise approved by the commission. If the Tax Commissioner desires to contract for valuation services only in one county or a group of counties, the contract must be approved by the commission.

(g) The county assessor may accept the appraisal provided, pursuant to this section, by the State Tax Commissioner: *Provided*, That if the county assessor fails to accept the appraisal provided by the State Tax Commissioner, the county assessor shall show just cause to the valuation commission for the failure to accept such appraisal and shall further provide to the valuation commission a plan by which a different appraisal will be conducted.

(h) The costs of appraising the industrial and natural resources property within each county, and any costs of defending same shall be paid by the state: *Provided*, That the office of the state Attorney General shall provide legal representation on behalf of the Tax Commissioner or assessor, at no cost, in the event the industrial and natural resources appraisal is challenged in court.

(i) For purposes of revaluing managed timberland as defined in section two of this article, any increase or decrease in valuation by the commissioner does not become effective prior to July 1, 1991. The property owner may request a hearing by the director of the Division of Forestry, who may thereafter rescind the disqualification or allow the property owner a reasonable period of time in which to qualify the property. A property owner may appeal a disqualification to the circuit court of the county in which the property is located.

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-15c. Petition for assessor review of improper valuation of real property.

(a) A taxpayer who is of the opinion that his or her real property has been valued too high or otherwise improperly valued or listed in the notice given as provided in ~~section two-a of this article~~ §11-3-2a of this code may, but is not required to, file a petition for review with the assessor on a written form prescribed by the Tax Commissioner. This section shall not apply to industrial and natural resource property appraised by the Tax Commissioner.

(b) The petition shall state the taxpayer's opinion of the true and actual value of the property and substantial information that justifies that opinion of value for the assessor to consider for purposes of basing a change in classification or correction of the valuation. For purposes of this subsection, the taxpayer shall provide substantial information to justify the opinion of value. The taxpayer may provide an appraisal of the property from a licensed real estate appraiser stating its true and actual value for its current use. by stating the method or methods of valuation on which the opinion is based:

~~(1) Under the income approach, including the information required in section fifteen e of this article;~~

~~(2) Under the market approach, including the true and actual value of at least three comparable properties in the same geographic area or the sale of the subject property; or~~

~~(3) Under the cost approach, including the replacement cost or the cost to build or rebuild the property, plus the true and actual value of the land.~~

(c) The petition may include more than one parcel of property if they are part of the same economic unit according to the Tax Commissioner's guidelines or if they are owned by the same owner, have the same use, are appealed on the same basis, and are located in the same tax district or in contiguous tax districts of the county, and are in a form prescribed by the Tax Commissioner.

(d) The petition shall be filed within eight business days after the date the taxpayer receives the notice of increased assessment under ~~section two a of this article~~ §11-3-2a of this code or the notice of increased value was published as a Class II-0 legal advertisement as provided in that section. For purposes of this section, 'business day' means any day other than Saturday, Sunday, or any legal holiday set forth in section one, article two, chapter two of this code.

§11-3-15f. Rejection of petition; ~~for failure to include substantial information amended petition; appeal options.~~

If the assessor rejects a petition filed pursuant to ~~section fifteen c, fifteen d or fifteen e~~ §11-3-15c, §11-3-15d, or §11-3-15e of this article code, the petitioner may appeal to the county ~~board of equalization and review~~ Board of Equalization and Review as provided in ~~section twenty four of this article~~ §11-3-24 of this code or the Office of Tax Appeals.

§11-3-15h. Ruling on petition.

(a) In all cases the assessor shall consider the petition and shall rule on each petition filed pursuant to ~~section fifteen c, fifteen d or fifteen e~~ §11-3-15c, §11-3-15d, or §11-3-15e of this article code by February 10 of the assessment year. Written notice shall be served by regular mail on the person who filed the petition.

(b) In considering a petition filed pursuant to ~~section fifteen c, fifteen d or fifteen e~~ §11-3-15c, §11-3-15d, or §11-3-15e of this article code, the assessor shall consider the valuation fixed by the assessor on other similar property that is similarly situated.

(c) The consideration of a petition for review with the assessor is to be an informal process. Formal rules of evidence shall not be required; the assessor may consider all evidence presented and may give each item the weight, in his or her opinion, it commands.

(d) The standard of proof which a taxpayer must meet to defend his or her opinion of the true and actual value of the subject property during reviews by the assessor shall be no greater than a simple preponderance of the evidence standard.

§11-3-15i. Petitioner's right to appeal.

(a) If the assessor grants the requested relief, the petitioner may not appeal the ruling of the assessor.

(b) If the petitioner and the assessor reach an agreement within five business days after the conclusion of the meeting held as provided in ~~section fifteen-g~~ §11-3-15g of this article code, both parties shall sign the agreement and both parties waive the right to further appeal.

(c) If all or part of the petitioner's request under ~~section fifteen-c, fifteen-d or fifteen-e~~ §11-3-15c, §11-3-15d, or §11-3-15e of this article code is denied, the assessor shall mail, on the date of the ruling, to the petitioner at the address shown on the petition notice of the grounds of the refusal to make the change or changes requested in the petition. A petitioner whose request is denied, in whole or in part, or a petitioner who does not receive a response from the assessor by February 10, as provided in ~~section fifteen-h~~ §11-3-15h of this article code, may file a protest with the county commission sitting as a board of equalization and review, as provided in ~~section 24 of this article~~ §11-3-24 of this code, or the Office of Tax Appeals.

§11-3-23. Alterations in property books.

After the copies of the landbook or personal property book shall have been verified and delivered, no alteration shall be made in them, or either of them, affecting the taxes of that year, except on the final order of ~~the court on~~ a successful review or appeal from the assessment.

§11-3-23a. Informal review and resolution of classification, taxability and valuation issues.

(a) *General.* - Anytime after real or tangible personal property is returned for taxation, the taxpayer may apply to the assessor of the county in which the property was situated on the assessment date for information about the classification, taxability, or valuation of the property for property tax purposes for the tax year following the July 1 assessment date. A taxpayer who is not satisfied with the response of the assessor and wants to further pursue the matter ~~must~~ shall follow the procedures set forth in this section.

(b) *Classification or taxability.* - A taxpayer who wants to contest the classification or taxability of property must follow the procedures set forth in ~~section twenty-four-a of this article~~ §11-3-24a of this code.

(c) *Valuation issues - property appraised and assessed by county assessor.* —

(1) A taxpayer who is dissatisfied with the response of the assessor on a question of valuation and who receives a notice of increase in the assessed value of real property as provided in ~~section two-a of this article~~ §11-3-2a of this code, or a notice of increase in the assessed value of business personal property as provided in ~~section fifteen-b of this article~~ §11-3-15b of this code, who disagrees with the assessed value stated in the notice, may ~~utilize~~ use the informal review process specified in this article if the taxpayer decides to challenge the assessed value.

(2) A taxpayer may apply for relief to the county commission sitting as a ~~board of equalization and review~~ Board of Equalization and Review pursuant to ~~section twenty-four of this article~~ §11-3-24 of this code, or to the Office of Tax Appeals not later than February 20 of the tax year by filing a written protest with the clerk of the county commission or the Office of Tax Appeals that identifies the amount of the assessed value the taxpayer believes to be in controversy and states generally the taxpayer's reason or reasons for filing the protest. The board or the Office of Tax Appeals shall then set a date and time to hear the taxpayer's protest. *Provided, That in the written protest or in a separate notice filed with the board on or before the day of the hearing, the taxpayer or taxpayer's representative may notify the board of the taxpayer's election to have the matter heard when the county commission convenes as a board of assessment appeals in the fall of the*

~~tax year as provided in section twenty-four b of this article. A copy of this election shall be served on the assessor, and the Tax Commissioner in the case of industrial property or natural resources property, by personal service or by certified mail. The notice of election shall include an acknowledgment by the taxpayer that The taxpayer will shall timely pay first and second half installment payments of taxes levied for the current tax year on or before they become due and that any reduction in assessed value that is administratively or judicially determined in a decision that becomes final will result in a credit being established against taxes that become due for a tax year subsequent to the tax year in which the decision becomes final, except as otherwise stated in the decision or as otherwise provided in this article. In the event the board Board of Equalization and Review adjourns sine die before February 20 of the tax year, a taxpayer may still file its written protest and the acknowledgment described in this subdivision with the county clerk on or before February 20 of the tax year and the petition shall be heard when the county commission meets as a board of assessment appeals, as provided in section twenty-four b of this article Office of Tax Appeals. If a taxpayer fails to provide its written protest on or before February 20, and the board Board of Equalization and Review unilaterally increases the assessed value subsequent to that date, the taxpayer may still file a written protest and the acknowledgment described in this subdivision with the county clerk and the petition shall be heard when the county commission meets as a board of assessment appeals as provided in section twenty-four b of this article Office of Tax Appeals.~~

(d) *Valuation issues - property appraised by Tax Commissioner and assessed by county assessor. -*

(1) A taxpayer who receives a notice of tentative appraised value of natural resource property or industrial property from the Tax Commissioner pursuant to ~~article six k of this chapter~~ §11-6K-1 et seq. of this code.

(2) A taxpayer may apply for relief to the county commission sitting as a board of equalization and review pursuant to ~~section twenty-four of this article~~ §11-3-24 of this code or to the Office of Tax Appeals no later than February 20 of the tax year by filing a written protest with the clerk of the county commission ~~or to the Office of Tax Appeals~~ that identifies the amount of the assessed value the taxpayer believes to be in controversy and states generally the taxpayer's reason or reasons for filing the protest. The board ~~or the Office of Tax Appeals~~ shall then set a date and time to hear the taxpayer's protest. *Provided,* ~~That in the written protest or in a separate notice filed with the board on or before the day of the hearing, the taxpayer or taxpayer's representative may notify the board of the taxpayer's election to have the matter heard when the county commission convenes as a board of assessment appeals in the fall of the tax year as provided in section twenty-four b of this article. A copy of this election shall be served on the assessor, and the Tax Commissioner in the case of industrial property or natural resources property, by personal service or by certified mail. The notice of election shall include an acknowledgment by the taxpayer that.~~ The taxpayer will shall timely pay first and second half installment payments of taxes levied for the current tax year on or before they become due and that any reduction in assessed value that is administratively or judicially determined in a decision that becomes final will result in a credit being established against taxes that become due for a tax year subsequent to the tax year in which the decision becomes final, except as otherwise stated in the decision or as otherwise provided in this article. In the event the board Board of Equalization and Review adjourns sine die before February 20 of the tax year, a taxpayer may still file its written protest and the acknowledgment described in this subdivision with the county clerk on or before February 20 of the tax year and the petition shall be heard when county commission meets as a board of assessment appeals, as provided in section twenty-four b of this article Office of Tax Appeals. If a taxpayer fails to provide its written protest on or before February 20, and the board Board of

Equalization and Review unilaterally increases the assessed value subsequent to that date, the taxpayer may still file a written protest and the acknowledgment described in this subdivision with the county clerk and the petition shall be heard when the county commission meets as a board of assessment appeals as provided in section twenty four b of this article Office of Tax Appeals.

(e) The standard of proof which a taxpayer must meet at all levels of review and appeal under this section shall be a preponderance of the evidence standard.

§11-3-24. Review and equalization by county commission.

(a) The county commission shall annually, not later than February 1 of the tax year, meet as a board of equalization and review for the purpose of reviewing and equalizing the assessment made by the assessor. The board shall not adjourn for longer than three business days at a time, not including a Saturday, Sunday or legal holiday in this state, until this work is completed. The board may adjourn sine die anytime after February 15 of the tax year and shall adjourn sine die not later than the last day of February of the tax year.

(b) At the first meeting of the board, the assessor shall submit the property books for the current year, which shall be complete in every particular, except that the levies shall not be extended. The assessor and the assessor's assistants shall attend and render every assistance possible in connection with the value of property assessed by them.

(c) The board shall proceed to examine and review the property books, and shall add on the books the names of persons, the value of personal property and the description and value of real estate liable to assessment which was omitted by the assessor. The board shall correct all errors in the names of persons, in the description and valuation of property, and shall cause to be done whatever else is necessary to make the assessed valuations comply with the provisions of this chapter. But in no case shall any question of classification or taxability be considered or reviewed by the board.

(d) If the board determines that any property or interest is assessed at more or less than 60 percent of its true and actual value as determined under this chapter, it shall fix it at 60 percent of its true and actual value: *Provided*, That no assessment shall be increased without giving the taxpayer at least five days' notice, in writing, of the intention to make the increase and no assessment shall be greater than 60 percent of the true and actual value of the property.

(e) Service of notice of the increase upon the taxpayer shall be sufficient, or upon his or her agent or attorney, if served in person, or if sent by registered or certified mail to the property owner, his or her agent, or attorney, at the last known mailing address of the person as shown in the records of the assessor or the tax records of the county sheriff. If such person cannot be found and has no last known mailing address, then notice shall be given by publication thereof as a Class I legal advertisement in compliance with the provisions of ~~article three, chapter fifty-nine~~ §59-3-1, et seq. of this code and the publication area shall be the county. The date of the publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the day the board acts on the increase. When the board intends to increase the entire valuation in any one tax district by a general increase, notice shall be given by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of ~~article three, chapter fifty-nine~~ §59-3-1, et seq. of this code and the publication area shall be the county. The date of the last publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the meeting at which the increase in valuation is acted on by the

board. When an increase is made, the same valuation shall not again be changed unless notice is again given as heretofore provided.

The clerk of the county commission shall publish notice of the time, place, and general purpose of the meeting as a Class II legal advertisement in compliance with the provisions of ~~article three, chapter fifty-nine~~ §59-3-1, et seq. of this code and the publication area shall be the county. The expense of publication shall be paid out of the county treasury.

(f) Any person who receives notice as provided in subsection (e) of this section may appear before the board at the time and place specified in the notice to object to the proposed increase in the valuation of taxpayer's property. After hearing the board's reason or reasons for the proposed increase, the taxpayer may present his or her objection or objections to the increase and the reason or reasons for the objections. ~~and may either orally or in writing advise the board that the taxpayer elects for the matter to be heard in the fall of the tax year when the county commission meets as a board of assessment appeals as provided in section twenty-four b of this article: Provided, That taxpayer's election shall not stay a decision by the board to increase the assessed value of the property for the current tax year~~

(g) The board may approve an agreement signed by the taxpayer or taxpayer's representative and the assessor, and by a representative of the Tax Commissioner when the property is industrial property or natural resources property, that resolves a valuation matter while the land and personal property books are before the Board for Equalization and Review.

(h) If any person fails to apply for relief at this meeting, he or she shall have waived the right to ask for correction in the assessment list for the current year, and shall not thereafter be permitted to question the correctness of the list as finally fixed by the board, except on appeal to the Office of Tax Appeals, the circuit court or as otherwise provided in this article.

(i) After the board completes the review and equalization of the property books, a majority of the board shall sign a statement that it is the completed assessment of the county for the tax year. Then the property books shall be delivered to the assessor and the levies extended as provided by law.

(j) A taxpayer who elects to have a hearing before the ~~board of equalization and review~~ Board of Equalization and Review may appeal the board's order to the Office of Tax Appeals, as provided in section twenty-five of this article. ~~A taxpayer who elects to have a hearing before the board of assessment appeals may only appeal the assessed value as provided in section twenty-four b of this article~~

(k) The standard of proof which a taxpayer must meet at all levels of review and appeal under this section shall be a preponderance of the evidence standard.

§11-3-24a. Protest of classification or taxability to assessor; appeal to Tax Commissioner, appeal to Office of Tax Appeals.

(a) At any time after property is returned for taxation, and up to and including the time the property books are before the county commission sitting as a board of equalization and review, any taxpayer may apply to the assessor for information regarding the classification and taxability of the taxpayer's property. In case the taxpayer is dissatisfied with the classification of property assessed to the taxpayer or believes that the property is exempt or otherwise not subject to taxation, the taxpayer shall file objections in writing with the assessor. The assessor shall decide

the question by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for refusal to grant the protest.

(b) The assessor may, and if the taxpayer requests, the assessor shall, certify the question to the State Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements, giving a full description of the property and any other information which the Tax Commissioner requires. The Tax Commissioner shall prescribe forms on which the aforesaid question shall be certified and the Tax Commissioner shall have the authority to may pursue any inquiry and procure any information necessary for the disposition of the issue.

(c) The Tax Commissioner shall, as soon as possible on receipt of the question, but in no case later than February 28 of the assessment year, instruct the assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the assessor shall be binding upon the assessor, but either the assessor or the taxpayer may apply to the ~~the circuit court of the county~~ Office of Tax Appeals within 30 days after receiving written notice of the Tax Commissioner's ruling for review of the question of classification or taxability. ~~in the same fashion as is provided for appeals from the county commission sitting as a board of equalization and review in section twenty five of this article~~

(d) The amendments to this section enacted in the year 2010 shall apply to classification and taxability rulings issued for taxes levied after December 31, 2011.

(e) The standard of proof which a taxpayer must meet at all levels of review and appeal under this section shall be a preponderance of the evidence standard.

§11-3-24b. Board of Assessment Appeals.

[Repealed.]

§11-3-25. Relief in circuit court against erroneous assessment.

[Repealed.]

§11-3-25a. Payment of taxes that become due while appeal is pending.

(a) All taxes levied and assessed against the property for the year on which a protest or an appeal has been filed by the taxpayer as provided in ~~section twenty four or twenty four b~~ §11-3-24 or §11-3-24a of this article code shall be paid before they become delinquent. If the taxes are not paid before becoming delinquent, the ~~circuit court~~ governing body having jurisdiction of the appeal, as appropriate, shall dismiss the appeal unless the delinquent taxes and interest due are paid in full within 30 days after taxes for the second half of the tax year become delinquent.

(b) In the event the order of a court or other governing body becomes final and the order results in an overpayment of taxes levied for the tax year that have been paid to the sheriff, the amount of the overpayment shall be refunded to the taxpayer if the overpayment is \$25,000 or less within 30 days after the time for appealing the decision or order expires or, if the decision or order is appealed, within 30 days of the date the appeals court or other governing body turns down the appeal. ~~Provided, That, if the taxpayer's protest before the county commission below was heard pursuant to the provisions of section twenty four b of this article, the refund shall be paid pursuant to the provisions of that section~~ If the overpayment is more than \$25,000, a credit in the amount of the overpayment shall be established by the county sheriff and allowed as a

credit against taxes owed up to the following two tax years: *Provided*, That the county commission may elect to refund the amount of overpayment rather than having a credit established as provided in this section: *Provided, further however*, That if any portion of the overpayment remains unused after the date on which taxes payable for the second half of the second tax year following the tax year of the overpayment become delinquent, that portion shall be refunded to the taxpayer by the county sheriff no later than 30 days after that date, or 30 days from the date that the ~~ircuit court~~ order becomes final, whichever date occurs later. Whenever an overpayment is refunded or credited under this section, the county shall pay interest at the rate established in ~~section seventeen and seventeen a, article ten of this chapter~~ §11-10-17 and §11-10-17a of this code for overpayments of taxes collected by the Tax Commissioner, which interest shall be computed from the date the overpayment was received by the sheriff to the date of the refund check or the date the credit is actually taken against taxes that become due after the order of the court becomes final.

§11-3-32. Effective date of amendments.

(a) Unless specified otherwise in this article, all amendments to this article adopted in the year 2010 shall apply to the assessment years beginning on or after July 1, 2011.

(b) Unless specified otherwise in this article, all amendments to this article adopted in the year 2021 apply to the assessment years beginning on or after July 1, 2022.

ARTICLE 10A. WEST VIRGINIA OFFICE OF TAX APPEALS.

§11-10A-1. Legislative finding; purpose.

The Legislature finds that there is a need for an independent quasi-judicial agency separate and apart from the Tax Division to resolve disputes between the Tax Commissioner, county assessors, county commissions, and taxpayers ~~in order~~ to maintain public confidence in the state tax system. The Legislature does therefore declare that the purpose of this article is to create the West Virginia office of tax appeals to resolve disputes between the Tax Commissioner, county assessors, county commissions, and taxpayers and to prescribe the powers and duties of the office of tax appeals.

§11-10A-7. Powers and duties of Chief Administrative Law Judge; all employees, except Chief Administrative Law Judge, members of classified service; qualifications of administrative law judges.

(a) The Chief Administrative Law Judge is the chief executive officer of the Office of Tax Appeals and he or she may employ one person to serve as executive director, ~~one~~ two staff ~~attorney attorneys,~~ and other clerical personnel as necessary for the proper administration of this article. The Chief Administrative Law Judge may delegate administrative duties to other employees, but the Chief Administrative Law Judge ~~shall be~~ is responsible for all official delegated acts.

(1) Upon the request of the Chief Administrative Law Judge, the Governor may appoint up to ~~two~~ three administrative law judges as necessary for the proper administration of this article.

(2) All employees of the Office of Tax Appeals, except the Chief Administrative Law Judge, shall be in the classified service and shall be governed by the provisions of the statutes, rules, and policies of the classified service in accordance with the provisions of ~~article six, chapter twenty-nine~~ §29-6-1 et seq. of this code.

(3) Prior to employment by the Office of Tax Appeals, all administrative law judges shall be admitted to the practice of law in this state and have at least two years of full-time or equivalent part-time experience as an attorney with federal or state tax law expertise.

(4) The Chief Administrative Law Judge and all administrative law judges shall be members of the Public Employees Retirement System and do not qualify as participants in the judicial retirement system during their tenure with the Office of Tax Appeals.

(b) The Chief Administrative Law Judge shall:

(1) Direct and supervise the work of the legal staff;

(2) Make hearing assignments;

(3) Maintain the records of the Office of Tax Appeals;

(4) Review and approve decisions of administrative law judges as to legal accuracy, clarity and other requirements;

(5) Publish decisions in accordance with the provisions of ~~section sixteen of this article~~ §11-10A-16 of this code;

(6) Submit to the Legislature, on or before February 15, an annual report summarizing the Office of Tax Appeals' activities since the end of the last report period, including a statement of the number and type of matters handled by the Office of Tax Appeals during the preceding fiscal year and the number of matters pending at the end of the year; and

(7) Perform the other duties necessary and proper to carry out the purposes of this article.

§11-10A-8. Jurisdiction of Office of Tax Appeals.

The Office of Tax Appeals has exclusive and original jurisdiction to hear and determine all:

(1) Appeals from tax assessments issued by the Tax Commissioner pursuant to article ten of this chapter;

(2) Appeals from decisions or orders of the Tax Commissioner denying refunds or credits for all taxes administered in accordance with the provisions of ~~article ten of this chapter~~ §11-10-1 et seq. of this code;

(3) Appeals from orders of the Tax Commissioner denying, suspending, revoking, refusing to renew any license, or imposing any civil money penalty for violating the provisions of any licensing law administered by the Tax Commissioner;

(4) Questions presented when a hearing is requested pursuant to the provisions of any article of this chapter which is administered by the provisions of ~~article ten of this chapter~~ §11-10-1 et seq. of this code;

(5) Matters which the Tax Division is required by statute or legislatively approved rules to hear, except employee grievances filed pursuant to ~~article two, chapter six-c~~ §6C-2-1 et seq. of this code; and

(6) Other matters which may be conferred on the office of tax appeals by statute or legislatively approved rules; and

(7) Appeals by any party aggrieved by the valuation of real property and personal property tax assessments and classifications or taxability as set forth in §11-3-1 et. seq. of this code.

§11-10A-10. Hearing procedures.

(a) The office of tax appeals shall assign a date, time, and place for a hearing on a petition and shall notify the parties to the hearing by written notice at least 20 days in advance of the hearing date. The hearing shall be held within 45 days of the due date of the commissioner's answer unless continued by order of the office of tax appeals for good cause.

(b) A hearing before the office of tax appeals shall be heard *de novo* and conducted pursuant to the provisions of the contested case procedure set forth in ~~article five, chapter twenty-nine-a~~ §29A-5-1 et seq. of this code to the extent not inconsistent with the provisions of this article. In case of conflict, the provisions of this article shall govern. The provisions of ~~section five, article five, chapter twenty-nine-a~~ §29A-5-5 of this code are not applicable to a hearing before the office of tax appeals.

(c) The office of tax appeals is not bound by the rules of evidence as applied in civil cases in the circuit courts of this state. The office of tax appeals may admit and give probative effect to evidence of a type commonly relied upon by a reasonably prudent person in the conduct of his or her affairs.

(d) All testimony shall be given under oath.

(e) Except as otherwise provided by this code or legislative rules, the taxpayer or petitioner has the burden of proof.

(f) The administrative law judge may ask for proposed findings of fact and conclusions of law from the parties prior to the issuance by the office of tax appeals of the decision in the matter.

(g) Hearings shall be exempt from the requirements of ~~article nine-a, chapter six and article one, chapter twenty-nine-b~~ §6-9A-1 et seq. and §29B-1-1 et seq. of this code.

(h) For all appeals regarding property tax assessments, taxability, and classifications pursuant to §11-3-1 et. seq., the standard of proof which a taxpayer must meet at all levels of review and appeal shall be a preponderance of the evidence standard.

§11-10A-19. Judicial review of office of tax appeals decisions.

(a) Either the taxpayer or the commissioner, or both, or in the case of property taxes the county assessor, or county commission, may appeal the final decision or order of the office of tax appeals by taking an appeal to the circuit courts of this state within 60 days after being served with notice of the final decision or order.

(b) The office of tax appeals may not be made a party in any judicial review of a decision or order it issued.

(c)(1) If the taxpayer appeals, the appeal may be taken in the circuit court of Kanawha County or any county:

(A) ~~Wherein~~ In which the activity sought to be taxed was engaged in;

(B) ~~Wherein~~ In which the taxpayer resides; ~~or~~

(C) ~~Wherein~~ In which the will of the decedent was probated or letters of administration granted; ~~or~~

(D) ~~Wherein~~ In which the real or personal property is assessed.

(2) If the Tax Commissioner appeals, the appeal may be taken in Kanawha County: *Provided*, That the taxpayer shall have the right to remove the appeal to the county:

(A) Wherein the activity sought to be taxed was engaged in;

(B) Wherein the taxpayer resides; ~~or~~

(C) Wherein the will of the decedent was probated or letters of administration granted; ~~or~~

(D) Wherein the real or personal property is assessed.

(3) In the event ~~both~~ parties appeal to different circuit courts, the appeals shall be consolidated. In the absence of agreement by the parties, the appeal shall be consolidated in the circuit court of the county in which the taxpayer filed the petition for appeal.

(d) The appeal proceeding shall be instituted by filing a petition for appeal with the circuit court, or the judge thereof in vacation, within the 60 day period prescribed in subsection (a) of this section. A copy of the petition for appeal shall be served on all parties appearing of record, other than the party appealing, by registered or certified mail. The petition for appeal shall state whether the appeal is taken on questions of law or questions of fact, or both, and set forth with particularity the items of the decision objected to, together with the reasons for the objections.

(e) If the appeal is of an assessment, except a jeopardy assessment for which security in the amount thereof was previously filed with the Tax Commissioner, then within 90 days after the petition for appeal is filed, or sooner if ordered by the circuit court, the petitioner shall file with the clerk of the circuit court a cash bond or a corporate surety bond approved by the clerk. The surety must be qualified to do business in this state. These bonds shall be conditioned upon the petitioner performing the orders of the court. The penalty of this bond shall be not less than the total amount of tax or revenue plus additions to tax, penalties, and interest for which the taxpayer was found liable in the administrative decision of the office of tax appeals. Notwithstanding the foregoing and in lieu of the bond, the Tax Commissioner, upon application of the petitioner, may upon a sufficient showing by the taxpayer, certify to the clerk of the circuit court that the assets of the taxpayer are adequate to secure performance of the orders of the court: *Provided*, That if the Tax Commissioner refuses to certify that the assets of the taxpayer or other indemnification are adequate to secure performance of the orders of the court, then the taxpayer may apply to the circuit court for the certification. No bond may be required of the Tax Commissioner.

(f) The circuit court shall hear the appeal as provided in ~~section four, article five, chapter twenty-nine~~ a §29A-5-4 of this code: *Provided*, That when the appeal is to review a decision or

order on a petition for refund or credit, the court may determine the legal rights of the parties, but in no event shall it enter a judgment for money.

(g) Unless the Tax Commissioner appeals an adverse court decision, the commissioner, upon receipt of the certified order of the court, shall promptly correct his or her assessment or issue his or her requisition on the treasury or establish a credit for the amount of an overpayment.

(h) Either party may appeal to the Supreme Court of Appeals as provided in ~~article six, chapter twenty-nine-a~~ §29A-6-1 et seq. of this code.

(i) For all appeals regarding property tax assessments, taxability, and classifications pursuant to §11-3-1 et. seq., the standard of proof which a taxpayer must meet at all levels of review and appeal shall be a preponderance of the evidence standard.

On motions of Senators Nelson, Maroney, and Rucker, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2581) was reported by the Clerk:

On page three, section ten, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

(3) The Tax Commissioner shall, no later than July 1, 2021, propose emergency rules in accordance with §29A-3-15 of this code regarding valuation of property producing oil, natural gas, natural gas liquids, or any combination thereof. For purposes of the emergency rules required by this subdivision regarding valuation of property producing oil, natural gas, natural gas liquids, or any combination thereof, fair market value shall be determined through the process of applying a yield capitalization model to the net proceeds. Net proceeds shall mean actual gross receipts on a sales volume basis determined from the actual price received by the taxpayers as reported on the taxpayer's returns, less royalties, and less actual annual operating costs as reported on the taxpayer's returns. For the purposes of this subdivision:

(A) "Natural gas liquids" means propane, ethane, butanes, and pentanes (also referred to as condensate), or a combination of them that are subject to recovery from raw gas liquids by processing in field separators, scrubbers, gas processing and reprocessing plants, or cycling plants.

(B) "Actual annual operating costs" shall only include lease operating expenses, lifting costs, gathering, compression, processing, separation, fractionation, and transportation charges.

Following discussion,

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

Which point of order, the President ruled well taken.

Following discussion,

The question being on the adoption of the amendment offered by Senators Nelson, Maroney, and Rucker to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2581), the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2581), 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. 2581) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motions of Senators Nelson, Maroney, and Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2581—A Bill to repeal §11-3-24b and §11-3-25 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-1C-10 of said code; and to amend and reenact §11-3-15c, §11-3-15f, §11-3-15h, §11-3-15i, §11-3-23, §11-3-23a, §11-3-24, §11-3-24a, §11-3-25a, and §11-3-32 of said code, and to amend and reenact §11-10A-1, §11-10A-7, §11-10A-8, §11-10A-10, and §11-10A-19 of said code, all generally relating to the valuation, assessment, review, and appellate rights of property owners regarding valuation, classification, and taxability of real estate and personal property taxation; directing the Tax Commissioner to, no later than July 1, 2021, propose emergency rules concerning the valuation of property producing oil, natural gas, natural gas liquids, or any combination thereof; providing methodology to determine fair market value and net proceeds; defining terms; providing taxpayers the option to furnish a formal appraisal to establish the value of their real property; providing that an assessor's review is to be an informal process and defining the standard of proof which a taxpayer must meet to be no greater than a preponderance of the evidence; expanding the jurisdiction of the Office of Tax Appeals to include property tax valuation, classification, and taxability; providing that if an assessor rejects a petition, the petitioner may appeal to the county Board of Equalization and Review or the Office of Tax Appeals; allowing for certain appeals from decisions of the Tax Commissioner and Board of Equalization and Review to the Office of Tax Appeals; repealing and eliminating the Board of Assessment Appeals; providing for an increase in the number of administrative law judges and staff attorneys within the Office of Tax Appeals; providing for an effective date; and allowing appeal of decision of the Office of Tax Appeals to be made in the county in which the real or personal property is assessed.

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. 2581) takes effect from passage.

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

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 2:25 p.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 4:11 p.m. and, without objection, returned 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, and the passage as amended, of

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

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

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 with its Senate amended title, of

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

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 2573, Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse.

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 with its Senate amended title, of

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

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 with its Senate amended title, of

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.

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 3002, Update road abandonment process.

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 with its Senate amended title, of

Eng. House Bill 3078, Relating to powers and duties of the parole board.

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. House Bill 3129, Relating to the Consumer Price Index rate increase.

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 with its Senate amended title, of

Eng. House Bill 3130, Relating to elimination of sunset provisions concerning towing rates.

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. House Bill 3133, Relating to motor carrier rates.

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 3299, Authorizing Higher Education Rules.

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 10th 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:

(H. B. 2253), Relating to forgery and other crimes concerning lottery tickets.

(H. B. 2958), Relating to repealing outdated sections of state code.

(H. B. 3045), Relating to firefighter disability claims.

And,

(H. B. 3081), Updating the West Virginia Business Corporations Act.

Respectfully submitted,

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

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 61, Requesting study on consolidating county boards of education to provide efficiencies and direct cost savings.

With an amendment from the Committee on Education pending.

And reports the same back with the recommendation that it be adopted as amended by the Committee on Education to which the resolution was first referred.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 61) contained in the preceding report from the Committee on Rules was taken up for immediate consideration.

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

On page two, in the sixth Further Resolved clause, by striking out the words "Kanawha, Boone, Clay, and Putnam".

The question now being on the adoption of the resolution (S. C. R. 61), as amended, the same was put and prevailed.

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

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Concurrent Resolution 78 (originating in the Committee on Finance)—Requesting the Joint Committee on Government and Finance conduct a study on the structure of West Virginia's business and occupation tax focusing on its fairness, categories of products and services either exempt or subject to the tax, and alternative sources of income to the tax.

Whereas, Only three states in the United States impose a business and occupation tax. These states are Ohio, Washington, and West Virginia. Alabama imposes a similar tax known more simply as an occupation tax, making these states outliers in the country in this form of taxation; and

Whereas, The State of Ohio is currently in the process of phasing out their business and occupation tax, leaving only Alabama, West Virginia, and Washington with a similar tax; and

Whereas, A business and occupation tax in West Virginia is a tax imposed on the privilege of engaging in certain business activities in a municipality. It is collected on gross receipts with no deductions. It has varying rates which are dependent on the classification of the business. Additionally, the rates differ from city to city; and

Whereas, West Virginia has primarily eliminated the business and occupation tax on the state level municipalities, however, continue to impose and collect the tax and it is a major source of income and revenue for them; and

Whereas, The business and occupation tax, although a revenue generator for municipalities, it is seen as a business deterrent to businesses operating within the boundaries of a municipality. It encourages businesses, most notably automobile dealers, to either locate or relocate their businesses outside the corporate limits of the municipality; and

Whereas, Alternative forms of revenue should be explored to keep the budgets of West Virginia's cities whole but which are seen as an impediment to businesses who wish to locate and operate within the city limits; and

Whereas, At the very least a more uniform structure and application of the business and occupation tax across all classes of property and services should be explored; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is here by requested to study on the structure of West Virginia's business and occupation tax focusing on its fairness, categories of products and services either exempt or subject to the tax, and alternative sources of income to the tax; and, be it

Further Resolved, That if elimination is not seen as viable, that the structure and application of the tax be reviewed for uniformity; and, be it

Further Resolved, That mayors, city managers, business owners, and the Tax Department should be consulted on alternatives to the tax that retain the level of funding generated by the

business and occupation tax, but that do not act as a constraint for business with a desire to locate within a city; and, be it

Further Resolved, That the Joint Committee on Government and Finance should seek input from officials from the State of Ohio on their experience and seek their guidance on a means to proceed with a phase out and potentially total elimination of the business and occupation tax in West Virginia; 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; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 78) contained in the preceding report from the Committee on Finance was taken up for immediate consideration.

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 and request concurrence therein.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Concurrent Resolution 79 (originating in the Committee on Finance)—Requesting the Joint Committee on Government and Finance conduct a study on the structure of state regulation and statutory construction related to gambling entities in West Virginia as a means to maximize the proceeds and revenue generated in the state by the gaming industry.

Whereas, Pursuant to section 36, article IV of the West Virginia Constitution, the Legislature is granted the authority, established by general law, a lottery which the State of West Virginia is to regulate, control, own, and operate; and

Whereas, In 1985, the Legislature created the State Lottery Act which, among other things, allowed for the sale of lottery tickets which was the genesis of the gaming industry in West Virginia; and

Whereas, Since that time, the gaming industry in this state has been expanded. In 1994, racetrack video lottery was authorized. In 2001, limited video lottery was authorized. In 2007, lottery racetrack table games were authorized; and

Whereas, Incidental to regulation of the gaming industry, the state issued rules that provide for licensing and oversight. These rules include fees and fines. Additionally, there are a number of funds created in code that reallocate funds from gaming proceeds back into the gaming industry for a variety of purposes; and

Whereas, Funds generated from the gaming industry in West Virginia were in excess of \$972,000,000 in fiscal year 2020; and

Whereas, The gaming industry in West Virginia is a major source of revenue for the state, creating an integral connection and partnership between the State of West Virginia and the various entities that operate gaming and gaming facilities throughout the state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study on the structure of state regulation and statutory construction related to gambling entities in West Virginia as a means to maximize the proceeds and revenue generated in the state by the gaming industry; and, be it

Further Resolved, That in an effort to further diversify the revenue base of the state, it is incumbent upon West Virginia to examine various aspects of the gaming industry to maximize the profit and safety of the industry. This should include streamlined regulations, innovative ways to generate increased revenue, and a review of gaming satellite operations; and, be it

Further Resolved, That West Virginia needs to compare our gaming industry to our surrounding states to continue to remain attractive to consumers and to remain competitive. This should include a study of the licensing and regulation of the gaming industry, the taxing of components of the gaming industry, variances in taxing throughout the gaming industry, the state cost associated with the gaming industry, ways to further maximize the revenue return to the state, and ways to best utilize the revenue generated by the industry; and, be it

Further Resolved, That in conducting this study, the Legislature needs to remain cognizant of the constitutional restraints placed upon the funds from the gaming industry, the continued safety of the gaming industry, and the connection which the state has to the industry; and, be it

Further Resolved, That the Legislature should consult with industry representatives in conducting a study to further improve gaming throughout the state with the goal of increasing state revenue while making the operation of the industry more conducive to further development; 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 or resolutions necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 79) contained in the preceding report from the Committee on Finance was taken up for immediate consideration.

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 and request concurrence therein.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Concurrent Resolution 80 (originating in the Committee on Finance)—Requesting the Joint Committee on Government and Finance study all applicable West Virginia statutes and regulations to determine the amount of money that is spent by the State of West Virginia for public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state and political subdivisions and to determine what, if any, changes are necessary in order to modernize public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state and political subdivisions and maximize the efficiency of any state money used therefor.

Whereas, Public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the State of West Virginia have all utilized traditional methods of communication to the public such as newspapers, television, radio, websites, email, digital advertisements, and text alerts; and

Whereas, Utilizing some of these media as a means of communication to the public is becoming increasingly outdated and inefficient; and

Whereas, The Internet and other digital media are becoming increasingly prevalent and are the primary method of communication by which a majority of West Virginia citizens receive public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state; and

Whereas, The citizens of the State of West Virginia would benefit from a comprehensive analysis of state statutes and regulations to determine if modification is necessary for the amounts of public money spent on and the communication methods used for public broadcasting, public

service announcements, public advertising, public notices, and marketing for services of the state; and

Whereas, A comprehensive analysis of state funding for public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state, whether by operation of statute or regulation, is necessary to maximize efficiency while ensuring continued and uninterrupted service to the citizens of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study all applicable West Virginia statutes and regulations to determine the amount of money that is spent by the State of West Virginia for public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state and political subdivisions and to determine what, if any, changes are necessary in order to modernize public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state and political subdivisions and maximize the efficiency of any state money used therefor;

Further Resolved, That in an effort to maximize efficiency and savings for the citizens of West Virginia, it is incumbent upon West Virginia to analyze and modify, if necessary, the amounts of state funds allocated for public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state; and, be it

Further Resolved, That a comparison showing how modern communication methods, which are available for public broadcasting, public service announcements, public advertising, public notices, and marketing for services of the state is necessary to determine modifications to state fund allocation that would maximize efficiency of state dollars for such services; 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; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Takubo requested unanimous consent that the resolution (S. C. R. 80) contained in the preceding report from the Committee on Finance be taken up for immediate consideration.

Which consent was not granted, Senator Unger objecting.

Senator Takubo then moved that the resolution (S. C. R. 80) contained in the preceding report from the Committee on Finance be taken up for immediate consideration.

On this question, 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 present and voting having voted in the affirmative, the President declared Senator Takubo's aforesated motion had prevailed.

Whereupon, the question now 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 and request concurrence therein.

Without objection, the Senate returned 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, as amended by the House of Delegates, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

Eng. Com. Sub. for House Bill 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

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

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

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

TITLE I – GENERAL PROVISIONS.

Section 1. General policy. – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2022.

Sec. 2. Definitions. — For the purpose of this bill:

“Governor” shall mean the Governor of the State of West Virginia.

“Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

“Spending unit” shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The “fiscal year 2022” shall mean the period from July 1, 2021, through June 30, 2022.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

Sec. 3. Classification of appropriations. — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. “Personal services” shall include “annual increment” for “eligible employees” and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its “unclassified” appropriation, or its “current expenses” appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

“BRIM Premiums” shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for “BRIM Premium” be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its “unclassified” appropriation, its “current expenses” appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for “BRIM Premium” such costs shall be paid by each spending unit from its “current expenses” appropriation, “unclassified” appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

“Equipment” shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

“Repairs and alterations” shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

“Buildings” shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

“Lands” shall mean the purchase of real property or interest in real property.

“Capital outlay” shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation except that during Fiscal Year 2022, and upon approval from the State Budget Office, agencies with the appropriation “Salary and Benefits of Cabinet Secretary and Agency Heads” may transfer between this appropriation and the appropriation “Personal Services and Employee Benefits” an

amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2022, as provided by W.V. Code §6-7-2a: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

Sec. 4. Method of expenditure. — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

Sec. 5. Maximum expenditures. — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.

- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

Section 1. Appropriations from general revenue. – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2022 Org 2100

	Appropriation	General Revenue Fund
Compensation of Members (R)	00300	\$ 1,010,000
Compensation and Per Diem of Officers and Employees (R).....	00500	4,011,332
Current Expenses and Contingent Fund (R)	02100	276,392
Repairs and Alterations (R).....	06400	35,000
Computer Supplies (R).....	10100	80,000
Computer Systems (R).....	10200	0
Printing Blue Book (R).....	10300	125,000
Expenses of Members (R)	39900	370,000
BRIM Premium (R).....	91300	44,482
Total		<u>\$ 5,952,206</u>

The appropriations for the Senate for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

2 - House of Delegates

Fund 0170 FY 2022 Org 2200

Compensation of Members (R)	00300	\$	3,000,000
Compensation and Per Diem of Officers and Employees (R).....	00500		575,000
Current Expenses and Contingent Fund (R)	02100		4,399,031
Expenses of Members (R)	39900		1,350,000
BRIM Premium (R).....	91300		80,000
Total		\$	9,404,031

The appropriations for the House of Delegates for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2022 Org 2300

Joint Committee on Government and Finance (R)	10400	\$	7,725,138
Legislative Printing (R).....	10500		260,000
Legislative Rule-Making Review Committee (R).....	10600		147,250
Legislative Computer System (R).....	10700		1,447,500
Legislative Fees & Dues (R).....	10701		600,000
BRIM Premium (R).....	91300		<u>60,569</u>
Total.....		\$	10,240,457

The appropriations for the Joint Expenses for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances reappropriated may be transferred and credited to the fiscal year 2021 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House

of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

JUDICIAL

4 - Supreme Court –

General Judicial

Fund 0180 FY 2022 Org 2400

Personal Services and Employee Benefits (R).....	00100	\$ 115,126,000
Current Expenses (R)	13000	19,911,000
Repairs and Alterations (R).....	06400	40,000
Equipment (R).....	07000	1,800,000
Military Service Members Court (R)	09002	300,000
Judges' Retirement System (R)	11000	742,000
Buildings (R)	25800	10,000
Other Assets (R)	69000	200,000
BRIM Premium (R).....	91300	834,000
Total		\$ 138,963,000

The appropriations to the Supreme Court of Appeals for the fiscal years 2019, 2020 and 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions therefrom as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2022 Org 0100

Personal Services and Employee Benefits.....	00100	\$ 3,250,758
Current Expenses (R)	13000	800,000
Repairs and Alterations.....	06400	25,000
National Governors Association	12300	60,700
Herbert Henderson Office of Minority Affairs	13400	396,726
Community Food Program	18500	1,000,000
Office of Resiliency	18600	596,157
BRIM Premium.....	91300	183,645
Total		\$ 6,312,986

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and Office of Resiliency (fund 0101, appropriation 18600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2022 Org 0100

Personal Services and Employee Benefits.....	00100	\$	381,293
Current Expenses (R)	13000		183,158
Repairs and Alterations.....	06400		<u>5,000</u>
Total.....		\$	569,451

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2022 Org 0100

Public Health Emergency Response Fund.....	21201	\$	0
Milton Flood Wall (R).....	75701		<u>3,500,000</u>
Total.....		\$	3,500,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 0105, appropriation 75799), Natural Disasters – Surplus (fund 0105, appropriation 76400), and Local Economic Development Assistance (fund 0105, appropriation 81900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.

8 - Auditor's Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2022 Org 1200

Personal Services and Employee Benefits.....	00100	\$	2,377,589
Current Expenses (R)	13000		13,429
BRIM Premium.....	91300		<u>12,077</u>
Total		\$	2,403,095

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2022 Org 1300

Personal Services and Employee Benefits.....	00100	\$	2,570,242
Unclassified	09900		31,463
Current Expenses (R)	13000		572,684
Abandoned Property Program.....	11800		41,794
Other Assets	69000		10,000
ABLE Program.....	69201		150,000
BRIM Premium.....	91300		<u>59,169</u>
Total		\$	3,435,352

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	6,298,229
Current Expenses (R)	13000		848,115
Animal Identification Program	03900		131,942
State Farm Museum.....	05500		87,759
Gypsy Moth Program (R)	11900		1,003,440
WV Farmers Market.....	12801		150,467
Black Fly Control.....	13700		453,698
HEMP Program.....	13701		350,000
Donated Foods Program.....	36300		45,000
Veterans to Agriculture Program (R)	36301		255,624
Predator Control (R).....	47000		176,400
Bee Research	69100		70,634
Microbiology Program	78500		99,828
Moorefield Agriculture Center.....	78600		975,284
Chesapeake Bay Watershed.....	83000		112,427
Livestock Care Standards Board.....	84300		8,820
BRIM Premium.....	91300		138,905
State FFA-FHA Camp and Conference Center	94101		738,554
Threat Preparedness	94200		73,122
WV Food Banks	96900		426,000
Senior's Farmers' Market Nutrition Coupon Program	97000		55,835
Total.....		\$	12,500,083

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	794,191
Unclassified	09900		77,059
Current Expenses (R)	13000		317,848
Soil Conservation Projects (R)	12000		9,799,709
BRIM Premium.....	91300		<u>34,428</u>
Total		\$	11,023,235

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*12 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	668,030
Unclassified	09900		7,090
Current Expenses	13000		<u>82,605</u>
Total		\$	757,725

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –**Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2022 Org 1400

Programs and Awards for 4-H Clubs and FFA/FHA	57700	\$	15,000
Commissioner's Awards and Programs	73700		<u>39,250</u>
Total		\$	54,250

*14 - Department of Agriculture –**West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2022 Org 1400

Personal Services and Employee Benefits	00100	\$	99,547
Unclassified	09900		950
Total		\$	<u>100,497</u>

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2022 Org 1500

Personal Services and Employee Benefits (R)	00100	\$	2,818,788
Unclassified (R)	09900		24,428
Current Expenses (R)	13000		687,795
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Criminal Convictions and Habeas Corpus Appeals (R)	26000		946,078
Better Government Bureau	74000		279,412
BRIM Premium	91300		<u>120,654</u>
Total		\$	<u>4,879,155</u>

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

16 - Secretary of State

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2022 Org 1600

Personal Services and Employee Benefits	00100	\$	118,794
Unclassified (R)	09900		8,352
Current Expenses (R)	13000		781,584
BRIM Premium	91300		<u>34,500</u>
Total		\$	<u>943,230</u>

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2022 Org 1601

Personal Services and Employee Benefits.....	00100	\$	2,477
Unclassified	09900		75
Current Expenses	13000		<u>4,956</u>
Total		\$	7,508

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2022 Org 0201

Personal Services and Employee Benefits.....	00100	\$	438,584
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Unclassified	09900		9,177
Current Expenses	13000		85,009
Repairs and Alterations.....	06400		100
Equipment.....	07000		1,000
Financial Advisor (R).....	30400		27,546
Lease Rental Payments	51600		14,850,000
Design-Build Board	54000		4,000
Other Assets	69000		100
BRIM Premium.....	91300		<u>6,736</u>
Total		\$	15,590,252

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2022 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2022 Org 0209

Personal Services and Employee Benefits.....	00100	\$	64,696
Unclassified	09900		1,400
Current Expenses	13000		60,721
GAAP Project (R).....	12500		612,666
BRIM Premium.....	91300		13,517
Total.....		\$	753,000

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2022 Org 0211

Personal Services and Employee Benefits.....	00100	\$	2,722,499
Unclassified	09900		20,000
Current Expenses	13000		1,148,349
Repairs and Alterations.....	06400		500
Equipment.....	07000		5,000
Fire Service Fee.....	12600		14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds	37100		68,000
Capital Outlay, Repairs and Equipment (R).....	58900		23,660,888
BRIM Premium.....	91300		129,983
Total.....		\$	27,769,219

Any unexpended balances remaining in the appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land

(fund 0230, appropriation 73000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2022 Org 0213

Personal Services and Employee Benefits.....	00100	\$	1,039,163
Unclassified	09900		144
Current Expenses	13000		1,285
Repairs and Alterations.....	06400		200
BRIM Premium.....	91300		<u>6,922</u>
Total		\$	<u>1,047,714</u>

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2022 Org 0215

Personal Services and Employee Benefits.....	00100	\$	802,363
Unclassified	09900		12,032
Current Expenses	13000		440,247
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		5,000
Buildings (R)	25800		100
Other Assets	69000		<u>100</u>
Total		\$	<u>1,260,842</u>

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2022 Org 0217

Current Expenses	13000	\$	45,550
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To pay expenses for members of the commission on uniform state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2022 Org 0219

Personal Services and Employee Benefits.....	00100	\$	969,627
Unclassified	09900		1,000
Current Expenses	13000		145,295
Equipment.....	07000		50
BRIM Premium.....	91300		8,740
Total		\$	<u>1,124,712</u>

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2022 Org 0220

Personal Services and Employee Benefits.....	00100	\$	606,969
Unclassified	09900		2,200
Current Expenses	13000		104,501
Repairs and Alterations.....	06400		500
Other Assets	69000		100
BRIM Premium.....	91300		5,574
Total		\$	<u>719,844</u>

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2022 Org 0221

Personal Services and Employee Benefits.....	00100	\$	1,780,483
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		119,000
Unclassified	09900		333,300
Current Expenses	13000		12,740
Public Defender Corporations	35200		21,188,435
Appointed Counsel Fees (R).....	78800		12,691,113
BRIM Premium.....	91300		10,575
Total		\$	<u>36,135,646</u>

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

28 - Committee for the Purchase of

Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2022 Org 0224

Personal Services and Employee Benefits.....	00100	\$	3,187
Current Expenses	13000		<u>868</u>
Total		\$	4,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2022 Org 0225

PEIA Subsidy	80100	\$	21,000,000
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The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2022 Org 0228

Forensic Medical Examinations (R).....	68300	\$	141,579
Federal Funds/Grant Match (R)	74900		<u>105,074</u>
Total		\$	246,653

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2022 Org 0233

Personal Services and Employee Benefits.....	00100	\$	681,101
Unclassified	09900		1,000
Current Expenses	13000		137,381
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
BRIM Premium.....	91300		9,784
Total		\$	<u>831,866</u>

DEPARTMENT OF COMMERCE*32 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2022 Org 0305

Personal Services and Employee Benefits.....	00100	\$	4,579,781
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		111,674
Unclassified	09900		21,435
Current Expenses	13000		555,963
Repairs and Alterations.....	06400		80,000
Equipment (R).....	07000		2,061
BRIM Premium.....	91300		98,754
Total		\$	<u>5,449,668</u>

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2022 Org 0306

Personal Services and Employee Benefits.....	00100	\$	1,575,695
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		112,753
Unclassified	09900		27,678
Current Expenses	13000		51,524
Repairs and Alterations.....	06400		968

Mineral Mapping System (R).....	20700	1,090,234
BRIM Premium.....	91300	24,486
Total		\$ 2,883,338

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

34 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$ 1,537,028
Current Expenses	13000	227,000
Repairs and Alterations.....	06400	28,000
Equipment.....	07000	15,000
BRIM Premium.....	91300	8,500
Total		\$ 1,815,528

35 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2022 Org 0310

Personal Services and Employee Benefits.....	00100	\$ 16,868,737
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201	113,188
Unclassified	09900	184,711
Current Expenses	13000	196,302
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
Buildings (R)	25800	100
Capital Outlay – Parks (R)	28800	3,000,000
Litter Control Conservation Officers	56400	146,986
Upper Mud River Flood Control.....	65400	164,791
Other Assets	69000	100
Land (R).....	73000	100
Law Enforcement	80600	2,552,994
BRIM Premium.....	91300	45,141
Total		\$ 23,273,350

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300)

at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

36 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2022 Org 0314

Personal Services and Employee Benefits.....	00100	\$	9,375,243
Unclassified	09900		111,016
Current Expenses	13000		1,396,141
Coal Dust and Rock Dust Sampling	27000		487,752
BRIM Premium.....	91300		80,668
Total		\$	11,450,820

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

37 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2022 Org 0319

Personal Services and Employee Benefits.....	00100	\$	233,981
Unclassified	09900		3,480
Current Expenses	13000		118,138
Total		\$	355,599

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

38 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2022 Org 0323

Personal Services and Employee Benefits.....	00100	\$	51,433
Unclassified	09900		593
Current Expenses	13000		6,447
Total		\$	58,473

39 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2022 Org 0327

Personal Services and Employee Benefits.....	00100	\$	465,122
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		153,750
Unclassified	09900		1,490
Current Expenses	13000		131,847
Directed Transfer	70000		500,000
Total.....		\$	<u>1,252,209</u>

The above appropriation for Directed Transfer (fund 0606, appropriation 70000) shall be transferred to the Broadband Enhancement Fund (fund 3013).

*40 - State Board of Rehabilitation –**Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2022 Org 0932

Personal Services and Employee Benefits.....	00100	\$	11,459,977
Current Expenses	13000		558,815
Independent Living Services	00900		429,418
Workshop Development.....	16300		1,817,427
Supported Employment Extended Services	20600		77,960
Ron Yost Personal Assistance Fund.....	40700		333,828
Employment Attendant Care Program.....	59800		131,575
BRIM Premium.....	91300		77,464
Total.....		\$	<u>14,886,464</u>

From the above appropriation for Workshop Development (fund 0310, appropriation 16300), fund shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the program, services, and individuals with disabilities currently in place at those organizations.

DEPARTMENT OF TOURISM*41 - Department of Tourism –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 0246 FY 2022 Org 0304

Tourism – Brand Promotion (R)	61803	\$	3,000,000
Tourism – Public Relations (R).....	61804		1,500,000

Tourism – Events and Sponsorships (R).....	61805	500,000
Tourism – Industry Development (R).....	61806	500,000
State Parks and Recreation Advertising (R).....	61900	<u>1,500,000</u>
Total.....		\$ 7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Secretary of the Department of Tourism shall have the authority to transfer between the above items of appropriation.

DEPARTMENT OF ECONOMIC DEVELOPMENT

42 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2022 Org 0307

Personal Services and Employee Benefits.....	00100	\$ 4,500,420
Unclassified	09900	108,055
Current Expenses	13000	3,681,460
National Youth Science Camp	13200	241,570
Local Economic Development Partnerships (R)	13300	1,250,000
ARC Assessment.....	13600	152,585
Guaranteed Work Force Grant (R).....	24200	976,579
Directed Transfer	70000	0
Mainstreet Program	79400	167,467
Local Economic Development Assistance (R).....	81900	0
BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
Total.....		\$ 11,279,708

Any unexpended balances remaining in the appropriations for Sales and Marketing Enhancement – Surplus (fund 0256, appropriation 05099, Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$50,000 shall be used for the Western Potomac Economic Partnership and \$100,000 shall be used for Advantage Valley.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The Department of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

43 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2022 Org 0328

Personal Services and Employee Benefits.....	00100	\$	238,299
Unclassified	09900		12,395
Current Expenses	13000		1,031,015
BRIM Premium.....	91300		<u>3,894</u>
Total.....		\$	1,285,603

From the above appropriation for Current Expenses (fund 0612, appropriation 13000), \$548,915 is for West Virginia University and \$298,915 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

44 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	348,042
Current Expenses	13000		<u>2,118,865</u>
Total.....		\$	2,466,907

45 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	4,598,523
Unclassified (R).....	09900		420,000
Current Expenses (R)	13000		4,580,000

Teachers' Retirement Savings Realized.....	09500	34,747,000
Center for Professional Development (R).....	11500	150,000
Increased Enrollment.....	14000	22,800,000
Safe Schools.....	14300	4,550,424
Attendance Incentive Bonus (R).....	15001	2,056,717
National Teacher Certification (R).....	16100	300,000
Jobs & Hope – Childhood Drug Prevention Education.....	21901	5,000,000
Allowance for County Transfer.....	26400	119,087
Technology Repair and Modernization.....	29800	951,003
HVAC Technicians.....	35500	516,791
Early Retirement Notification Incentive.....	36600	300,000
MATH Program.....	36800	336,532
Assessment Programs (R).....	39600	3,865,593
Benedum Professional Development Collaborative (R).....	42700	429,775
Governor's Honors Academy (R).....	47800	1,059,270
21st Century Fellows.....	50700	274,899
English as a Second Language.....	52800	96,000
Teacher Reimbursement.....	57300	297,188
Hospitality Training.....	60000	272,775
Youth in Government.....	61600	100,000
High Acuity Special Needs (R).....	63400	1,500,000
Foreign Student Education.....	63600	100,294
State Board of Education Administrative Costs.....	68400	277,403
IT Academy (R).....	72100	500,000
Early Literacy Program.....	75600	5,705,624
School Based Truancy Prevention (R).....	78101	2,032,238
Communities in Schools (R).....	78103	4,900,000
Mastery Based Education.....	78104	125,000
Mountain State Digital Literacy Program.....	86401	415,500
21st Century Learners (R).....	88600	1,756,470
BRIM Premium.....	91300	342,859
21st Century Assessment and Professional Development.....	93100	2,006,978
21st Century Technology Infrastructure Network Tools and Support (R).....	93300	9,636,586
Special Olympic Games.....	96600	25,000
Educational Program Allowance.....	99600	516,250
Total.....		<u>\$ 117,661,779</u>

The above appropriations include funding for the state board of education and their executive office.

From the above appropriation for Current Expenses (fund 0313, appropriation 13000), \$2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional Child Hunger Solutions.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund 0313,

appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for Teachers' Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

From the above appropriation for Unclassified (fund 0313, appropriation 09900), \$120,000 shall be for assisting low income students with AP and CLEP exam fees.

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for the Morgan County Board of Education for Paw Paw Schools; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge and \$66,250 is for Project Based Learning in STEM fields.

46 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2022 Org 0402

Special Education – Counties	15900	\$	7,271,757
Special Education – Institutions	16000		3,968,631
Education of Juveniles Held in Predispositional Juvenile Detention Centers.....	30200		662,300
Education of Institutionalized Juveniles and Adults (R)	47200		<u>20,520,405</u>
Total		\$	<u>32,423,093</u>

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

47 - State Board of Education –

State Aid to Schools

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2022 Org 0402

Other Current Expenses	02200	\$ 161,739,678
Advanced Placement	05300	670,151
Professional Educators	15100	869,082,617
Service Personnel	15200	291,835,429
Fixed Charges	15300	101,669,823
Transportation	15400	69,037,827
Improved Instructional Programs	15600	51,974,496
Professional Student Support Services	65500	59,608,039
21st Century Strategic Technology Learning Growth	93600	26,443,757
Teacher and Leader Induction	93601	<u>5,478,876</u>
Basic Foundation Allowances		1,637,540,693
Less Local Share		(476,260,743)
Adjustments		<u>(3,254,844)</u>
Total Basic State Aid		1,158,025,106
Public Employees' Insurance Matching	01200	206,938,256
Teachers' Retirement System	01900	60,784,000
School Building Authority (R)	45300	24,000,000
Retirement Systems – Unfunded Liability	77500	<u>302,844,000</u>
Total		\$ 1,752,591,362

Any unexpended balances remaining in the appropriations for School Building Authority (fund 0317, appropriation 45300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*48 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2022 Org 0402

Personal Services and Employee Benefits	00100	\$ 1,339,713
Unclassified	09900	268,800
Current Expenses	13000	883,106
Wood Products – Forestry Vocational Program	14600	81,252
Albert Yanni Vocational Program	14700	132,123
Vocational Aid	14800	24,443,275
Adult Basic Education	14900	5,365,530
Jobs & Hope	14902	0
Program Modernization	30500	884,313
High School Equivalency Diploma Testing (R)	72600	803,397
FFA Grant Awards	83900	11,496
Pre-Engineering Academy Program	84000	<u>265,294</u>
Total		\$ 34,478,299

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

49 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18, and 18A)

Fund 0320 FY 2022 Org 0403

Personal Services and Employee Benefits.....	00100	\$	11,379,675
Unclassified	09900		110,000
Current Expenses	13000		2,250,696
Repairs and Alterations.....	06400		164,675
Equipment.....	07000		77,000
Buildings (R)	25800		45,000
Capital Outlay and Maintenance (R)	75500		520,000
BRIM Premium.....	91300		<u>130,842</u>
Total.....		\$	14,677,888

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

50 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2022 Org 0432

Personal Services and Employee Benefits.....	00100	\$	3,343,387
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		120,106
Unclassified (R).....	09900		28,483
Current Expenses	13000		610,843
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		1
WV Humanities Council	16800		250,000
Buildings (R)	25800		1
Other Assets	69000		1
Educational Enhancements.....	69500		573,500
Land (R).....	73000		1
Culture and History Programming	73200		231,573
Capital Outlay and Maintenance (R)	75500		19,600
Historical Highway Marker Program.....	84400		57,548

BRIM Premium.....	91300	<u>39,337</u>
Total		\$ 5,275,381

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Current Expenses appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500), \$500,000 shall be used for Save the Children and \$73,500 shall be used for the Clay Center.

51 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2022 Org 0433

Personal Services and Employee Benefits.....	00100	\$ 1,070,613
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	112,000
Current Expenses	13000	139,624
Repairs and Alterations.....	06400	6,500
Services to Blind & Handicapped	18100	161,717
BRIM Premium.....	91300	<u>18,205</u>
Total		\$ 1,508,659

52 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2022 Org 0439

Personal Services and Employee Benefits.....	00100	\$ 3,144,106
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	120,106
Current Expenses	13000	118,344
Mountain Stage.....	24900	295,500
Capital Outlay and Maintenance (R)	75500	49,250
BRIM Premium.....	91300	<u>47,727</u>
Total		\$ 3,775,033

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

53 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2022 Org 0311

Personal Services and Employee Benefits.....	00100	\$	82,539
Current Expenses	13000		28,453
Repairs and Alterations.....	06400		800
Equipment.....	07000		500
Other Assets	69000		400
BRIM Premium.....	91300		791
Total		\$	113,483

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	4,005,460
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Unclassified	09900		0
Current Expenses	13000		85,816
Repairs and Alterations.....	06400		0
Water Resources Protection and Management.....	06800		576,278
Dam Safety	60700		237,824
West Virginia Stream Partners Program.....	63700		77,396
Meth Lab Cleanup.....	65600		91,888
WV Contributions to River Commissions.....	77600		148,485
Office of Water Resources Non-Enforcement Activity	85500		1,009,855
Total		\$	6,401,002

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2022 Org 0325

Personal Services and Employee Benefits.....	00100	\$	60,737
Current Expenses	13000		11,612
Repairs and Alterations.....	06400		800
Equipment.....	07000		400
Other Assets	69000		200

BRIM Premium.....	91300		<u>2,304</u>
Total		\$	76,053

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

56 - Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2022 Org 0501

Personal Services and Employee Benefits.....	00100	\$	384,638
Unclassified	09900		6,459
Current Expenses	13000		50,613
Commission for the Deaf and Hard of Hearing	70400		<u>225,534</u>
Total		\$	667,244

Any unexpended balance remaining in the appropriation for the Women’s Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

57 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	12,544,773
Unclassified	09900		671,795
Current Expenses	13000		5,388,459
Chief Medical Examiner (R)	04500		8,714,647
State Aid for Local and Basic Public Health Services	18400		14,160,490
Safe Drinking Water Program (R).....	18700		1,891,323
Women, Infants and Children.....	21000		38,621
Early Intervention	22300		8,134,060
Cancer Registry	22500		206,306
Office of Drug Control Policy (R)	35401		545,153
Statewide EMS Program Support (R).....	38300		1,695,271
Office of Medical Cannabis (R)	42001		1,459,989
Black Lung Clinics.....	46700		170,885
Vaccine for Children.....	55100		338,235
Tuberculosis Control	55300		329,256
Maternal and Child Health Clinics, Clinicians			
Medical Contracts and Fees (R).....	57500		5,892,707
Epidemiology Support.....	62600		1,497,192
Primary Care Support	62800		1,223,666
Sexual Assault Intervention and Prevention	72300		800,000

Health Right Free Clinics	72700	4,250,000
Capital Outlay and Maintenance (R)	75500	70,000
Healthy Lifestyles.....	77800	890,000
Maternal Mortality Review.....	83400	49,933
Diabetes Education and Prevention.....	87300	97,125
BRIM Premium.....	91300	169,791
State Trauma and Emergency Care System.....	91800	1,921,322
WVU Charleston Poison Control Hotline.....	94400	712,942
Total.....		<u>\$ 73,863,941</u>

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis Surplus (fund 0407, appropriation 42099), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay, Repairs and Equipment Surplus (fund 0525, appropriation 67700), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$1,000,000 shall be used for the administration of the Telestroke program.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$ 1,632,588
Current Expenses	13000	14,113
Jobs & Hope	14902	0
Behavioral Health Program (R).....	21900	71,671,175
Institutional Facilities Operations (R).....	33500	147,729,180

Substance Abuse Continuum of Care (R)	35400	1,840,000
Capital Outlay and Maintenance (R)	75500	950,000
BRIM Premium.....	91300	<u>1,296,098</u>
Total		\$ 225,133,154

Any unexpended balances remaining in the appropriations for Jim’s Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Healing Place of Huntington.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2022, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

59 - Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2022 Org 0506

West Virginia Drinking Water Treatment		
Revolving Fund-Transfer	68900	\$ 647,500

The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2022 Org 0510

Personal Services and Employee Benefits.....	00100	\$	961,553
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		112,000
Unclassified.....	09900		4,024
Current Expenses.....	13000		331,304
BRIM Premium.....	91300		10,764
Total.....		\$	<u>1,419,645</u>

61 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	50,630,531
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		87,031
Unclassified.....	09900		5,688,944
Current Expenses.....	13000		11,772,050
Child Care Development.....	14400		3,102,718
Medical Services.....	18900		318,512,213
Social Services.....	19500		226,138,785
Family Preservation Program.....	19600		1,565,000
Family Resource Networks.....	27400		1,762,464
Domestic Violence Legal Services Fund.....	38400		400,000
James "Tiger" Morton Catastrophic Illness Fund.....	45500		18,664
I/DD Waiver.....	46600		108,541,736
Child Protective Services Case Workers.....	46800		27,843,073
Title XIX Waiver for Seniors.....	53300		13,593,620
WV Teaching Hospitals Tertiary/Safety Net.....	54700		6,356,000
In-Home Family Education.....	68800		1,000,000
WV Works Separate State Program.....	69800		135,000
Child Support Enforcement.....	70500		6,458,806
Temporary Assistance for Needy Families/ Maintenance of Effort.....	70700		25,819,096
Child Care – Maintenance of Effort Match.....	70800		5,693,743
Grants for Licensed Domestic Violence Programs and Statewide Prevention.....	75000		2,500,000
Capital Outlay and Maintenance (R).....	75500		11,875
Community Based Services and Pilot Programs for Youth.....	75900		1,000,000
Medical Services Administrative Costs.....	78900		43,568,141
Traumatic Brain Injury Waiver.....	83500		800,000
Indigent Burials (R).....	85100		1,550,000
CHIP Administrative Costs.....	85601		700,000
CHIP Services.....	85602		6,390,665

BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds	94000	2,596,000
Children's Trust Fund – Transfer.....	95100	220,000
PATH	95400	<u>7,162,452</u>
Total.....		\$ 882,511,249

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

The secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

The above appropriation for James "Tiger" Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James "Tiger" Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the secretary of the Department of Health and Human Resources.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to the Children's Trust Fund (fund 5469, org 0511).

DEPARTMENT OF HOMELAND SECURITY*62 - Department of Homeland Security –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2022 Org 0601

Personal Services and Employee Benefits.....	00100	\$	516,426
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		168,000
Unclassified (R).....	09900		30,000
Current Expenses.....	13000		145,886
Repairs and Alterations.....	06400		500
Equipment.....	07000		500
Fusion Center (R).....	46900		2,683,140
Other Assets.....	69000		500
Directed Transfer.....	70000		32,000
BRIM Premium.....	91300		22,563
WV Fire and EMS Survivor Benefit (R).....	93900		200,000
Total.....		\$	3,799,515

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (fund 6003).

63 - Division of Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2022 Org 0606

Personal Services and Employee Benefits.....	00100	\$	2,128,644
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		61,250
Unclassified.....	09900		21,022
Current Expenses.....	13000		51,065
Repairs and Alterations.....	06400		600
Radiological Emergency Preparedness.....	55400		17,052
SIRN.....	55401		600,000
Federal Funds/Grant Match (R).....	74900		1,409,145
Mine and Industrial Accident Rapid			

Response Call Center	78100	469,911
Early Warning Flood System (R).....	87700	1,284,448
BRIM Premium.....	91300	<u>96,529</u>
Total		\$ 6,139,666

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

64 - Division of Corrections and Rehabilitation –

West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2022 Org 0608

Personal Services and Employee Benefits.....	00100	\$ 307,843
Unclassified	09900	10,000
Current Expenses	13000	334,440
Salaries of Members of West Virginia Parole Board.....	22700	707,056
BRIM Premium.....	91300	<u>6,149</u>
Total		\$ 1,365,488

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code §5-5-1), and related employee benefits of board members.

65 - Division of Corrections and Rehabilitation –

Central Office

(WV Code Chapter 15A)

Fund 0446 FY 2022 Org 0608

Personal Services and Employee Benefits.....	00100	\$ 450,577
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	126,000
Current Expenses	13000	<u>2,400</u>
Total		\$ 578,977

66 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 0450 FY 2022 Org 0608

Employee Benefits	01000	\$	1,258,136
Unclassified	09900		1,578,800
Current Expenses (R)	13000		52,016,936
Children's Protection Act (R)	09000		838,437
Facilities Planning and Administration (R)	38600		1,274,200
Charleston Correctional Center	45600		3,400,402
Beckley Correctional Center	49000		2,518,874
Anthony Correctional Center	50400		6,096,779
Huttonsville Correctional Center	51400		21,697,029
Northern Correctional Center	53400		7,899,965
Inmate Medical Expenses (R)	53500		21,226,064
Pruntytown Correctional Center	54300		8,562,705
Corrections Academy	56900		1,925,980
Information Technology Services	59901		2,759,052
Martinsburg Correctional Center	66300		4,348,990
Parole Services	68600		5,775,564
Special Services	68700		5,694,768
Investigative Services	71600		3,394,070
Capital Outlay and Maintenance (R)	75500		2,000,000
Salem Correctional Center	77400		11,305,381
McDowell County Correctional Center	79000		2,542,590
Stevens Correctional Center	79100		7,863,195
Parkersburg Correctional Center	82800		3,927,845
St. Mary's Correctional Center	88100		14,497,534
Denmar Correctional Center	88200		5,189,043
Ohio County Correctional Center	88300		2,147,492
Mt. Olive Correctional Complex	88800		22,297,226
Lakin Correctional Center	89600		10,711,864
BRIM Premium	91300		<u>2,527,657</u>
Total		\$	<u>237,276,578</u>

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections and Rehabilitation inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

67 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(WV Code Chapter 15A)

Fund 0570 FY 2022 Org 0608

Statewide Reporting Centers	26200	\$	6,758,529
Robert L. Shell Juvenile Center.....	26700		2,519,068
Resident Medical Expenses (R).....	53501		3,604,999
Central Office	70100		1,713,291
Capital Outlay and Maintenance (R)	75500		250,000
Gene Spadaro Juvenile Center	79300		2,659,469
BRIM Premium.....	91300		115,967
Kenneth Honey Rubenstein Juvenile Center (R).....	98000		5,717,712
Vicki Douglas Juvenile Center.....	98100		2,389,494
Northern Regional Juvenile Center	98200		2,876,302
Lorrie Yeager Jr. Juvenile Center.....	98300		2,422,880
Sam Perdue Juvenile Center	98400		2,614,497
Tiger Morton Center.....	98500		2,633,060
Donald R. Kuhn Juvenile Center	98600		5,060,657
J.M. "Chick" Buckbee Juvenile Center	98700		2,527,617
Total.....		\$	43,863,542

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above including statewide reporting centers and central office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

68 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2022 Org 0612

Personal Services and Employee Benefits.....	00100	\$	62,115,935
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		139,300

Children's Protection Act.....	09000	1,009,529
Current Expenses	13000	10,384,394
Repairs and Alterations.....	06400	450,523
Trooper Class	52100	3,207,832
Barracks Lease Payments	55600	237,898
Communications and Other Equipment (R).....	55800	1,070,968
Trooper Retirement Fund.....	60500	9,592,923
Handgun Administration Expense	74700	77,892
Capital Outlay and Maintenance (R)	75500	250,000
Retirement Systems – Unfunded Liability.....	77500	17,798,000
Automated Fingerprint Identification System	89800	2,211,693
BRIM Premium.....	91300	5,743,921
Total.....		\$ 114,290,808

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

69 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2022 Org 0619

Current Expenses	13000	\$	63,061
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70 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2022 Org 0622

Personal Services and Employee Benefits.....	00100	\$	3,029,459
Unclassified (R).....	09900		21,991
Current Expenses	13000		422,981
Repairs and Alterations.....	06400		8,500
Equipment (R).....	07000		64,171
BRIM Premium.....	91300		32,602
Total.....		\$	3,579,704

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

71 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2022 Org 0623

Personal Services and Employee Benefits.....	00100	\$	570,979
Current Expenses	13000		233,360
Repairs and Alterations.....	06400		1,804
Child Advocacy Centers (R).....	45800		2,206,954
Community Corrections (R).....	56100		4,595,222
Statistical Analysis Program.....	59700		49,819
Sexual Assault Forensic Examination Commission (R).....	71400		77,525
Qualitative Analysis and Training for Youth Services (R)	76200		136,278
Law Enforcement Professional Standards.....	83800		164,272
Justice Reinvestment Initiative (R).....	89501		2,332,101
BRIM Premium.....	91300		<u>2,123</u>
Total.....		\$	10,370,437

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Justice Reinvestment Initiative (fund 0546, appropriation 89501) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), \$100,000 shall be used for Court Appointed Special Advocates.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

72 - Division of Administrative Services

(WV Code Chapter 15A)

Fund 0619 FY 2022 Org 0623

Personal Services and Employee Benefits.....	00100	\$	4,629,723
Current Expenses	13000		<u>605,000</u>
Total.....		\$	5,234,723

DEPARTMENT OF REVENUE

73 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2022 Org 0701

Personal Services and Employee Benefits	00100	\$	348,906
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Unclassified	09900		437
Current Expenses	13000		81,594
Repairs and Alterations	06400		1,262
Equipment	07000		8,000
Other Assets	69000		500
Total		\$	608,699

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

74 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2022 Org 0702

Personal Services and Employee Benefits (R)	00100	\$	18,136,041
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		136,500
Unclassified (R)	09900		174,578
Current Expenses (R)	13000		5,823,635
Repairs and Alterations	06400		10,150
Equipment	07000		54,850
Tax Technology Upgrade	09400		3,700,000
Multi State Tax Commission	65300		77,958
Other Assets	69000		10,000
BRIM Premium	91300		15,579
Total		\$	28,139,291

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation 29200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

75 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2022 Org 0703

Personal Services and Employee Benefits	00100	\$	794,942
Unclassified (R)	09900		9,200
Current Expenses	13000		119,449
Total		\$	923,591

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

76 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2022 Org 0709

Personal Services and Employee Benefits.....	00100	\$	452,106
Unclassified	09900		5,255
Current Expenses (R)	13000		93,022
BRIM Premium.....	91300		<u>3,062</u>
Total		\$	553,445

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

77 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2022 Org 0933

Personal Services and Employee Benefits.....	00100	\$	7,200
Current Expenses	13000		<u>29,611</u>
Total		\$	36,811

DEPARTMENT OF TRANSPORTATION

78 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2022 Org 0804

Personal Services and Employee Benefits.....	00100	\$	361,627
Current Expenses	13000		287,707
Other Assets (R)	69000		1,270,019
BRIM Premium.....	91300		<u>201,541</u>
Total		\$	2,120,894

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

79 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2022 Org 0805

Equipment (R).....	07000	\$	25,000
Current Expenses (R)	13000		2,137,989
Buildings	25800		50,000
Other Assets (R).....	69000		50,000
Total.....		\$	<u>2,262,989</u>

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

80 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2022 Org 0807

Personal Services and Employee Benefits.....	00100	\$	223,740
Current Expenses (R)	13000		591,839
Repairs and Alterations.....	06400		100
BRIM Premium.....	91300		4,438
Total.....		\$	<u>820,117</u>

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF VETERANS' ASSISTANCE*81 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2022 Org 0613

Personal Services and Employee Benefits.....	00100	\$	1,931,772
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		110,880
Unclassified	09900		20,000
Current Expenses	13000		161,450
Repairs and Alterations.....	06400		5,000
Veterans' Field Offices	22800		405,550
Buildings (R)	25800		7,000,000
Veterans' Nursing Home (R).....	28600		6,861,472
Veterans' Toll Free Assistance Line.....	32800		2,015

Veterans' Reeducation Assistance (R).....	32900	40,000
Veterans' Grant Program (R)	34200	560,000
Veterans' Grave Markers	47300	10,000
Veterans' Cemetery	80800	389,215
BRIM Premium.....	91300	<u>50,000</u>
Total		\$ 17,547,354

Any unexpended balances remaining in the appropriations for Buildings – Surplus (fund 0456, appropriation #####), Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

82 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 0460 FY 2022 Org 0618

Personal Services and Employee Benefits.....	00100	\$ 1,217,096
Current Expenses (R)	13000	46,759
Veterans Outreach Programs.....	61700	<u>200,740</u>
Total		\$ 1,464,595

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0460, appropriation 13000) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

BUREAU OF SENIOR SERVICES

83 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2022 Org 0508

Current Expenses	13000	\$ 0
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens	53900	<u>29,950,955</u>
Total		\$ 29,950,955

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY
AND TECHNICAL COLLEGE EDUCATION**

84 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2022 Org 0420

West Virginia Council for Community and Technical Education (R)	39200	\$	727,871
Transit Training Partnership	78300		34,293
Community College Workforce Development (R)	87800		2,786,925
College Transition Program.....	88700		278,222
West Virginia Advance Workforce Development (R)	89300		3,118,960
Technical Program Development (R)	89400		1,800,735
WV Invests Grant Program (R)	89401		7,034,748
Total		\$	15,781,754

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596, appropriation 89401) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

85 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2022 Org 0444

Mountwest Community and Technical College.....	48700	\$	6,391,967
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86 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2022 Org 0445

New River Community and Technical College.....	35800	\$	5,776,913
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87 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2022 Org 0446

Pierpont Community and Technical College.....	93000	\$	7,820,129
<i>88 - Blue Ridge Community and Technical College</i>			
(WV Code Chapter 18B)			
Fund <u>0601</u> FY <u>2022</u> Org <u>0447</u>			
Blue Ridge Community and Technical College.....	88500	\$	7,713,379
<i>89 - West Virginia University at Parkersburg</i>			
(WV Code Chapter 18B)			
Fund <u>0351</u> FY <u>2022</u> Org <u>0464</u>			
West Virginia University – Parkersburg	47100	\$	10,164,495
<i>90 - Southern West Virginia Community and Technical College</i>			
(WV Code Chapter 18B)			
Fund <u>0380</u> FY <u>2022</u> Org <u>0487</u>			
Southern West Virginia Community and Technical College.....	44600	\$	8,118,196
<i>91 - West Virginia Northern Community and Technical College</i>			
(WV Code Chapter 18B)			
Fund <u>0383</u> FY <u>2022</u> Org <u>0489</u>			
West Virginia Northern Community and Technical College	44700	\$	7,176,538
<i>92 - Eastern West Virginia Community and Technical College</i>			
(WV Code Chapter 18B)			
Fund <u>0587</u> FY <u>2022</u> Org <u>0492</u>			
Eastern West Virginia Community and Technical College	41200	\$	2,147,213
<i>93 - BridgeValley Community and Technical College</i>			
(WV Code Chapter 18B)			
Fund <u>0618</u> FY <u>2022</u> Org <u>0493</u>			
BridgeValley Community and Technical College	71700	\$	7,977,329

HIGHER EDUCATION POLICY COMMISSION*94 - Higher Education Policy Commission –**Administration –**Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2022 Org 0441

Personal Services and Employee Benefits.....	00100	\$	2,669,502
Current Expenses	13000		1,096,902
RHI Program and Site Support –			
RHEP Program Administration.....	03700		80,000
Mental Health Provider Loan Repayment (R).....	11301		330,000
Higher Education Grant Program	16400		40,619,864
Tuition Contract Program (R)	16500		1,225,120
Underwood-Smith Scholarship Program-Student Awards	16700		628,349
Facilities Planning and Administration.....	38600		1,760,254
Higher Education System Initiatives.....	48801		1,630,000
PROMISE Scholarship – Transfer.....	80000		18,500,000
HEAPS Grant Program (R)	86700		5,014,728
Health Professionals’ Student Loan Program.....	86701		547,470
BRIM Premium.....	91300		17,817
Total		\$	74,120,006

Any unexpended balances remaining in the appropriations for Tuition Contract Program (fund 0589, appropriation 16500), HEAPS Grant Program (fund 0589, appropriation 86700), Health Professionals’ Student Loan Program (fund 0589, appropriation 86701), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship-Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

*95 - West Virginia University –**School of Medicine**Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2022 Org 0463

WVU School of Health Science – Eastern Division	05600	\$	2,201,822
WVU – School of Health Sciences	17400		14,830,524
WVU – School of Health Sciences – Charleston Division	17500		2,252,410
Rural Health Outreach Programs (R)	37700		164,517
West Virginia University School of Medicine			
BRIM Subsidy	46000		<u>1,203,087</u>
Total		\$	20,652,360

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*96 - West Virginia University –**General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2022 Org 0463

West Virginia University	45900	\$	79,017,960
Jackson's Mill (R)	46100		491,458
West Virginia University Institute of Technology	47900		8,020,938
State Priorities – Brownfield Professional Development (R)	53100		316,556
Energy Express (R)	86100		382,935
West Virginia University – Potomac State	99400		<u>4,512,711</u>
Total		\$	92,742,558

Any unexpended balances remaining in the appropriations for Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), and Energy Express (fund 0344, appropriation 86100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*97 - Marshall University –**School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2022 Org 0471

Marshall Medical School	17300	\$	12,051,542
Rural Health Outreach Programs (R)	37700		156,022
Forensic Lab (R)	37701		227,415
Center for Rural Health (R)	37702		157,096
Marshall University Medical School BRIM Subsidy	44900		<u>872,612</u>
Total		\$	13,464,687

Any unexpended balances remaining in the appropriations for Rural Health Outreach Program (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

98 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2022 Org 0471

Marshall University.....	44800	\$	36,761,199
Luke Lee Listening Language and Learning Lab (R).....	44801		149,015
Vista E-Learning (R).....	51900		229,019
State Priorities – Brownfield Professional Development (R)	53100		309,606
Marshall University Graduate College Writing Project (R)	80700		25,412
WV Autism Training Center (R).....	93200		<u>1,808,381</u>
Total		\$	39,282,632

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

99 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2022 Org 0476

West Virginia School of Osteopathic Medicine	17200	\$	8,746,107
Rural Health Outreach Programs (R)	37700		166,111
West Virginia School of Osteopathic Medicine BRIM Subsidy	40300		153,405
Rural Health Initiative – Medical Schools Support	58100		<u>397,592</u>
Total		\$	9,463,215

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

	<i>100 - Bluefield State College</i>		
	(WV Code Chapter 18B)		
	Fund <u>0354</u> FY <u>2022</u> Org <u>0482</u>		
Bluefield State College.....	40800	\$	6,287,473
	<i>101 - Concord University</i>		
	(WV Code Chapter 18B)		
	Fund <u>0357</u> FY <u>2022</u> Org <u>0483</u>		
Concord University.....	41000	\$	10,319,269
	<i>102 - Fairmont State University</i>		
	(WV Code Chapter 18B)		
	Fund <u>0360</u> FY <u>2022</u> Org <u>0484</u>		
Fairmont State University.....	41400	\$	18,600,341
	<i>103 - Glenville State College</i>		
	(WV Code Chapter 18B)		
	Fund <u>0363</u> FY <u>2022</u> Org <u>0485</u>		
Glenville State College.....	42800	\$	6,350,238
	<i>104 - Shepherd University</i>		
	(WV Code Chapter 18B)		
	Fund <u>0366</u> FY <u>2022</u> Org <u>0486</u>		
Shepherd University.....	43200	\$	12,493,572
	<i>105 - West Liberty University</i>		
	(WV Code Chapter 18B)		
	Fund <u>0370</u> FY <u>2022</u> Org <u>0488</u>		
West Liberty University	43900	\$	8,966,122
	<i>106 - West Virginia State University</i>		
	(WV Code Chapter 18B)		
	Fund <u>0373</u> FY <u>2022</u> Org <u>0490</u>		

West Virginia State University	44100	\$	11,172,374
West Virginia State University Land Grant Match	95600		<u>2,950,192</u>
Total		\$	14,122,566

From the above appropriation for West Virginia State University (fund 0373, appropriation 44100), \$300,000 shall be for the Healthy Grandfamilies program.

107 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B)

Fund 0551 FY 2022 Org 0495

WVNET	16900	\$	1,747,826
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MISCELLANEOUS BOARDS AND COMMISSIONS

108 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2022 Org 0603

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	\$	189,000
Unclassified (R).....	09900		106,798
College Education Fund.....	23200		4,000,000
Civil Air Patrol	23400		249,664
Armory Board Transfer.....	70015		2,317,555
Mountaineer ChalleNGe Academy	70900		3,200,000
Military Authority (R).....	74800		6,071,251
Drug Enforcement and Support.....	74801		<u>1,500,000</u>
Total		\$	17,634,268

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$4,800,000 to the Mountaineer Challenge Academy to meet anticipated program demand.

109 - Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2022 Org 0603

Personal Services and Employee Benefits.....	00100	\$	100,000
Current Expenses	13000		<u>57,775</u>
Total		\$	157,775
Total TITLE II, Section 1 – General Revenue (Including claims against the state).....			<u>\$ 4,495,032,115</u>

Sec. 2. Appropriations from state road fund. — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2022.

DEPARTMENT OF TRANSPORTATION

110 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2022 Org 0802

		Appro- piation	State Road Fund
Personal Services and Employee Benefits.....	00100	\$	26,867,939
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		129,500
Current Expenses	13000		16,576,540
Repairs and Alterations.....	06400		144,000
Equipment.....	07000		1,080,000
Buildings	25800		10,000
Other Assets	69000		8,154,000
BRIM Premium.....	91300		<u>89,940</u>
Total		\$	53,051,919

111 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2022 Org 0803

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	\$	200,000
Debt Service	04000		124,000,000
Maintenance	23700		520,000,000
Inventory Revolving	27500		4,000,000
Equipment Revolving	27600		20,000,000
General Operations.....	27700		152,800,000
Interstate Construction.....	27800		115,000,000
Other Federal Aid Programs	27900		345,000,000
Appalachian Programs.....	28000		100,000,000
Highway Litter Control.....	28200		1,650,000
Courtesy Patrol	28201		0
Total		\$	<u>1,382,650,000</u>

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

112 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2022 Org 0808

Personal Services and Employee Benefits.....	00100	\$	44,600
Current Expenses	13000		100
Repairs and Alterations.....	06400		100
Equipment.....	07000		100
BRIM Premium.....	91300		100
Total		\$	<u>45,000</u>
Total TITLE II, Section 2 – State Road Fund (Including claims against the state).....		\$	<u>1,436,368,684</u>

Sec. 3. Appropriations from other funds. — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

113 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2022 Org 2300

	Appropriation		Other Funds
Personal Services and Employee Benefits	00100	\$	498,020
Current Expenses	13000		133,903
Repairs and Alterations.....	06400		1,000
Economic Loss Claim Payment Fund.....	33400		2,000,000
Other Assets	69000		<u>3,700</u>
Total		\$	<u>2,636,623</u>

JUDICIAL

114 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund 1704 FY 2022 Org 2400

Current Expenses	13000	\$	100,000
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115 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund 1705 FY 2022 Org 2400

Current Expenses	13000	\$	200,000
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116 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2022 Org 2400

Current Expenses	13000	\$	1,050,000
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EXECUTIVE*117 - Governor's Office –**Minority Affairs Fund**(WV Code Chapter 5)*Fund 1058 FY 2022 Org 0100

Personal Services and Employee Benefits.....	00100	\$	177,737
Current Expenses	13000		503,200
Martin Luther King, Jr. Holiday Celebration	03100		<u>8,926</u>
Total		\$	689,863

*118 - Auditor's Office –**Land Operating Fund**(WV Code Chapters 11A, 12, and 36)*Fund 1206 FY 2022 Org 1200

Personal Services and Employee Benefits.....	00100	\$	799,211
Unclassified	09900		15,139
Current Expenses	13000		715,291
Repairs and Alterations.....	06400		2,600
Equipment.....	07000		426,741
Cost of Delinquent Land Sales.....	76800		<u>1,841,168</u>
Total		\$	3,800,150

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*119 - Auditor's Office –**Local Government Purchasing Card Expenditure Fund**(WV Code Chapter 6)*Fund 1224 FY 2022 Org 1200

Personal Services and Employee Benefits.....	00100	\$	627,779
Current Expenses	13000		282,030
Repairs and Alterations.....	06400		6,000

Equipment.....	07000	10,805
Other Assets	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total		\$ 4,476,614

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2022 Org 1200

Personal Services and Employee Benefits.....	00100	\$ 2,737,017
Unclassified	09900	31,866
Current Expenses	13000	1,463,830
Repairs and Alterations.....	06400	12,400
Equipment.....	07000	594,700
Other Assets	69000	<u>1,200,000</u>
Total		\$ 6,039,813

121 - Auditor's Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2022 Org 1200

Current Expenses	13000	\$ 10,000
Other Assets	69000	<u>5,000</u>
Total		\$ 15,000

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

122 - Auditor's Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2022 Org 1200

Personal Services and Employee Benefits.....	00100	\$ 3,074,837
Current Expenses	13000	2,303,622
Repairs and Alterations.....	06400	5,500
Equipment.....	07000	850,000

Other Assets	69000	508,886
Statutory Revenue Distribution.....	74100	<u>8,000,000</u>
Total		\$ 14,742,845

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

123 - Auditor's Office –

Chief Inspector's Fund

(WV Code Chapter 6)

Fund 1235 FY 2022 Org 1200

Personal Services and Employee Benefits.....	00100	\$ 3,583,096
Current Expenses	13000	765,915
Equipment.....	07000	<u>50,000</u>
Total		\$ 4,399,011

124 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2022 Org 1200

Volunteer Fire Department Workers' Compensation Subsidy.....	83200	\$ 2,500,000
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125 - Treasurer's Office –

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2022 Org 1300

Personal Services and Employee Benefits.....	00100	\$ 810,372
Unclassified	09900	14,000
Current Expenses	13000	<u>897,559</u>
Total		\$ 1,721,931

*126 - Department of Agriculture –**Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	2,425,446
Unclassified	09900		37,425
Current Expenses	13000		1,856,184
Repairs and Alterations.....	06400		158,500
Equipment.....	07000		436,209
Other Assets	69000		10,000
Total.....		\$	<u>4,923,764</u>

*127 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	78,251
Unclassified	09900		10,476
Current Expenses	13000		<u>2,200,000</u>
Total.....		\$	<u>2,288,727</u>

*128 - Department of Agriculture –**General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	71,937
Unclassified	09900		2,100
Current Expenses	13000		89,500
Repairs and Alterations.....	06400		36,400
Equipment.....	07000		<u>15,000</u>
Total.....		\$	<u>214,937</u>

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

*129 - Department of Agriculture –**Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2022 Org 1400

Personal Services and Employee Benefits	00100	\$	868,492
Unclassified	09900		15,173
Current Expenses	13000		1,367,464
Repairs and Alterations	06400		388,722
Equipment	07000		399,393
Other Assets	69000		20,000
Total		\$	<u>3,059,244</u>

130 - Department of Agriculture –

Capital Improvements Fund

(WV Code Chapter 19)

Fund 1413 FY 2022 Org 1400

Unclassified	09900		20,000
Current Expenses	13000		510,000
Repairs and Alterations	06400		250,000
Equipment	07000		350,000
Building Improvements	25800		670,000
Other Assets	69000		200,000
Total		\$	<u>2,000,000</u>

131 - Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2022 Org 1400

Personal Services and Employee Benefits	00100	\$	1,030,451
Unclassified	09900		45,807
Current Expenses	13000		3,410,542
Repairs and Alterations	06400		128,500
Equipment	07000		10,000
Other Assets	69000		27,000
Land	73000		250,000
Total		\$	<u>4,902,300</u>

132 - Department of Agriculture –

Integrated Predation Management Fund

(WV Code Chapter 7)

Fund 1465 FY 2022 Org 1400

Current Expenses	13000	\$	112,500
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133 - Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(WV Code Chapter 19)

Fund 1481 FY 2022 Org 1400

Current Expenses	13000	\$	500,000
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134 - Department of Agriculture –

Veterans and Warriors to Agriculture Fund

(WV Code Chapter 19)

Fund 1483 FY 2022 Org 1400

Current Expenses	13000	\$	7,500
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135 - Department of Agriculture –

State FFA-FHA Camp and Conference Center

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	1,218,564
Unclassified	09900		17,000
Current Expenses	13000		1,143,306
Repairs and Alterations.....	06400		82,500
Equipment.....	07000		76,000
Buildings	25800		1,000
Other Assets	69000		10,000
Land.....	73000		1,000
Total		\$	<u>2,549,370</u>

136 - Attorney General –

Antitrust Enforcement Fund

(WV Code Chapter 47)

Fund 1507 FY 2022 Org 1500

Personal Services and Employee Benefits.....	00100	\$	363,466
Current Expenses	13000		148,803
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		1,000
Total		\$	<u>514,269</u>

*137 - Attorney General –**Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2022 Org 1500

Personal Services and Employee Benefits.....	00100	\$	222,569
Current Expenses	13000		54,615
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		1,000
Total		\$	<u>279,184</u>

*138 - Attorney General –**Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2022 Org 1500

Current Expenses	13000	\$	901,135
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*139 - Secretary of State –**Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2022 Org 1600

Personal Services and Employee Benefits.....	00100	\$	1,065,106
Unclassified	09900		4,524
Current Expenses	13000		8,036
Total		\$	<u>1,077,666</u>

*140 - Secretary of State –**General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2022 Org 1600

Personal Services and Employee Benefits.....	00100	\$	2,947,630
Unclassified	09900		25,529
Current Expenses	13000		976,716
Technology Improvements.....	59900		720,000
Total		\$	<u>4,669,875</u>

DEPARTMENT OF ADMINISTRATION

141 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(WV Code Chapter 4)

Fund 2041 FY 2022 Org 0201

Tobacco Settlement Securitization Trustee Pass Thru	65000	\$	80,000,000
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142 - Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2022 Org 0201

Current Expenses	13000	\$	34,747,000
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The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

143 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(WV Code Chapter 5A)

Fund 2020 FY 2022 Org 0209

Personal Services and Employee Benefits	00100	\$	1,500,000
Current Expenses	13000		<u>500,000</u>
Total		\$	2,000,000

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2022 Org 0210

Personal Services and Employee Benefits	00100	\$	22,464,463
Unclassified	09900		382,354

Current Expenses	13000	13,378,766
Repairs and Alterations	06400	1,000
Equipment	07000	2,050,000
Other Assets	69000	<u>1,045,000</u>
Total		\$ 39,321,583

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

145 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2022 Org 0213

Personal Services and Employee Benefits	00100	\$ 566,589
Unclassified	09900	2,382
Current Expenses	13000	109,115
Repairs and Alterations	06400	5,000
Equipment	07000	2,500
Other Assets	69000	2,500
BRIM Premium	91300	<u>810</u>
Total		\$ 688,896

146 - Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2022 Org 0213

Personal Services and Employee Benefits	00100	\$ 953,176
Unclassified	09900	5,562
Current Expenses	13000	492,066
Repairs and Alterations	06400	500
Equipment	07000	500
Other Assets	69000	500
BRIM Premium	91300	<u>850</u>
Total		\$ 1,453,154

147 - Travel Management –

Aviation Fund

(WV Code Chapter 5A)

Fund 2302 FY 2022 Org 0215

Unclassified	09900	\$	1,000
Current Expenses	13000		149,700
Repairs and Alterations	06400		875,237
Equipment.....	07000		1,000
Buildings	25800		100
Other Assets	69000		100
Land.....	73000		100
Total		\$	<u>1,027,237</u>

148 - Fleet Management Division Fund

(WV Code Chapter 5A)

Fund 2301 FY 2022 Org 0216

Personal Services and Employee Benefits	00100	\$	757,145
Unclassified	09900		4,000
Current Expenses	13000		11,630,614
Repairs and Alterations	06400		12,000
Equipment.....	07000		800,000
Other Assets	69000		2,000
Total		\$	<u>13,205,759</u>

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2022 Org 0222

Personal Services and Employee Benefits	00100	\$	4,638,183
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		122,500
Unclassified	09900		51,418
Current Expenses	13000		1,262,813
Repairs and Alterations	06400		5,000
Equipment.....	07000		20,000
Other Assets	69000		60,000
Total		\$	<u>6,159,914</u>

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2022 Org 0228

Personal Services and Employee Benefits.....	00100	\$	132,663
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		119,000
Unclassified	09900		4,023
Current Expenses	13000		297,528
Repairs and Alterations.....	06400		600
Equipment.....	07000		500
Other Assets	69000		500
Total.....		\$	554,814

151 - Office of Technology –

Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2022 Org 0231

Personal Services and Employee Benefits.....	00100	\$	414,722
Unclassified	09900		6,949
Current Expenses	13000		227,116
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		50,000
Other Assets	69000		10,000
Total.....		\$	709,787

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2022 Org 0305

Personal Services and Employee Benefits.....	00100	\$	1,574,177
Current Expenses	13000		282,202
Repairs and Alterations.....	06400		53,000
Equipment.....	07000		300,000
Total.....		\$	2,209,379

153 - Division of Forestry –

Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2022 Org 0305

Personal Services and Employee Benefits.....	00100	\$	239,244
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Current Expenses	13000		87,036
Repairs and Alterations	06400		<u>11,250</u>
Total		\$	337,530

154 - Division of Forestry –

Severance Tax Operations

(WV Code Chapter 11)

Fund 3084 FY 2022 Org 0305

Personal Services and Employee Benefits	00100	\$	859,626
Current Expenses	13000		<u>435,339</u>
Total		\$	1,294,965

155 - Geological and Economic Survey –

Geological and Analytical Services Fund

(WV Code Chapter 29)

Fund 3100 FY 2022 Org 0306

Personal Services and Employee Benefits	00100	\$	37,966
Unclassified	09900		2,182
Current Expenses	13000		141,631
Repairs and Alterations	06400		50,000
Equipment	07000		20,000
Other Assets	69000		<u>10,000</u>
Total		\$	261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

156 - Division of Labor –

West Virginia Jobs Act Fund

(WV Code Chapter 21)

Fund 3176 FY 2022 Org 0308

Current Expenses	13000		75,000
Equipment	07000		<u>25,000</u>
Total		\$	100,000

157 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$	300,000
Unclassified	09900		4,000
Current Expenses	13000		82,000
Repairs and Alterations.....	06400		4,500
Buildings	25800		1,000
BRIM Premium.....	91300		8,500
Total		\$	400,000

158 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$	2,532,000
Unclassified	09900		21,000
Current Expenses	13000		500,000
Repairs and Alterations.....	06400		10,000
BRIM Premium.....	91300		8,500
Total		\$	3,071,500

159 - Division of Labor –

Elevator Safety Fund

(WV Code Chapter 21)

Fund 3188 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$	293,682
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		104,180
Unclassified	09900		2,261
Current Expenses	13000		94,712
Repairs and Alterations.....	06400		2,000
Buildings	25800		1,000
BRIM Premium.....	91300		8,500
Total		\$	506,335

160 - Division of Labor –

Steam Boiler Fund

(WV Code Chapter 21)

Fund 3189 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$	77,716
Unclassified	09900		1,000

Current Expenses	13000	20,000
Repairs and Alterations.....	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	1,000
Total		<u>\$ 102,716</u>

161 - Division of Labor –

Crane Operator Certification Fund

(WV Code Chapter 21)

Fund 3191 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$ 191,899
Unclassified	09900	1,380
Current Expenses	13000	51,265
Repairs and Alterations.....	06400	1,500
Buildings	25800	1,000
BRIM Premium.....	91300	7,000
Total		<u>\$ 254,044</u>

162 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$ 187,462
Unclassified	09900	1,281
Current Expenses	13000	44,520
Repairs and Alterations.....	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	8,500
Total		<u>\$ 244,763</u>

163 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$ 289,199
Unclassified	09900	1,847
Current Expenses	13000	43,700
Repairs and Alterations.....	06400	1,000
Buildings	25800	1,000

BRIM Premium.....	91300		<u>3,404</u>
Total		\$	340,150

164 - Division of Labor –

Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2022 Org 0308

Unclassified	09900	\$	1,200
Current Expenses	13000		93,000
Repairs and Alterations.....	06400		10,000
Equipment.....	07000		10,000
BRIM Premium.....	91300		<u>7,000</u>
Total		\$	121,200

165 - Division of Labor –

Bedding and Upholstery Fund

(WV Code Chapter 21)

Fund 3198 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$	150,000
Unclassified	09900		2,000
Current Expenses	13000		145,400
Repairs and Alterations.....	06400		2,000
Buildings	25800		1,000
BRIM Premium.....	91300		<u>8,700</u>
Total		\$	309,100

166 - Division of Labor –

Psychophysiological Examiners Fund

(WV Code Chapter 21)

Fund 3199 FY 2022 Org 0308

Current Expenses	13000	\$	4,000
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167 - Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2022 Org 0310

Wildlife Resources	02300	\$	5,200,996
Administration	15500		1,300,249
Capital Improvements and Land Purchase (R).....	24800		1,300,248
Law Enforcement.....	80600		<u>5,200,996</u>
Total		\$	13,002,489

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

168 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(WV Code Chapter 22)

Fund 3202 FY 2022 Org 0310

Current Expenses	13000	\$	125,000
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169 - Division of Natural Resources –

Nongame Fund

(WV Code Chapter 20)

Fund 3203 FY 2022 Org 0310

Personal Services and Employee Benefits.....	00100	\$	688,103
Current Expenses	13000		201,810
Equipment.....	07000		<u>106,615</u>
Total		\$	996,528

170 - Division of Natural Resources –

Planning and Development Division

(WV Code Chapter 20)

Fund 3205 FY 2022 Org 0310

Personal Services and Employee Benefits.....	00100	\$	457,738
Current Expenses	13000		257,864
Repairs and Alterations.....	06400		15,016
Equipment.....	07000		8,300
Buildings	25800		8,300
Other Assets	69000		1,900,000
Land.....	73000		<u>31,700</u>
Total		\$	2,678,918

*171 - Division of Natural Resources –**State Parks and Recreation Endowment Fund*

(WV Code Chapter 20)

Fund 3211 FY 2022 Org 0310

Current Expenses	13000	\$	6,000
Repairs and Alterations	06400		3,000
Equipment	07000		2,000
Buildings	25800		3,000
Other Assets	69000		4,000
Land	73000		<u>2,000</u>
Total		\$	20,000

*172 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2022 Org 0310

Personal Services and Employee Benefits	00100	\$	67,641
Current Expenses	13000		64,778
Equipment	07000		1,297
Buildings	25800		<u>6,969</u>
Total		\$	140,685

*173 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2022 Org 0310

Unclassified	09900	\$	200
Current Expenses	13000		<u>19,800</u>
Total		\$	20,000

*174 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2022 Org 0314

Personal Services and Employee Benefits	00100	\$	501,228
Unclassified	09900		40,985

Current Expenses	13000	1,954,557
WV Mining Extension Service	02600	150,000
Buildings	25800	2,481,358
Land.....	73000	<u>1,000,000</u>
Total		\$ 6,128,128

175 - Department of Commerce –

Office of the Secretary –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2022 Org 0327

Personal Services and Employee Benefits.....	00100	\$ 2,069,353
Unclassified	09900	30,000
Current Expenses	13000	1,315,078
Equipment.....	07000	<u>36,000</u>
Total		\$ 3,450,431

176 - Department of Commerce –

Office of the Secretary –

Broadband Enhancement Fund

Fund 3013 FY 2022 Org 0327

Personal Services and Employee Benefits.....	00100	\$ 131,682
Current Expenses	13000	<u>51,648,318</u>
Total		\$ 51,780,000

177 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(WV Code Chapter 18)

Fund 8664 FY 2022 Org 0932

Personal Services and Employee Benefits.....	00100	\$ 119,738
Current Expenses	13000	1,180,122
Repairs and Alterations.....	06400	85,500
Equipment.....	07000	220,000
Buildings	25800	150,000
Other Assets	69000	<u>150,000</u>
Total		\$ 1,905,360

DEPARTMENT OF ECONOMIC DEVELOPMENT*178 - Department of Economic Development –**Office of the Secretary –**Entrepreneurship and Innovation Investment Fund*

(WV Code Chapter 5B)

Fund 3014 FY 2022 Org 0307

Entrepreneurship and Innovation Investment Fund.....	70301	\$	500,000
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*179 - Department of Economic Development –**Office of the Secretary –**Office of Coalfield Community Development*

(WV Code Chapter 5B)

Fund 3162 FY 2022 Org 0307

Personal Services and Employee Benefits.....	00100	\$	435,661
Unclassified	09900		8,300
Current Expenses	13000		399,191
Total		\$	843,152

*180 - Department of Economic Development –**Office of Energy –**Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2022 Org 0328

Energy Assistance – Total	64700	\$	7,211
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DEPARTMENT OF EDUCATION*181 - State Board of Education –**Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	134,000
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Unclassified	09900	1,000
Current Expenses	13000	<u>765,000</u>
Total		\$ 900,000

182 - State Board of Education –

School Construction Fund

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2022 Org 0404

SBA Construction Grants	24000	\$ 35,845,818
Directed Transfer	70000	<u>1,371,182</u>
Total		\$ 37,217,000

The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

183 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2022 Org 0404

Personal Services and Employee Benefits	00100	\$ 1,134,522
Current Expenses	13000	244,100
Repairs and Alterations	06400	13,150
Equipment	07000	<u>26,000</u>
Total		\$ 1,417,772

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

184 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2022 Org 0432

Personal Services and Employee Benefits	00100	\$ 226,624
Current Expenses	13000	862,241
Equipment	07000	75,000
Buildings	25800	1,000
Other Assets	69000	52,328
Land	73000	<u>1,000</u>
Total		\$ 1,218,193

DEPARTMENT OF ENVIRONMENTAL PROTECTION*185 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2022 Org 0312

Personal Services and Employee Benefits.....	00100	\$	842,305
Current Expenses	13000		2,060,457
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		5,000
Other Assets	69000		4,403
Total.....		\$	<u>2,913,165</u>

*186 - Division of Environmental Protection –**Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	779,766
Unclassified	09900		8,072
Current Expenses	13000		155,969
Repairs and Alterations.....	06400		500
Equipment.....	07000		1,505
Other Assets	69000		2,000
Total.....		\$	<u>947,812</u>

*187 - Division of Environmental Protection –**Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	950,135
Unclassified	09900		14,647
Current Expenses	13000		1,026,863
Repairs and Alterations.....	06400		13,000
Equipment.....	07000		53,105
Other Assets	69000		20,000
Total.....		\$	<u>2,077,750</u>

*188 - Division of Environmental Protection –**Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	1,627,573
Current Expenses	13000		16,185,006
Repairs and Alterations.....	06400		79,950
Equipment.....	07000		130,192
Other Assets	69000		32,000
Total.....		\$	18,054,721

189 - Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	543,906
Current Expenses	13000		1,956,094
Total.....		\$	2,500,000

190 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	2,141,500
Unclassified	09900		15,700
Current Expenses	13000		932,300
Repairs and Alterations.....	06400		9,500
Equipment.....	07000		500
Other Assets	69000		500
Total.....		\$	3,100,000

191 - Division of Environmental Protection –

Mining and Reclamation Operations Fund

(WV Code Chapter 22)

Fund 3324 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	3,566,280
Unclassified	09900		920
Current Expenses	13000		2,202,231
Repairs and Alterations.....	06400		60,260
Equipment.....	07000		83,000
Other Assets	69000		57,500
Total.....		\$	5,970,191

192 - Division of Environmental Protection –

*Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	476,417
Unclassified	09900		7,520
Current Expenses	13000		318,420
Repairs and Alterations.....	06400		5,350
Equipment.....	07000		3,610
Other Assets	69000		3,500
Total		\$	<u>814,817</u>

193 - Division of Environmental Protection –

Hazardous Waste Emergency Response Fund

(WV Code Chapter 22)

Fund 3331 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	598,154
Unclassified	09900		10,616
Current Expenses	13000		767,905
Repairs and Alterations.....	06400		7,014
Equipment.....	07000		9,000
Other Assets	69000		3,500
Total		\$	<u>1,396,189</u>

194 - Division of Environmental Protection –

*Solid Waste Reclamation and**Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	825,811
Unclassified	09900		22,900
Current Expenses	13000		3,604,737
Repairs and Alterations.....	06400		25,000
Equipment.....	07000		31,500
Buildings.....	25800		500
Other Assets	69000		1,000
Total		\$	<u>4,511,448</u>

195 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	3,274,054
Unclassified	09900		31,145
Current Expenses	13000		940,229
Repairs and Alterations.....	06400		30,930
Equipment.....	07000		23,356
Other Assets	69000		<u>25,554</u>
Total		\$	4,325,268

196 - Division of Environmental Protection –

Air Pollution Control Fund

(WV Code Chapter 22)

Fund 3336 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	5,934,859
Unclassified	09900		70,572
Current Expenses	13000		1,469,467
Repairs and Alterations.....	06400		84,045
Equipment.....	07000		103,601
Other Assets	69000		<u>52,951</u>
Total		\$	7,715,495

197 - Division of Environmental Protection –

*Environmental Laboratory**Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	352,834
Unclassified	09900		1,120
Current Expenses	13000		201,146
Repairs and Alterations.....	06400		1,000
Other Assets	69000		<u>163,000</u>
Total		\$	719,100

198 - Division of Environmental Protection –

Stream Restoration Fund

(WV Code Chapter 22)

Fund 3349 FY 2022 Org 0313

Current Expenses	13000	\$	5,182,076
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199 - Division of Environmental Protection –

Litter Control Fund

(WV Code Chapter 22)

Fund 3486 FY 2022 Org 0313

Current Expenses	13000	\$	60,000
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200 - Division of Environmental Protection –

Recycling Assistance Fund

(WV Code Chapter 22)

Fund 3487 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	660,575
Unclassified	09900		400
Current Expenses	13000		2,754,258
Repairs and Alterations.....	06400		800
Equipment.....	07000		500
Other Assets	69000		<u>2,500</u>
Total		\$	<u>3,419,033</u>

201 - Division of Environmental Protection –

Mountaintop Removal Fund

(WV Code Chapter 22)

Fund 3490 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	1,250,562
Unclassified	09900		1,180
Current Expenses	13000		642,934
Repairs and Alterations.....	06400		30,112
Equipment.....	07000		23,500
Other Assets	69000		<u>11,520</u>
Total		\$	<u>1,959,808</u>

202 - Division of Environmental Protection –

Wind and Solar Decommissioning Fund

(WV Code Chapter 22)

Fund ~~####~~ FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	53,600
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*203 - Oil and Gas Conservation Commission –**Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2022 Org 0315

Personal Services and Employee Benefits.....	00100	\$	162,161
Current Expenses	13000		161,225
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		9,481
Other Assets	69000		1,500
Total		\$	<u>335,367</u>

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*204 - Division of Health –**Ryan Brown Addiction Prevention and Recovery Fund*

(WV Code Chapter 19)

Fund 5111 FY 2022 Org 0506

Current Expenses	13000	\$	10,667,392
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*205 - Division of Health –**The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	938,484
Unclassified	09900		15,500
Current Expenses	13000		<u>2,757,788</u>
Total		\$	<u>3,711,772</u>

*206 - Division of Health –**Hospital Services Revenue Account**Special Fund*

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2022 Org 0506

Institutional Facilities Operations.....	33500	\$	35,555,221
Medical Services Trust Fund – Transfer.....	51200		<u>27,800,000</u>
Total		\$	63,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2022, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

*207 - Division of Health –**Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	936,712
Unclassified	09900		18,114
Current Expenses	13000		<u>2,209,105</u>
Total		\$	3,163,931

*208 - Division of Health –**The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	645,446
Unclassified	09900		7,113
Current Expenses	13000		<u>98,247</u>
Total		\$	750,806

*209 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2022 Org 0506

Current Expenses	13000	\$	9,740
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*210 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2022 Org 0506

Personal Services and Employee Benefits	00100	\$	19,100
Unclassified	09900		373
Current Expenses	13000		<u>17,875</u>
Total		\$	<u>37,348</u>

*211 - Division of Health –**West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2022 Org 0506

Personal Services and Employee Benefits	00100	\$	691,978
Unclassified	09900		223,999
Current Expenses	13000		<u>30,134,400</u>
Total		\$	<u>31,050,377</u>

*212 - Division of Health –**Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2022 Org 0506

Current Expenses	13000	\$	7,579
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*213 - Division of Health –**Medical Cannabis Program Fund*

(WV Code Chapter 16A)

Fund 5420 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	509,658
Current Expenses	13000		<u>2,046,040</u>
Total		\$	2,555,698

214 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2022 Org 0507

Personal Services and Employee Benefits.....	00100	\$	1,345,380
Unclassified	09900		20,100
Current Expenses	13000		<u>785,445</u>
Total		\$	2,150,925

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

215 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2022 Org 0507

Personal Services and Employee Benefits.....	00100	\$	829,798
Current Expenses	13000		<u>474,967</u>
Total		\$	1,304,765

216 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2022 Org 0511

Medical Services.....	18900	\$	213,594,315
Medical Services Administrative Costs.....	78900		<u>242,287</u>
Total		\$	213,836,602

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*217 - Division of Human Services –**Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	24,809,509
Unclassified	09900		380,000
Current Expenses	13000		<u>12,810,491</u>
Total		\$	<u>38,000,000</u>

*218 - Division of Human Services –**Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2022 Org 0511

Medical Services.....	18900	\$	77,500,000
Medical Services Administrative Costs.....	78900		<u>602,486</u>
Total		\$	<u>78,102,486</u>

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

*219 - Division of Human Services –**James "Tiger" Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2022 Org 0511

Unclassified	09900	\$	7,000
Current Expenses	13000		<u>393,000</u>
Total		\$	<u>400,000</u>

*220 - Division of Human Services –**Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2022 Org 0511

Current Expenses	13000	\$	900,000
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221 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2022 Org 0511

Current Expenses	13000	\$	500,000
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222 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2022 Org 0511

Current Expenses	13000	\$	1,500,000
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223 - Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	10,000
Current Expenses	13000		<u>25,000</u>
Total		\$	35,000

DEPARTMENT OF HOMELAND SECURITY

224 - Department of Homeland Security –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2022 Org 0601

Current Expenses	13000	\$	32,000
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*225 - Division of Emergency Management –
Statewide Interoperable Radio Network Account*

(WV Code Chapter 15)

Fund 6208 FY 2022 Org 0606

Current Expenses	13000	\$	80,000
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226 - Division of Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2022 Org 0606

Unclassified	09900	\$	20,000
Current Expenses	13000		1,480,000
Repairs and Alterations.....	06400		250,000
Equipment.....	07000		250,000
Total		\$	2,000,000

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

227 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(WV Code Chapter 15A)

Fund 6362 FY 2022 Org 0608

Personal Services and Employee Benefits.....	00100	\$	1,118,697
Unclassified	09900		9,804
Current Expenses	13000		758,480
Equipment.....	07000		30,000
Other Assets	69000		40,129
Total		\$	1,957,110

228 - Division of Corrections and Rehabilitation –

Regional Jail and Correctional Facility Authority

(WV Code Chapter 15A)

Fund 6675 FY 2022 Org 0608

Personal Services and Employee Benefits.....	00100	\$	544,798
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Debt Service	04000	9,000,000
Current Expenses	13000	<u>245,472</u>
Total		\$ 9,790,270

229 - West Virginia State Police –

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2022 Org 0612

Personal Services and Employee Benefits.....	00100	\$ 1,907,726
Current Expenses	13000	1,488,211
Repairs and Alterations.....	06400	204,500
Equipment.....	07000	3,770,751
Buildings	25800	534,000
Other Assets	69000	5,000
BRIM Premium.....	91300	<u>302,432</u>
Total		\$ 8,212,620

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

230 - West Virginia State Police –

Forensic Laboratory Fund

(WV Code Chapter 15)

Fund 6511 FY 2022 Org 0612

Personal Services and Employee Benefits.....	00100	\$ 1,600,000
Current Expenses	13000	90,000
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>545,000</u>
Total		\$ 2,240,000

231 - West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2022 Org 0612

Current Expenses	13000	\$ 1,327,000
Equipment.....	07000	3,491,895
BRIM Premium.....	91300	<u>154,452</u>
Total		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

232 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

Fund 6516 FY 2022 Org 0612

Buildings	25800	\$	1,022,778
Land.....	73000		1,000
BRIM Premium.....	91300		<u>77,222</u>
Total		\$	<u>1,101,000</u>

233 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2022 Org 0612

Current Expenses	13000	\$	225,000
Repairs and Alterations.....	06400		20,000
Equipment.....	07000		250,000
Buildings	25800		40,000
Other Assets	69000		45,000
BRIM Premium.....	91300		<u>5,000</u>
Total		\$	<u>585,000</u>

234 - West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2022 Org 0612

Personal Services and Employee Benefits.....	00100	\$	256,629
Current Expenses	13000		376,443
Repairs and Alterations.....	06400		500
Equipment.....	07000		300,500
Other Assets	69000		300,500
BRIM Premium.....	91300		<u>18,524</u>
Total		\$	<u>1,253,096</u>

235 - West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2022 Org 0612

Current Expenses	13000	\$	8,300
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*236 - West Virginia State Police –**State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2022 Org 0612

Current Expenses	13000	\$	160,000
Repairs and Alterations	06400		<u>40,000</u>
Total		\$	<u>200,000</u>

*237 - Fire Commission –**Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2022 Org 0619

Personal Services and Employee Benefits	00100	\$	3,480,533
Unclassified	09900		3,800
Current Expenses	13000		1,246,550
Repairs and Alterations	06400		58,500
Equipment	07000		140,800
BRIM Premium	91300		<u>65,000</u>
Total		\$	<u>4,995,183</u>

*238 - Division of Administrative Services –**WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2022 Org 0623

Personal Services and Employee Benefits	00100	\$	161,923
Unclassified	09900		750
Current Expenses	13000		1,846,250
Repairs and Alterations	06400		<u>1,000</u>
Total		\$	<u>2,009,923</u>

*239 - Division of Administrative Services –**Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2022 Org 0623

Personal Services and Employee Benefits.....	00100	\$	23,840
Current Expenses	13000		<u>1,478,135</u>
Total		\$	1,501,975

240 - Division of Administrative Services –

Second Chance Driver's License Program Account

(WV Code Chapter 17B)

Fund 6810 FY 2022 Org 0623

Current Expenses	13000	\$	125,000
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DEPARTMENT OF REVENUE

241 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2022 Org 0303

Personal Services and Employee Benefits.....	00100	\$	2,584,057
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Current Expenses	13000		650,475
Equipment.....	07000		<u>8,500</u>
Total		\$	3,362,032

242 - Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2022 Org 0701

Retirement Systems – Unfunded Liability.....	77500	\$	20,000,000
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The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

243 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2022 Org 0701

Personal Services and Employee Benefits.....	00100	\$	25,000
Unclassified	09900		680
Current Expenses	13000		42,000
Repairs and Alterations.....	06400		120
Equipment.....	07000		200
Total		\$	68,000

244 - Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	25,928
Current Expenses	13000		7,717
Total		\$	33,645

245 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	696,428
Unclassified	09900		8,500
Current Expenses	13000		273,297
Repairs and Alterations.....	06400		7,000
Equipment.....	07000		5,000
Total		\$	990,225

246 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	268,973
Current Expenses	13000		5,406
Total		\$	274,379

247 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2022 Org 0702

Current Expenses	13000	\$	35,000
Equipment.....	07000		<u>15,000</u>
Total		\$	50,000

248 - Tax Division –

Local Sales Tax and Excise Tax

Administration Fund

(WV Code Chapter 11)

Fund 7099 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	1,543,527
Unclassified	09900		10,000
Current Expenses	13000		784,563
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		<u>5,000</u>
Total		\$	2,344,090

249 - State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2022 Org 0703

Public Employees Insurance Reserve Fund – Transfer.....	90300	\$	6,800,000
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The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

250 - Insurance Commissioner –

Examination Revolving Fund

(WV Code Chapter 33)

Fund 7150 FY 2022 Org 0704

Personal Services and Employee Benefits.....	00100	\$	748,764
Current Expenses	13000		1,357,201
Repairs and Alterations.....	06400		3,000
Equipment.....	07000		<u>81,374</u>

Buildings	25800	8,289
Other Assets	69000	11,426
Total		<u>\$ 2,210,054</u>

251 - Insurance Commissioner –

Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2022 Org 0704

Personal Services and Employee Benefits	00100	\$ 571,976
Current Expenses	13000	202,152
Repairs and Alterations	06400	5,000
Equipment	07000	34,225
Buildings	25800	4,865
Other Assets	69000	19,460
Total		<u>\$ 837,678</u>

252 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2022 Org 0704

Personal Services and Employee Benefits	00100	\$ 24,032,521
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	136,500
Current Expenses	13000	8,797,758
Repairs and Alterations	06400	68,614
Equipment	07000	1,728,240
Buildings	25800	25,000
Other Assets	69000	340,661
Total		<u>\$ 35,129,294</u>

253 - Insurance Commissioner –

Insurance Fraud Prevention Fund

(WV Code Chapter 33)

Fund 7153 FY 2022 Org 0704

Current Expenses	13000	\$ 15,000
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254 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2022 Org 0704

Employee Benefits	01000	\$	50,000
Current Expenses	13000		<u>250,500,000</u>
Total		\$	250,550,000

*255 - Insurance Commissioner –**Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2022 Org 0704

Current Expenses	13000	\$	15,000,000
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*256 - Insurance Commissioner –**Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2022 Org 0704

Current Expenses	13000	\$	9,000,000
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*257 - Insurance Commissioner –**Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2022 Org 0704

Current Expenses	13000	\$	14,000,000
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258 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2022 Org 0706

Personal Services and Employee Benefits	00100	\$	309,502
Current Expenses	13000		154,344
Equipment	07000		<u>100</u>
Total		\$	463,946

*259 - Racing Commission –**Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2022 Org 0707

Medical Expenses – Total	24500	\$	57,000
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The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

*260 - Racing Commission –**Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2022 Org 0707

Personal Services and Employee Benefits	00100	\$	264,564
Current Expenses	13000		85,433
Other Assets	69000		5,000
Total		\$	354,997

*261 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2022 Org 0707

Personal Services and Employee Benefits	00100	\$	2,303,863
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		48,443
Current Expenses	13000		497,284
Repairs and Alterations	06400		5,000
Other Assets	69000		40,000
Total		\$	2,894,590

*262 - Racing Commission –**Administration, Promotion, Education, Capital Improvement**and Greyhound Adoption Programs**to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2022 Org 0707

Personal Services and Employee Benefits.....	00100	\$	918,781
Current Expenses	13000		160,099
Other Assets	69000		200,000
Total		\$	1,278,880

263 - Alcohol Beverage Control Administration –

Wine License Special Fund

(WV Code Chapter 60)

Fund 7351 FY 2022 Org 0708

Personal Services and Employee Benefits.....	00100	\$	147,213
Current Expenses	13000		54,186
Repairs and Alterations.....	06400		7,263
Equipment.....	07000		10,000
Buildings	25800		100,000
Transfer Liquor Profits and Taxes	42500		30,750
Other Assets	69000		100
Total		\$	349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

264 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2022 Org 0708

Personal Services and Employee Benefits.....	00100	\$	5,668,074
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		122,500
Current Expenses	13000		2,890,577
Repairs and Alterations.....	06400		91,000
Equipment.....	07000		108,000
Buildings	25800		375,100
Purchase of Supplies for Resale	41900		76,500,000
Transfer Liquor Profits and Taxes	42500		21,200,000
Other Assets	69000		125,100
Land.....	73000		100
Total		\$	107,080,451

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses, and equipment of administrative offices, warehouses, and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

265 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2022 Org 0933

Personal Services and Employee Benefits.....	00100	\$	12,000
Current Expenses	13000		<u>28,000</u>
Total.....		\$	40,000

DEPARTMENT OF TRANSPORTATION

266 - Division of Motor Vehicles –

Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2022 Org 0802

Current Expenses	13000	\$	189,000
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267 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2022 Org 0802

Personal Services and Employee Benefits.....	00100	\$	3,733,074
Current Expenses	13000		4,357,773
Repairs and Alterations.....	06400		16,000
Equipment.....	07000		75,000
Other Assets	69000		10,000
BRIM Premium.....	91300		<u>89,939</u>
Total.....		\$	8,281,786

268 - Division of Highways –

A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2022 Org 0803

Current Expenses	13000	\$	2,500,000
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*269 - State Rail Authority -**West Virginia Commuter Rail Access Fund*

(WV Code Chapter 29)

Fund 8402 FY 2022 Org 0804

Current Expenses	13000	\$	600,000
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DEPARTMENT OF VETERANS' ASSISTANCE*270 - Veterans' Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2022 Org 0613

Current Expenses	13000	\$	1,654,234
Other Assets	69000		10,000
Total		\$	<u>1,664,234</u>

*271 - Department of Veterans' Assistance -**WV Veterans' Home -**Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2022 Org 0618

Current Expenses	13000	\$	289,400
Repairs and Alterations	06400		10,600
Total		\$	<u>300,000</u>

BUREAU OF SENIOR SERVICES*272 - Bureau of Senior Services -**Community Based Service Fund*

(WV Code Chapter 29)

Fund 5409 FY 2022 Org 0508

Personal Services and Employee Benefits	00100	\$	148,983
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		11,900
Current Expenses	13000		<u>10,348,710</u>
Total		\$	<u>10,509,593</u>

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

HIGHER EDUCATION POLICY COMMISSION

273 - Higher Education Policy Commission –

System –

Tuition Fee Capital Improvement Fund

(Capital Improvement and Bond Retirement Fund)

Control Account

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2022 Org 0442

Debt Service	04000	\$	27,713,123
General Capital Expenditures	30600		5,000,000
Facilities Planning and Administration	38600		441,111
Total		\$	33,154,234

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

274 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2022 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

275 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2022 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

*276 - West Virginia University –**West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2022 Org 0463

Personal Services and Employee Benefits.....	00100	\$	10,764,347
Current Expenses	13000		4,524,300
Repairs and Alterations.....	06400		425,000
Equipment.....	07000		512,000
Buildings	25800		150,000
Other Assets	69000		50,000
Total		\$	<u>16,425,647</u>

MISCELLANEOUS BOARDS AND COMMISSIONS*277 - Board of Barbers and Cosmetologists –**Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2022 Org 0505

Personal Services and Employee Benefits.....	00100	\$	543,993
Current Expenses	13000		234,969
Repairs and Alterations.....	06400		5,000
Total		\$	<u>783,962</u>

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

*278 - Hospital Finance Authority –**Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2022 Org 0509

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	\$	93,279
Unclassified	09900		1,501
Current Expenses	13000		<u>55,328</u>
Total		\$	150,108

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

279 - State Armory Board –

General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2022 Org 0603

Personal Services and Employee Benefits	00100	\$	1,681,247
Current Expenses	13000		650,000
Repairs and Alterations	06400		385,652
Equipment	07000		250,000
Buildings	25800		520,820
Other Assets	69000		350,000
Land	73000		<u>200,000</u>
Total		\$	4,037,719

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

280 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2022 Org 0906

Personal Services and Employee Benefits	00100	\$	495,505
Current Expenses	13000		<u>107,700</u>
Total		\$	603,205

281 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2022 Org 0907

Personal Services and Employee Benefits	00100	\$	1,300,612
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Current Expenses	13000	312,655
Repairs and Alterations.....	06400	3,000
Equipment.....	07000	25,000
Other Assets	69000	<u>4,500</u>
Total		\$ 1,645,767

282 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2022 Org 0926

Personal Services and Employee Benefits.....	00100	\$ 12,163,281
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	318,640
Unclassified	09900	147,643
Current Expenses	13000	2,507,202
Repairs and Alterations.....	06400	390,000
Equipment.....	07000	160,000
Buildings	25800	10
PSC Weight Enforcement	34500	4,605,652
Debt Payment/Capital Outlay	52000	350,000
Land.....	73000	10
BRIM Premium.....	91300	<u>172,216</u>
Total		\$ 20,814,654

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

283 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2022 Org 0926

Personal Services and Employee Benefits.....	00100	\$ 282,709
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	11,949
Unclassified	09900	3,851
Current Expenses	13000	93,115
Repairs and Alterations.....	06400	<u>4,000</u>
Total		\$ 395,624

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

284 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8625 FY 2022 Org 0926

Personal Services and Employee Benefits.....	00100	\$	2,309,803
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		67,711
Unclassified	09900		29,233
Current Expenses	13000		577,557
Repairs and Alterations.....	06400		23,000
Equipment.....	07000		50,000
Total.....		\$	3,057,304

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

285 - Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2022 Org 0926

Personal Services and Employee Benefits.....	00100	\$	876,994
Current Expenses	13000		386,472
Equipment.....	07000		9,872
BRIM Premium.....	91300		4,660
Total.....		\$	1,277,998

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

286 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2022 Org 0927

Personal Services and Employee Benefits.....	00100	\$	607,098
Current Expenses	13000		293,122

Repairs and Alterations.....	06400	2,500
Equipment.....	07000	5,000
Total.....		\$ 907,720

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

287 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2022 Org 0930

Personal Services and Employee Benefits.....	00100	\$ 91,513
Current Expenses.....	13000	63,499
Total.....		\$ 155,012

288 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2022 Org 0935

Personal Services and Employee Benefits.....	00100	\$ 85,878
Current Expenses.....	13000	62,709
Total.....		\$ 148,587

289 - WV Board of Licensed Dietitians –

Dietitians Licensure Board Fund

(WV Code Chapter 30)

Fund 8680 FY 2022 Org 0936

Personal Services and Employee Benefits.....	00100	\$ 20,219
Current Expenses.....	13000	20,250
Total.....		\$ 40,469

290 - Massage Therapy Licensure Board –

Massage Therapist Board Fund

(WV Code Chapter 30)

Fund 8671 FY 2022 Org 0938

Personal Services and Employee Benefits.....	00100	\$	109,555
Current Expenses	13000		<u>42,448</u>
Total		\$	152,003

291 - Board of Medicine –

Medical Licensing Board Fund

(WV Code Chapter 30)

Fund 9070 FY 2022 Org 0945

Personal Services and Employee Benefits.....	00100	\$	1,378,807
Current Expenses	13000		1,108,789
Repairs and Alterations.....	06400		<u>8,000</u>
Total		\$	2,495,596

292 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2022 Org 0947

Personal Services and Employee Benefits.....	00100	\$	6,856,239
Unclassified	09900		182,000
Current Expenses	13000		13,662,210
Repairs and Alterations.....	06400		300
Equipment.....	07000		352,000
Buildings	25800		2,000
Other Assets	69000		<u>203,500</u>
Total		\$	21,258,249

293 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2022 Org 0950

Personal Services and Employee Benefits.....	00100	\$	832,889
Unclassified	09900		14,850
Current Expenses	13000		605,714
BRIM Premium.....	91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers	93800		<u>3,500,000</u>
Total		\$	4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and

expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 – Other Funds
(Including claims against the state)..... \$ 1,551,094.882

Sec. 4. Appropriations from lottery net profits. — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

294 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2022 Org 0211

	Appro- piation		Lottery Funds
Debt Service – Total	31000	\$	10,000,000

295 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 3067 FY 2022 Org 0304

Tourism – Telemarketing Center	46300	\$	82,080
Tourism – Advertising (R)	61800		2,422,407
Tourism – Operations (R).....	66200		<u>4,227,938</u>
Total		\$	<u>6,732,425</u>

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800) and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

296 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2022 Org 0310

Personal Services and Employee Benefits.....	00100	\$	2,428,178
Current Expenses	13000		26,900
Pricketts Fort State Park	32400		106,560
Non-Game Wildlife (R).....	52700		386,935
State Parks and Recreation Advertising (R).....	61900		494,578
Total.....		\$	<u>3,443,151</u>

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

297 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2022 Org 0402

FBI Checks	37200	\$	116,548
Vocational Education Equipment Replacement.....	39300		800,000
Assessment Program (R).....	39600		490,439
Literacy Project	89900		350,000
21st Century Technology Infrastructure			
Network Tools and Support (R).....	93300		<u>12,600,383</u>
Total.....		\$	<u>14,357,370</u>

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

298 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2022 Org 0404

Debt Service – Total	31000	\$	15,320,363
Directed Transfer	70000		<u>2,679,637</u>

Total..... \$ 18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

299 - Division of Culture and History –

Lottery Education Fund

(WV Code Chapter 29)

Fund 3534 FY 2022 Org 0432

Huntington Symphony.....	02700	\$	59,058
Preservation West Virginia (R).....	09200		491,921
Fairs and Festivals (R).....	12200		1,346,814
Commission for National and Community Service (R).....	19300		374,980
Archeological Curation/Capital Improvements (R).....	24600		36,276
Historic Preservation Grants (R)	31100		417,933
West Virginia Public Theater	31200		120,019
Greenbrier Valley Theater	42300		115,000
Theater Arts of West Virginia	46400		90,000
Marshall Artists Series	51800		36,005
Grants for Competitive Arts Program (R).....	62400		811,500
West Virginia State Fair	65700		31,241
Save the Music	68000		40,000
Contemporary American Theater Festival.....	81100		57,281
Independence Hall	81200		27,277
Mountain State Forest Festival.....	86400		38,187
WV Symphony	90700		59,058
Wheeling Symphony	90800		59,058
Appalachian Children’s Chorus	91600		54,554
Total.....		\$	<u>4,266,162</u>

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$0,891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$0,720, Children’s Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children’s Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$0,891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother’s Day Shrine Committee (Taylor) \$9,029, Hardy County Tour and Crafts Association \$11,881,

Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$0,594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393, Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$0,720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to the A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansas Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Back Home Festival (Wetzel) \$5,000, Barbour County Fair (Barbour) \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$3,340, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair (Berkeley) \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blacks ville VFD Memorial Day Celebration (Monongalia) \$1,000, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair (Boone) \$5,940, Boone County Labor Day Celebration (Boone) \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Bramwell Labor Day (Mercer) \$5,000, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair (Braxton) \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) \$1,485, Brooke County Fair (Brooke) \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Auxiliary (Mineral) \$13,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burlington Volunteer Fire and Rescue Carnival (Mineral) \$4,000, Burnsville Freedom Festival (Braxton) \$1,407, Cabell County Fair (Cabell) \$5,940, Calhoun County Wood Festival (Calhoun) \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Cacapon River Fest (Hampshire) \$2,500, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970,

Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival (Clay) \$4,158, Clay District Fair (Monongalia) \$3,341, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair (Doddridge) \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flemington Days Fair and Festival (Taylor) \$2,379, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$10,709, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show (Gilmer) \$2,376, Grant County Arts Council (Grant) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration (Hampshire) \$11,881, Hampshire County Fair (Hampshire) \$5,002, Hampshire Highlands Art & Music Festival (Hampshire) \$4,252, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair (Jackson) \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association (Jefferson) \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Oktoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival (Lincoln) \$4,752, Lincoln County Winterfest (Lincoln) \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community

Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Malden Salt Fest (Kanawha) \$2,000, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest (Marion) \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show (Marshall) \$1,485, Marshall County Fair (Marshall) \$5,000, Mason County Fair (Mason) \$2,970, Mewan Massacre Reenactment (Mingo) \$5,004, Mewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County (McDowell) \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer County Fair (Mercer) \$1,188, Mercer County Heritage Festival (Mercer) \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Fair (Mineral) \$1,040, Mineral County Veterans Day Parade (Mineral) \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Monongalia County Fair (Monongalia) \$7,250, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon (Morgan) \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair (Nicholas) \$2,970, Nicholas County Potato Festival (Nicholas) \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair (Ohio) \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Ohio) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Osage Street Fair (Monongalia) \$1,000, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend (Pendleton) \$1,188, Pendleton County Committee for Arts (Pendleton) \$8,910, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair (Pleasants) \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days (Pocahontas) \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair (Putnam) \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council (Randolph) \$1,782, Randolph County Fair (Randolph) \$4,158, Randolph County Ramps and Rails (Randolph) \$2,188, Randolph County Ramp and Rails (Randolph) \$1,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition (Ritchie) \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South

Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival (Wayne) \$684, Spirit of Grafton Celebration (Taylor) \$6,240, Spring Mountain Festival (Grant) \$500, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair (Taylor) \$3,567, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming (Putnam) \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$16,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration (Tucker) \$10,692, Tucker County Fair (Tucker) \$2,821, Tucker County Health Fair (Tucker) \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair (Tyler) \$3,088, Tyler County Fireworks Celebration (Tyler) \$2,000, Union Community Irish Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair (Wayne) \$2,970, Wayne County Fall Festival (Wayne) \$2,970, Webster County Fair (Webster) \$3,600, Webster County Wood Chopping Festival (Webster) \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County (Brooke) \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia Rivers and Rails Festival (Pleasants) \$1,099, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest (Wetzel) \$3,267, Wetzel County Town and Country Days (Wetzel) \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event (Harrison) \$2,970, Wirt County Fair (Wirt) \$1,485, Wirt County Pioneer Days (Wirt) \$1,188, Wyoming County Civil War Days (Wyoming) \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Commission for National and Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and Cultural Grant Program allocations.

*300 - Library Commission –**Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2022 Org 0433

Books and Films	17900	\$	360,784
Services to Libraries.....	18000		550,000
Grants to Public Libraries	18200		9,439,571
Digital Resources	30900		219,992
Infomine Network	88400		943,353
Total		\$	11,513,700

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

301 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2022 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*302 - Higher Education Policy Commission –**Lottery Education –**Higher Education Policy Commission –**Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2022 Org 0441

RHI Program and Site Support (R).....	03600	\$	1,912,491
RHI Program and Site Support – RHEP Program Administration	03700		146,653
RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (R).....	03800		88,913
Minority Doctoral Fellowship (R)	16600		129,604
Health Sciences Scholarship (R).....	17600		225,527
Vice Chancellor for Health Sciences – Rural Health Residency Program (R)	60100		62,725
WV Engineering, Science, and Technology Scholarship Program.....	86800		452,831
Total		\$	3,018,744

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation 86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

303 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2022 Org 0442

Debt Service – Total	31000	\$	5,000,000
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Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

304 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2022 Org 0463

WVU Health Sciences –			
RHI Program and Site Support (R)	03500	\$	1,181,728
MA Public Health Program and			
Health Science Technology (R)	62300		52,445
Health Sciences Career Opportunities Program (R)	86900		336,987
HSTA Program (R)	87000		1,761,948
Center for Excellence in Disabilities (R)	96700		313,517
Total		\$	<u>3,646,625</u>

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700)

at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

305 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2022 Org 0471

Marshall Medical School –			
RHI Program and Site Support (R)	03300	\$	427,075
Vice Chancellor for Health Sciences –			
Rural Health Residency Program (R)	60100		<u>171,361</u>
Total		\$	<u>598,436</u>

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

306 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2022 Org 0508

Personal Services and Employee Benefits	00100	\$	144,190
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		65,190
Current Expenses	13000		332,284
Repairs and Alterations	06400		1,000
Local Programs Service Delivery Costs	20000		2,435,250
Silver Haired Legislature	20200		18,500
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens	53900		4,615,503
Roger Tompkins Alzheimer’s Respite Care	64300		2,302,016
WV Alzheimer’s Hotline	72400		45,000
Regional Aged and Disabled Resource Center	76700		425,000
Senior Services Medicaid Transfer	87100		16,400,070
Legislative Initiatives for the Elderly	90400		9,671,239
Long Term Care Ombudsman	90500		297,226
BRIM Premium	91300		7,718
In-Home Services and Nutrition for Senior Citizens	91700		<u>8,095,941</u>
Total		\$	<u>44,856,387</u>

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

Total TITLE II, Section 4 – Lottery Revenue..... \$ 125,433,000

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

307 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2022 Org 0100

Appro- piation	Excess Lottery Funds
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Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

308 - Office of Technology

(WV Code Chapter 5A)

Fund 2532 FY 2022 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*309 - Department of Economic Development –**Office of the Secretary –**West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2022 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*310 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2022 Org 0310

Current Expenses (R)	13000	\$	23,300
Repairs and Alterations (R)	06400		161,200
Equipment (R)	07000		200,000
Buildings (R)	25800		100,000
Other Assets (R)	69000		<u>1,020,500</u>
Total		\$	1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*311 - West Virginia Infrastructure Council –**West Virginia Infrastructure Transfer Fund*Fund 3390 FY 2022 Org 0316

Directed Transfer	70000	\$	46,000,000
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The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

*312 - Department of Education –**School Building Authority*Fund 3514 FY 2022 Org 0404

Debt Service - Total	31000	\$	18,999,900
Directed Transfer	70000		100
Total		\$	19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.

The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

313 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2022 Org 0441

PROMISE Scholarship – Transfer.....	80000	\$	29,000,000
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The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 044) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

314 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2022 Org 0441

Directed Transfer	70000	\$	15,000,000
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The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate Concurrent Resolution No. 41.

315 - Higher Education Policy Commission –

Administration –

Control Account

Fund 4932 FY 2022 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

316 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2022 Org 0511

Medical Services.....	18900	\$	16,302,960
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317 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 6283 FY 2022 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

318 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2022 Org 0705

General Revenue Fund – Transfer.....	70011	\$	65,000,000
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The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

319 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2022 Org 0705

Directed Transfer	70000	\$	10,000,000
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The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner’s request.

320 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2022 Org 0705

Parking Garage Fund – Transfer.....	70001	\$	500,000
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2004 Capitol Complex Parking Garage Fund – Transfer	70002	216,478
Capitol Dome and Improvements Fund – Transfer	70003	1,796,256
Capitol Renovation and Improvement Fund – Transfer	70004	2,381,252
Development Office Promotion Fund – Transfer	70005	1,298,864
Research Challenge Fund – Transfer	70006	1,731,820
Tourism Promotion Fund – Transfer.....	70007	4,808,142
Cultural Facilities and Capitol Resources Matching		
Grant Program Fund – Transfer	70008	1,250,535
State Debt Reduction Fund – Transfer.....	70010	20,000,000
General Revenue Fund – Transfer.....	70011	1,167,799
West Virginia Racing Commission Racetrack		
Video Lottery Account	70012	3,463,637
Historic Resort Hotel Fund	70013	24,010
Licensed Racetrack Regular Purse Fund.....	70014	22,383,247
Total.....		\$ 61,022,040

321 - Racing Commission

Fund 7308 FY 2022 Org 0707

Special Breeders Compensation (WVC §29-22-18a, subsection (I)).....	21800	\$ 2,000,000
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322 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2022 Org 0944

Debt Service – Total	31000	\$ 19,000,000
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Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

323 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2022 Org 0944

Debt Service	04000	\$ 2,032,000
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324 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2022 Org 0944

Debt Service	04000	\$	4,395,000
Total TITLE II, Section 5 – Excess Lottery Funds.....		\$	<u>290,257,000</u>

Sec. 6. Appropriations of federal funds. — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

325 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2022 Org 2300

		Appropriation	Federal Funds
Economic Loss Claim Payment Fund.....	33400	\$	1,100,000

JUDICIAL

326 - Supreme Court

Fund 8867 FY 2022 Org 2400

Personal Services and Employee Benefits.....	00100	\$	1,813,000
Current Expenses	13000		1,557,000
Repairs and Alterations.....	06400		100,000
Equipment.....	07000		250,000
Other Assets	69000		<u>280,000</u>
Total		\$	4,000,000

EXECUTIVE

327 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	2,628,780
Unclassified	09900		50,534
Current Expenses	13000		6,828,661
Repairs and Alterations.....	06400		650,000
Equipment.....	07000		910,500
Buildings.....	25800		1,000,000
Other Assets	69000		550,000
Land.....	73000		<u>500,000</u>
Total		\$	13,118,475

328 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	658,571
Unclassified	09900		8,755
Current Expenses	13000		136,012
Repairs and Alterations.....	06400		5,500
Equipment.....	07000		114,478
Total		\$	<u>923,316</u>

329 - Department of Agriculture –

State Conservation Committee

(WV Code Chapter 19)

Fund 8783 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	97,250
Current Expenses	13000		<u>15,599,974</u>
Total		\$	<u>15,697,224</u>

330 - Department of Agriculture –

*Land Protection Authority*Fund 8896 FY 2022 Org 1400

Personal Services and Employee Benefits.....	00100	\$	46,526
Unclassified	09900		5,004
Current Expenses	13000		<u>448,920</u>
Total		\$	<u>500,450</u>

331 - Attorney General –

*Medicaid Fraud Unit*Fund 8882 FY 2022 Org 1500

Personal Services and Employee Benefits.....	00100	\$	1,257,042
Unclassified	09900		15,336
Current Expenses	13000		456,638
Repairs and Alterations.....	06400		4,313
Equipment.....	07000		7,500
Other Assets	69000		<u>11,336</u>
Total		\$	<u>1,752,165</u>

332 - Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2022 Org 1600

Personal Services and Employee Benefits.....	00100	\$	210,240
Unclassified	09900		7,484
Current Expenses	13000		415,727
Repairs and Alterations.....	06400		15,000
Other Assets	69000		100,000
Total		\$	<u>748,451</u>

DEPARTMENT OF COMMERCE

333 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2022 Org 0305

Personal Services and Employee Benefits.....	00100	\$	1,640,060
Unclassified	09900		51,050
Current Expenses	13000		5,232,560
Repairs and Alterations.....	06400		155,795
Equipment.....	07000		100,000
Other Assets	69000		1,808,300
Total		\$	<u>8,987,765</u>

334 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2022 Org 0306

Personal Services and Employee Benefits.....	00100	\$	54,432
Unclassified	09900		2,803
Current Expenses	13000		195,639
Repairs and Alterations.....	06400		5,000
Equipment.....	07000		7,500
Other Assets	69000		15,000
Total		\$	<u>280,374</u>

335 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2022 Org 0308

Personal Services and Employee Benefits.....	00100	\$	409,251
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Unclassified	09900	5,572
Current Expenses	13000	167,098
Repairs and Alterations.....	06400	500
Total		<u>\$ 582,421</u>

336 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2022 Org 0310

Personal Services and Employee Benefits.....	00100	\$ 10,064,006
Unclassified	09900	107,693
Current Expenses	13000	7,887,660
Repairs and Alterations.....	06400	566,250
Equipment.....	07000	2,126,141
Administration	15500	50,325
Buildings	25800	951,000
Other Assets	69000	7,088,880
Land.....	73000	2,893,920
Total		<u>\$ 31,735,875</u>

337 - Division of Miners' Health,

Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2022 Org 0314

Personal Services and Employee Benefits.....	00100	\$ 642,799
Current Expenses	13000	150,000
Total		<u>\$ 792,799</u>

338 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2022 Org 0323

Unclassified	09900	\$ 5,127
Current Expenses	13000	507,530
Reed Act 2002 – Unemployment Compensation.....	62200	2,850,000
Reed Act 2002 – Employment Services	63000	1,650,000
Total		<u>\$ 5,012,657</u>

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to

each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

339 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2022 Org 0932

Personal Services and Employee Benefits.....	00100	\$	11,725,244
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		138,000
Current Expenses.....	13000		34,440,940
Repairs and Alterations.....	06400		350,400
Equipment.....	07000		<u>1,275,870</u>
Total.....		\$	47,930,454

340 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2022 Org 0932

Personal Services and Employee Benefits.....	00100	\$	12,476,122
Current Expenses.....	13000		13,383,206
Repairs and Alterations.....	06400		1,100
Equipment.....	07000		<u>83,350</u>
Total.....		\$	25,943,778

DEPARTMENT OF ECONOMIC DEVELOPMENT

341 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 8705 FY 2022 Org 0307

Personal Services and Employee Benefits.....	00100	\$	1,039,921
Unclassified.....	09900		50,000
Current Expenses.....	13000		<u>4,504,019</u>
Total.....		\$	5,593,940

342 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2022 Org 0307

Personal Services and Employee Benefits.....	00100	\$	497,289
Repairs and Alterations.....	06400		250
Equipment.....	07000		6,000
Unclassified	09900		106,795
Current Expenses	13000		<u>10,069,166</u>
Total		\$	<u>10,679,500</u>

343 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2022 Org 0328

Personal Services and Employee Benefits.....	00100	\$	426,385
Unclassified	09900		7,350
Current Expenses	13000		<u>2,816,076</u>
Total		\$	<u>3,249,811</u>

DEPARTMENT OF EDUCATION

344 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	5,785,359
Unclassified	09900		2,000,000
Current Expenses	13000		1,434,146,008
Repairs and Alterations.....	06400		10,000
Equipment.....	07000		10,000
Other Assets	69000		<u>10,000</u>
Total		\$	<u>1,441,961,367</u>

345 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	1,881,766
Unclassified	09900		1,150,500
Current Expenses	13000		148,281,265
Repairs and Alterations.....	06400		20,000
Equipment.....	07000		100,000
Other Assets	69000		25,000
Total.....		\$	151,458,531

346 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	1,896,249
Unclassified	09900		155,000
Current Expenses	13000		17,820,081
Repairs and Alterations.....	06400		10,000
Equipment.....	07000		10,000
Other Assets	69000		10,000
Total.....		\$	19,901,330

347 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2022 Org 0402

Personal Services and Employee Benefits.....	00100	\$	3,477,006
Unclassified	09900		1,000,000
Current Expenses	13000		123,346,390
Repairs and Alterations.....	06400		10,000
Equipment.....	07000		10,000
Other Assets	69000		10,000
Total.....		\$	127,853,396

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

348 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2022 Org 0432

Personal Services and Employee Benefits.....	00100	\$	810,436
Current Expenses	13000		1,947,372
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		1,000
Buildings	25800		1,000
Other Assets	69000		1,000
Land.....	73000		360
Total.....		\$	<u>2,762,168</u>

349 - Commission for National and Community Service

(WV Code Chapter 5F)

Fund 8841 FY 2022 Org 0432

Personal Services and Employee Benefits.....	00100	\$	437,040
Current Expenses	13000		5,587,325
Repairs and Alterations.....	06400		1,000
Total.....		\$	<u>6,025,365</u>

350 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2022 Org 0433

Personal Services and Employee Benefits.....	00100	\$	353,396
Current Expenses	13000		1,076,162
Equipment.....	07000		543,406
Total.....		\$	<u>1,972,964</u>

351 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2022 Org 0439

Equipment.....	07000	\$	200,000
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DEPARTMENT OF ENVIRONMENTAL PROTECTION

352 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2022 Org 0313

Personal Services and Employee Benefits.....	00100	\$	31,406,529
Unclassified	09900		1,923,580
Current Expenses	13000		153,850,118
Repairs and Alterations.....	06400		739,783
Equipment.....	07000		1,712,238

Other Assets	69000	2,177,261
Land.....	73000	80,000
Total		<u>\$ 191,889,509</u>

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

353 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$ 1,532,219
Unclassified	09900	73,307
Current Expenses	13000	<u>81,583,302</u>
Total		<u>\$ 83,188,828</u>

354 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 8802 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$ 14,610,947
Unclassified	09900	856,614
Current Expenses	13000	69,201,885
Equipment.....	07000	456,972
Buildings	25800	155,000
Other Assets	69000	<u>380,000</u>
Total		<u>\$ 85,661,418</u>

355 - Division of Health –

West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2022 Org 0506

West Virginia Drinking Water Treatment Revolving Fund – Transfer	68900	\$ 16,000,000
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356 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2022 Org 0510

Personal Services and Employee Benefits.....	00100	\$ 449,874
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Unclassified	09900	5,050
Current Expenses	13000	<u>64,950</u>
Total		\$ 519,874

357 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$ 76,720,133
Unclassified	09900	22,855,833
Current Expenses	13000	112,181,984
Medical Services.....	18900	3,860,302,514
Medical Services Administrative Costs.....	78900	132,247,536
CHIP Administrative Costs.....	85601	4,539,496
CHIP Services.....	85602	49,752,412
Federal Economic Stimulus.....	89100	<u>5,000,000</u>
Total		\$ 4,263,599,908

DEPARTMENT OF HOMELAND SECURITY

358 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2022 Org 0601

Unclassified	09900	\$ 5,000
Current Expenses	13000	<u>495,000</u>
Total		\$ 500,000

359 - Division of Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2022 Org 0606

Personal Services and Employee Benefits.....	00100	\$ 1,199,172
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201	61,250
Current Expenses	13000	20,429,281
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>100,000</u>
Total		\$ 21,794,703

360 - Division of Corrections and Rehabilitation

(WV Code Chapters 15A)

Fund 8836 FY 2022 Org 0608

Unclassified	09900	\$	1,100
Current Expenses	13000		<u>108,900</u>
Total		\$	110,000

361 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2022 Org 0612

Personal Services and Employee Benefits.....	00100	\$	2,480,877
Current Expenses	13000		2,125,971
Repairs and Alterations.....	06400		42,000
Equipment.....	07000		2,502,285
Buildings	25800		750,500
Other Assets	69000		144,500
Land.....	73000		<u>500</u>
Total		\$	8,046,633

362 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2022 Org 0619

Current Expenses	13000	\$	80,000
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363 - Division of Administrative Services

(WV Code Chapter 15)

Fund 8803 FY 2022 Org 0623

Personal Services and Employee Benefits.....	00100	\$	1,222,258
Unclassified	09900		25,185
Current Expenses	13000		75,381,973
Repairs and Alterations.....	06400		<u>1,750</u>
Total		\$	76,631,166

DEPARTMENT OF REVENUE*364 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2022 Org 0704

Personal Services and Employee Benefits.....	00100	\$	145,000
Current Expenses	13000		2,825,000
Equipment.....	07000		<u>30,000</u>

Total		\$	2,855,000
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DEPARTMENT OF TRANSPORTATION

365 - Division of Motor Vehicles

(WV Code Chapter 17B)

Fund 8787 FY 2022 Org 0802

Personal Services and Employee Benefits	00100	\$	551,394
Current Expenses	13000		5,448,106
Repairs and Alterations	06400		500
Total		\$	6,000,000

366 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2022 Org 0805

Personal Services and Employee Benefits	00100	\$	1,010,320
Current Expenses	13000		20,913,149
Repairs and Alterations	06400		2,500
Equipment	07000		2,801,714
Buildings	25800		1,250,000
Other Assets	69000		100,000
Total		\$	26,077,683

367 - Aeronautics Commission

(WV Code Chapter 29)

Fund 8831 FY 2022 Org 0807

Current Expenses	13000	\$	400,000
Other Assets	69000		100
Total		\$	400,100

DEPARTMENT OF VETERANS' ASSISTANCE

368 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2022 Org 0613

Personal Services and Employee Benefits	00100	\$	2,890,365
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		57,120
Current Expenses	13000		2,840,300
Repairs and Alterations	06400		20,000

Equipment.....	07000	25,000
Buildings	25800	250,000
Land.....	73000	500
Veterans' Cemetery	80800	<u>175,000</u>
Total		\$ 6,258,285

369 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 8728 FY 2022 Org 0618

Personal Services and Employee Benefits.....	00100	\$ 906,850
Current Expenses	13000	595,700
Repairs and Alterations.....	06400	60,500
Equipment.....	07000	10,500
Buildings	25800	500
Other Assets	69000	6,500
Land.....	73000	<u>100</u>
Total		\$ 1,580,650

BUREAU OF SENIOR SERVICES

370 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2022 Org 0508

Personal Services and Employee Benefits.....	00100	\$ 761,414
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	5,950
Current Expenses	13000	13,811,853
Repairs and Alterations.....	06400	<u>3,000</u>
Total		\$ 14,582,217

MISCELLANEOUS BOARDS AND COMMISSIONS

371 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2022 Org 0603

Unclassified	09900	\$ 982,705
Mountaineer ChalleNGe Academy.....	70900	7,200,000
Martinsburg Starbase.....	74200	439,622

Charleston Starbase	74300	424,685
Military Authority	74800	<u>91,380,274</u>
Total		\$ 100,427,286

The Adjutant General shall have the authority to transfer between appropriations.

372 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2022 Org 0603

Personal Services and Employee Benefits.....	00100	\$ 1,350,000
Current Expenses	13000	150,000
Repairs and Alterations.....	06400	50,000
Equipment.....	07000	200,000
Buildings	25800	100,000
Other Assets	69000	100,000
Land.....	73000	<u>50,000</u>
Total		\$ 2,000,000

373 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8743 FY 2022 Org 0926

Personal Services and Employee Benefits.....	00100	\$ 1,352,576
Current Expenses	13000	368,953
Repairs and Alterations.....	06400	39,000
Equipment.....	07000	<u>413,400</u>
Total		\$ 2,173,929

374 - Public Service Commission –

Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2022 Org 0926

Personal Services and Employee Benefits.....	00100	\$ 621,039
Unclassified	09900	4,072
Current Expenses	13000	124,628
Equipment.....	07000	<u>3,000</u>
Total		\$ 752,739

375 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2022 Org 0941

Personal Services and Employee Benefits.....	00100	\$	163,405
Current Expenses	13000		242,195
Repairs and Alterations.....	06400		5,000
Equipment.....	07000		3,000
Other Assets	69000		2,000
Total.....		\$	<u>415,600</u>

Total TITLE II, Section 6 - Federal Funds.....		\$	<u>6,842,455,104</u>
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Sec. 7. Appropriations from federal block grants. — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2022.

376 - Department of Economic Development –

Office of the Secretary –

Community Development

Fund 8746 FY 2022 Org 0307

Personal Services and Employee Benefits.....	00100	\$	10,658,978
Unclassified	09900		2,375,000
Current Expenses	13000		224,476,883
Total.....		\$	<u>237,510,861</u>

377 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2022 Org 0307

Personal Services and Employee Benefits.....	00100	\$	362,389
Unclassified	09900		125,000
Current Expenses	13000		12,002,111
Repairs and Alterations.....	06400		1,500
Equipment.....	07000		9,000
Total.....		\$	<u>12,500,000</u>

378 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2022 Org 0323

Personal Services and Employee Benefits.....	00100	\$	2,875,479
Salary and Benefits of Cabinet Secretary and Agency Heads.....	00201		124,018
Unclassified	09900		23,023
Current Expenses	13000		39,263,511
Repairs and Alterations.....	06400		1,600
Equipment.....	07000		500
Buildings	25800		1,100
Total		\$	<u>42,289,231</u>

379 - Division of Health –

Maternal and Child Health

Fund 8750 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	2,268,209
Unclassified	09900		81,439
Current Expenses	13000		<u>5,794,267</u>
Total		\$	<u>8,143,915</u>

380 - Division of Health –

Preventive Health

Fund 8753 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	268,337
Unclassified	09900		22,457
Current Expenses	13000		1,895,366
Equipment.....	07000		<u>165,642</u>
Total		\$	<u>2,351,802</u>

381 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	657,325
Unclassified	09900		115,924
Current Expenses	13000		<u>10,853,740</u>
Total		\$	<u>11,626,989</u>

382 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2022 Org 0506

Personal Services and Employee Benefits.....	00100	\$	551,368
Unclassified	09900		33,533
Current Expenses	13000		<u>4,883,307</u>
Total		\$	5,468,208

383 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	1,860,574
Unclassified	09900		350,000
Current Expenses	13000		<u>38,182,151</u>
Total		\$	40,392,725

384 - Division of Human Services –

Social Services

Fund 8757 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	8,806,005
Unclassified	09900		171,982
Current Expenses	13000		<u>8,870,508</u>
Total		\$	17,848,495

385 - Division of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	20,604,174
Unclassified	09900		1,250,000
Current Expenses	13000		<u>105,871,588</u>
Total		\$	127,725,762

386 - Division of Human Services –

Child Care and Development

Fund 8817 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	2,797,226
Unclassified	09900		350,000
Current Expenses	13000		<u>47,000,307</u>
Total		\$	50,147,533

Total TITLE II, Section 7 – Federal Block Grants		\$	<u>556,005,521</u>
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Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2022, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$4,310,008, special revenue funds in the amount of \$68,539, and state road funds in the amount of \$621,765 for payment of claims against the state.

Sec. 9. Appropriations from general revenue fund surplus accrued. — The following item is hereby appropriated from the state fund, general revenue, and is to be available for expenditure during the fiscal year 2022 out of surplus funds only, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus as of July 31, 2021 from the fiscal year ending June 30, 2021, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

387 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2022 Org 0444

Mountwest Community and Technical College - Surplus.....	#####	\$	97,340
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388 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2022 Org 0445

New River Community and Technical College - Surplus	#####	\$	87,973
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389 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2022 Org 0447

Blue Ridge Community and Technical College - Surplus	#####	\$	117,463
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390 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2022 Org 0464

West Virginia University – Parkersburg - Surplus	#####	\$	154,789
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391 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2022 Org 0487

Southern West Virginia Community and Technical College - Surplus.....	#####	\$	123,627
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392 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2022 Org 0489

West Virginia Northern Community and Technical College - Surplus.....	#####	\$	109,287
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393 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2022 Org 0492

Eastern West Virginia Community and Technical College - Surplus.....	#####	\$	32,699
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394 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2022 Org 0493

BridgeValley Community and Technical College - Surplus	#####	\$	121,482
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395 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2022 Org 0463

WVU School of Health Science – Eastern Division - Surplus ..	#####	\$	33,530
WVU – School of Health Sciences - Surplus	#####		225,846
WVU – School of Health Sciences – Charleston Division - Surplus	#####		<u>34,301</u>
Total		\$	293,677

*396 - Marshall University –**School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2022 Org 0471

Marshall Medical School - Surplus..... ##### \$ 183,526

397 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2022 Org 0476

West Virginia School of Osteopathic Medicine - Surplus..... ##### \$ 133,189

398 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2022 Org 0482

Bluefield State College - Surplus..... ##### \$ 95,748

399 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2022 Org 0483

Concord University - Surplus..... ##### \$ 157,146

400 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2022 Org 0485

Glenville State College - Surplus..... ##### \$ 96,704

401 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2022 Org 0486

Shepherd University - Surplus..... ##### \$ 190,257

402 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2022 Org 0488

West Liberty University – Surplus..... ##### \$ 136,540

403 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2022 Org 0490

West Virginia State University - Surplus..... ##### \$ 170,138

404 - Governor’s Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2022 Org 0100

Milton Flood Wall - Surplus 75799 \$ 17,500,000

405 - Department of Tourism-

Office of the Secretary

(WV Code Chapter 5B)

Fund 0246 FY 2022 Org 0304

Tourism – Brand Promotion – Surplus 61893 \$ 7,000,000

406 - Marshall University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0348 FY 2022 Org 0471

Marshall University - Surplus..... ##### \$ 9,700,000

407 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2022 Org 0420

West Virginia Council for Community and Technical Education - Surplus	#####	\$	3,000,000
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408 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2022 Org 0441

Current Expenses - Surplus	#####	\$	1,600,000
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The above appropriation for Current Expense - Surplus (fund 0589, appropriation #####) shall be used for workforce development initiatives.

409 - West Virginia University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0344 FY 2022 Org 0463

West Virginia University - Surplus	#####	\$	16,600,000
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410 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2022 Org 0307

Directed Transfer - Surplus	70099	\$	1,000,000
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The above appropriation for Directed Transfer - Surplus (fund 0256, appropriation 70099) shall be transferred to the Economic Development Promotion and Closing Fund (fund 3171).

Total TITLE II, Section 9 – Surplus Accrued.....		\$	<u>58,701,585</u>
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Sec. 10. Appropriations from lottery net profits surplus accrued. — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the

fiscal year 2022 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2021.

In the event that surplus revenues available from the fiscal year ending June 30, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

411 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2022 Org 0508

Senior Services Medicaid Transfer – Lottery Surplus	68199	\$	16,000,000
In-Home Services and Nutrition for Senior Citizens – Lottery Surplus	76699		<u>750,000</u>
Total		\$	<u>16,750,000</u>
Total TITLE II, Section 10 – Surplus Accrued.....		\$	<u>16,750,000</u>

Sec. 11. Appropriations from state excess lottery revenue surplus accrued. — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2022 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2021.

In the event that surplus revenues available from the fiscal year ending June 30, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

412 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7308 FY 2022 Org 0707

Directed Transfer	70000	\$	800,000
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From the above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

413 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2022 Org 0511

Medical Services – Lottery Surplus	68100	\$	17,000,000
Total TITLE II, Section 11 – Surplus Accrued.....		\$	<u>17,800,000</u>

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2022 special revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2 and are not expressly appropriated under this act: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2-1 et seq., W.Va. Code §12-3-1 et seq., and W.Va. Code §11B-2-1 et seq., unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended: *Provided, however,* That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.Va. Code §4-11-1, *et seq.* *Provided further,* That federal funds that become available to a spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W. Va. Code §4-11-5(d): *And provided further,* That no provision of this Act may be construed to authorize the expenditure of federal funds except as provided in this section.

During fiscal year 2022, the following funds are hereby available and are to be transferred to the appropriate funds as specified from available balances per the following:

414 - Attorney General

Consumer Protection Recovery Fund

(WV Code Chapter 46A)

Fund 1509 FY 2022 Org 1500

Directed Transfer	70000	\$	4,500,000
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From the above appropriation for Directed Transfer (fund 1509, appropriation 70000), \$2,500,000 shall be transferred to the Department of Health and Human Resources, Division of Human Services – Medical Services Trust Fund (fund 5185) and \$2,000,000 shall be transferred to the Governor’s Office – Civil Contingent Fund – Local Economic Development Assistance (fund 0105, appropriation 81900).

Total TITLE II, Section 12 – Appropriations for Special Revenue Appropriations		\$	<u>4,500,000</u>
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Sec. 13. State improvement fund appropriations. — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2022, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2022 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

Sec. 14. Specific funds and collection accounts. — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

Sec. 15. Appropriations for refunding erroneous payment. — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 16. Sinking fund deficiencies. — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

Sec. 17. Appropriations for local governments. — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

Sec. 18. Total appropriations. — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

Sec. 19. General school fund. — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

Sec. 1. Appropriations conditional. — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

Senator Takubo moved that the Senate concur in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Following extended discussion,

(Senator Weld in the Chair.)

Following extended discussion,

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

Following discussion,

Senator Martin moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendment to the Senate amendment to the bill (Eng. Com. Sub. for H. B. 2022), the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2022, as amended, 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 H. B. 2022) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, 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, 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. 2022) takes effect from passage.

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

The Senate again proceeded to the eighth order of business.

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

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 11B. WEST VIRGINIA AIR AMBULANCE PATIENT PROTECTION ACT.

§33-11B-1. Air ambulance membership products as insurance.

(a) An air ambulance service provider or any affiliated entity who solicits air ambulance membership subscriptions, accepts membership applications, or charges membership fees, is deemed to be engaged in the business of insurance to the extent that it contracts, promises, guarantees, or in any other way portends to pay, reimburse, or indemnify the copayments, deductibles, or other cost-sharing amounts of a patient relating to the air ambulance transport as determined or set by the patient's health insurance provider, health care provider, or other third parties, or any post-service payment of costs to third parties relating to the transport.

(b) An air ambulance membership agreement or subscription for air ambulance services under subsection (a) of this section is insurance and may be considered secondary insurance coverage

or a supplement to any insurance coverage, and shall be subject to regulation by the commissioner pursuant to the provisions of this chapter.

(c) To the extent that activity falls within the business of insurance as described in subsection (a) of this section, no person or entity, whether directly or indirectly through an affiliated entity, agreement with a third party, or otherwise, may solicit or sell air ambulance membership agreements or subscriptions, accept membership applications, or charge membership fees except as authorized by a valid license issued by the commissioner pursuant to the provisions of this chapter.

(d) The commissioner may promulgate rules in accordance with §29A-3-1 et seq. of this code to effectuate the provisions of this section.

(e) If any provision of this section is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this section, and to this end the provisions of this section are declared to be severable.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 2776), 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, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Blair (Mr. President)—27.

The nays were: Clements, Karnes, Martin, Maynard, Smith, Sypolt, and Woodrum—7.

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. 2776) 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 2776—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-11B-1, relating to the creation of the West Virginia Air Ambulance Patient Protection Act; declaring that an air ambulance service provider or affiliated entity who solicits air ambulance membership subscriptions, accepts membership applications, or charges membership fees, is engaged in the business of insurance to the extent that it promises to pay, reimburse, or indemnify the copayments, deductibles, cost-sharing amounts, or post-service payments of a patient related to air ambulance transport as set by the patient's health insurance provider, health care provider, or other third parties; providing that air ambulance membership agreements or subscriptions declared to be the business of insurance shall be regulated by the commissioner; requiring a valid license issued by the commissioner to solicit or sell air ambulance membership agreements or subscriptions; providing for rulemaking by the commissioner; and providing for severability.

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 3106, To change the hearing requirement for misdemeanors to 10 days.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 1C. BAIL.

§62-1C-1a. Pretrial release; types of release; conditions for release; considerations as to conditions of release.

(a) Subject to the provisions of §62-1C-1 of this code, when a person charged with a violation or violations of the criminal laws of this state first appears before a judicial officer:

(1) Except for good cause shown, a judicial officer shall release a person charged with a misdemeanor offense on his or her own recognizance unless that person is charged with:

(A) A misdemeanor offense of actual violence or threat of violence against a person;

(B) A misdemeanor offense where the victim was a minor, as defined in §61-8C-1 of this code;

(C) A misdemeanor offense involving the use of a deadly weapon, as defined in §61-7-2 of this code;

(D) A misdemeanor offense of the Uniform Controlled Substances Act as set forth in chapter 60A of this code;

(E) Misdemeanor offenses of sexual abuse;

(F) A serious misdemeanor traffic offense set forth in §17C-5-1 or §17C-5-2 of this code; or

(G) A misdemeanor offense involving auto tampering, petit larceny or possession, transfer or receiving of stolen property when alleged value on the property involved exceeds \$250.

(2) For the misdemeanor offenses specified in subsection (a) of this section and all other offenses which carry a penalty of incarceration, the arrested person is entitled to be admitted to bail subject to the least restrictive condition or combination of conditions that the judicial officer determines reasonably necessary to assure that person will appear as required, and which will not jeopardize the safety of the arrested person, victims, witnesses, or other persons in the community or the safety and maintenance of evidence. Further conditions may include that the person charged shall:

(A) Not violate any criminal law of this state, another state, or the United States;

(B) Remain in the custody of a person designated by the judicial officer, who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is reasonably able to assure the judicial officer that the person will appear as required and will not pose a danger to himself or herself or to the safety of any other person or the community; (C) Participate in home incarceration pursuant to §62-11B-1 *et seq.* of this code;

(D) Participate in an electronic monitoring program if one is available where the person is charged or will reside.

(E) Maintain employment, or, if unemployed, actively seek employment;

(F) Avoid all contact with an alleged victim of the alleged offense and with potential witnesses and other persons as directed by the court;

(G) Refrain from the use or excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in §60A-1-1 *et seq.* of this code without a prescription from a licensed medical practitioner;

(H) Execute an agreement to forfeit, upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required. The person charged shall provide the court with proof of ownership, the value of the property, and information regarding existing encumbrances of the property as, in the discretion of the judicial officer, is reasonable and necessary collateral to ensure the subsequent appearance of the person as required;

(I) Post a cash bond, or execute a bail bond with solvent sureties who will execute an agreement to forfeit an amount reasonably necessary to assure appearance of the person as required. If other than an approved surety, the surety shall provide the court with information regarding the value of its assets and liabilities and the nature and extent of encumbrances against the surety's property. The surety shall have a net worth of sufficiently unencumbered value to pay the amount of the bail bond; or

(J) Satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of the arrested person, victims, witnesses, other persons in the community, or the safety and maintenance of evidence.

(3) Proper considerations in determining whether to release the arrested person on an unsecured bond, fixing a reasonable amount of bail, or imposing other reasonable conditions of release are:

(A) The ability of the arrested person to give bail;

(B) The nature, number, and gravity of the offenses;

(C) The potential penalty the arrested person faces;

(D) Whether the alleged acts were violent in nature;

(E) The arrested person's prior record of criminal convictions and delinquency adjudications, if any;

(F) The character, health, residence, and reputation of the arrested person;

(G) The character and strength of the evidence which has been presented to the judicial officer:

(H) Whether the arrested person is currently on probation, extended supervision, or parole;

(I) Whether the arrested person is already on bail or subject to other release conditions in other pending cases;

(J) Whether the arrested person has been bound over for trial after a preliminary examination;

(K) Whether the arrested person has in the past forfeited bail or violated a condition of release or was ever a fugitive from justice; and

(L) The policy against unnecessary incarceration of arrested persons pending trial set forth in this section.

(b) In all misdemeanors, cash bail may not exceed three times the maximum fine provided for the offense. If the person is charged with more than one misdemeanor, cash bail may not exceed three times the highest maximum fine of the charged offenses.

(c) Notwithstanding any provisions of this article to the contrary, whenever a person not subject to the provisions of §62-1C-1 of this code remains incarcerated after his or her initial appearance, relating to a misdemeanor, due to the inability to meet the requirements of a secured bond, ~~the a~~ magistrate or judge ~~who set the secured bond~~ shall hold a hearing within ~~72 hours~~ 5 days of setting the initial bail to determine if there is a condition or combination of conditions which can meet the considerations set forth in ~~subdivision (2), subsection (a) of this section~~ §62-1C-1a(a)(2) of this code.

(d) A judicial officer may upon notice and hearing modify the conditions of release at any time by imposing additional or different conditions.

(e) A prosecuting attorney and defense counsel, unless expressly waived by the defendant, shall appear at all hearings in which bail or bond conditions are at issue other than the proceeding at which the conditions of release are initially set.

(f) No judicial officer may recommend the services of a surety who is his or her relative as that term is defined in §6B-1-3 of this code.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 3106), 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. 3106) 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 3106—A Bill to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating to bail; increasing the time for a secured bond hearing to 5 days; allowing a bond hearing to be held by any magistrate or judge; and clarifying the bond hearing procedure applies only to misdemeanors.

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 2747, Transferring the Parole Board to the Office of Administrative Hearings.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.

ARTICLE 9. OFFICE OF ADMINISTRATIVE HEARINGS.

§15A-9-1. Office created; appointment of Chief Hearing Examiner.

(a) The Office of Administrative Hearings is created as a separate operating agency within the department.

(b) The secretary shall appoint a director of the office who serves as the administrative head of the office and as Chief Hearing Examiner.

(c) ~~Prior to appointment, the~~ The Chief Hearing Examiner shall be a citizen of the United States and a resident of this state who is admitted to the practice of law in this state.

(d) The salary of the Chief Hearing Examiner shall be set by the secretary of the department.

(e) In addition to adherence to the code of conduct set forth in §6B-2-5a of this code, the Chief Hearing Examiner during his or her term shall:

~~(1) Devote his or her full time to the duties of the position;~~

~~(2) Not otherwise engage in the active practice of law or be associated with any group or entity which is itself engaged in the active practice of law. This subsection does not prohibit the Chief~~

~~Hearing Examiner from being a member of a national, state, or local bar association or committee, or of any other similar group or organization, nor does it prohibit the Chief Hearing Examiner from engaging in the practice of law by representing himself, herself, or his or her immediate family in their personal affairs in matters not subject to this article;~~

~~(3)~~ (1) Not engage directly or indirectly in any activity, occupation, or business interfering or inconsistent with his or her duties as Chief Hearing Examiner;

~~(4)~~ (2) Not hold any other appointed public office or any elected public office or any other position of public trust; and

~~(5)~~ (3) Not be a candidate for any elected public office, or serve on or under any committee of, any political party.

(f) The Chief Hearing Examiner serves at the will and pleasure of the secretary.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-12. Parole Board generally.

(a) The West Virginia Parole Board is continued as part of the Division of Corrections and Rehabilitation. The board shall consist of nine members, each of whom shall have been a resident of this state for at least five consecutive years prior to his or her appointment. No more than five of the board members may at any one time belong to the same political party, except as provided in subsection (b) of this section. The board shall be appointed by the Governor, by and with the advice and consent of the Senate and shall serve at the will and pleasure of the Governor.

~~Appointments shall be made in such a manner that each congressional district is represented and so that no more than four and no less than two members of the board reside in any one congressional district.~~

(b) The Governor shall appoint one of the nine members to serve as chairperson at the Governor's will and pleasure. In addition to all other powers, duties, and responsibilities granted and assigned to the chairperson by law and rule, the chairperson has the following powers and duties:

(1) To provide for the management of facilities and personnel of the board;

(2) To supervise the administration and operation of the board;

(3) To delegate the powers and duties of his or her office to the vice chairperson or other members of the board, who shall act under the direction of the chairperson and for whose acts he or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death, resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the chairperson until such time as a new chairperson is appointed pursuant to the provisions of this subsection;

(4) To employ one full-time administrative employee, who shall be a classified exempt employee; and

(5) To exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.

(c) The board, from its membership, shall elect a vice chairperson, at least once every year, to serve as chair in the absence of a chairperson. In the absence of or at the direction of the chairperson, the vice chairperson may exercise the powers and duties of the chairperson. The vice chairperson shall, while performing the duties and responsibilities of the chairperson, have all of the statutorily authorized power and duties of the chairperson.

(d) ~~Any person initially appointed to the board on or after July 1, 2012,~~ Members of the board shall have a at least an undergraduate degree from an accredited college or university or at least five years of actual experience in the fields of corrections, law enforcement, sociology, law, education, psychology, social work, or medicine, or a combination thereof, and shall be otherwise competent to perform the duties of his or her office: *Provided, That at least three members initially appointed after July 1, 2021, shall have five or more years experience in the fields of mental health, social work, or inmate reentry services.* All members currently serving on the board shall continue the terms they are currently serving, unless otherwise removed. The members shall be appointed for overlapping terms of six years. Members are eligible for reappointment. The members of the board shall devote their full time and attention to their board duties.

(e) The Governor may, if he or she is informed that a vacancy is imminent, appoint a member to fill the imminent vacancy prior to it becoming vacant: *Provided, That the new member may be appointed no more than 30 days prior to the vacancy occurring and only for purposes of training. He or she may not assume the powers and duties of the position until the vacancy has actually occurred.*

(f) The Governor may appoint no more than five persons to a list of substitute board members. Substitute board members shall meet the qualifications set forth in subsection (d) of this section. The persons on the list shall be used in a rotating fashion. If a full-time board member is unable to serve, a substitute board member may serve in his or her place. These substitute board members shall have the same powers and duties of the fulltime board members while acting as a substitute and shall serve at the will and pleasure of the Governor. These members shall be reimbursed for expenses and paid a per diem rate set by the secretary.

(g) The Division of Corrections and Rehabilitation shall provide administrative and other services to the board as the board requires. Expenses of the board shall be included within the annual budget of the Division of Corrections and Rehabilitation: *Provided, That the salaries of the members appointed pursuant to subsection (b) of this section are to be included in a separate budget for the Parole Board.*

(h) Notwithstanding any provision of this code to the contrary, meetings of the parole board are not subject to the provisions of §6-9A-1 et seq. of this code: *Provided, That hearings before the parole board shall be open to the public.*

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2747), 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. 2747) 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 2747—A Bill to amend and reenact §15A-9-1 of the Code of West Virginia, 1931 as amended, and to amend and reenact §62-12-12 of said code, all relating to offices and officers in the Department of Homeland Security generally; clarifying duties and qualifications of the Chief Hearing Examiner of the Department of Homeland Security; removing language dictating residence requirements of Parole Board members based on congressional districts; clarifying that substitute Parole Board members serve at the will and pleasure of the Governor; directing that a least three board members initially appointed after July 1, 2021, have at least five years experience in social work, mental health, or prisoner reentry; exempting Parole Board meetings from open meeting law and clarifying that parole hearings are open to the public.

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

Without objection, the Senate returned to the third order of business.

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, to take effect July 1, 2021, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 344, Relating to credit for qualified rehabilitated buildings investment.

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:

§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 ten 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 twenty-five percent of the qualified rehabilitation

expenditure, subject to the limitations and other provisions of ~~section twenty-three-a, article twenty-four of this chapter~~ §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 ~~article three, chapter twenty-nine-a~~ §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.~~

§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 ten 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 twenty-five 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 ~~article three, chapter twenty-nine-a~~ §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 ~~section eight-a, article twenty-one of this chapter~~ §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~~ §11-21-8a of this code in the order that the applications for those projects were received.

(c) Procedure for issuance of tax credits reservations and certificates by the state historic preservation officer –

(1) Any claim for the tax credits authorized (1) pursuant to this section and ~~section eight-a, article twenty-one of this chapter~~ §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 (e) 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 sixty (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) 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 ~~section eight a, article twenty one of this chapter~~ §11-21-8a of this code.

(e) *Application fee* - Each application for tax credits authorized pursuant to this section and ~~section eight a, article twenty one of this chapter~~ §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 thirty 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 section eight-a, article twenty-one of this chapter.

~~(f) 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.;~~

And,

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

Eng. Com. Sub. for Senate Bill 344—A Bill to amend and reenact §11-21-8a of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-24-23a of said code, all relating to eliminating the termination date of the tax credit for qualified rehabilitated buildings investment.

Senator Takubo moved that the Senate concur in the House of Delegates 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 Senate Bill 344, 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. 344) passed with its House of Delegates amended title.

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

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 S. B. 344) takes effect July 1, 2021.

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 with its House of Delegates amended title, to take effect July 1, 2021, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 368, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program.

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:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-11. Solid waste assessment fee; penalties.*(a) Imposition. —*

(1) A solid waste assessment fee is hereby imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of \$1.75 per ton or part thereof of solid waste. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility.

(2) Effective July 1, 2021, in addition to the fee set forth in subdivision (1) of this subsection, an additional solid waste assessment fee shall be levied and imposed upon the disposal of solid waste at any solid waste landfill disposal facility in this state. This additional fee shall be in the amount of 20 cents per ton beginning July 1, 2021, 40 cents per ton beginning July 1, 2022, 60 cents per ton beginning July 1, 2023, 80 cents per ton beginning July 1, 2024, and \$1.00 per ton beginning July 1, 2025, thereafter or like ratio on any part of a ton of solid waste. The additional fee set forth in this subdivision shall be distributed as follows:

(A) 25% of the additional fee shall be distributed equally to each county or regional solid waste authority; and

(B) 75% of the additional fee shall be distributed on a per capita basis to each county or regional solid waste authority based on the most recent population projections from the United States Census Bureau.

The proceeds from this fee are to be expended for the reasonable costs of administration of the county or regional solid waste authority including the necessary and reasonable expenses of its members, and any other expenses incurred from refuse cleanup, recycling programs, litter control programs, or any other locally important solid waste programs deemed necessary to fulfill its duties. The Tax Commissioner may promulgate interpretive rules to provide for the distribution of funds as provided by this subdivision.

(b) Collection, return, payment, and records. — The person disposing of solid waste at the solid waste disposal facility shall pay the ~~fee~~ fees imposed by this section, whether or not such person owns the solid waste, and the ~~fee~~ fees shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner.

(1) The ~~fee~~ fees imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility.

(2) The operator shall remit the ~~fee~~ fees imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the ~~fee~~ fees accrued. Upon remittance of the ~~fee~~ fees, the operator is required to file returns on forms and in the manner as prescribed by the Tax Commissioner.

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until remitted to the Tax Commissioner.

(4) If any operator fails to collect the ~~fee~~ fees imposed by this section, he or she is personally liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* of this code.

(5) Whenever any operator fails to collect, truthfully account for, remit the ~~fee~~ fees, or file returns with the ~~fee~~ fees as required in this section, the Tax Commissioner may serve written notice requiring such operator to collect the fees which become collectible after service of such notice, to deposit such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner and to keep the amount of such fees in such account until remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner.

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the ~~fee~~ fees imposed by this section and the owner is secondarily liable for remittance of the ~~fee~~ fees imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section.

(7) If the operator or owner responsible for collecting the ~~fee~~ fees imposed by this section is an association or corporation, the officers thereof are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the ~~fee~~ fees and any additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent.

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the ~~fee~~ fees imposed by this section shall keep complete and accurate records in such form as the Tax Commissioner may require in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The ~~fee~~ fees imposed by this section and §7-5-22 of this code is considered a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter 24A of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of said ~~fee~~ fees in said motor carrier's rates for solid waste removal service. In calculating the amount of said ~~fee~~ fees to said motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition of "solid waste disposal facility".* — For purposes of this section, the term "solid waste disposal facility" means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste disposal facility within this state that collects the ~~fee~~ fees imposed by this section. Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the ~~fee~~ fees imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by~~ (A) By the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or~~ (B) by persons utilizing the facility on a cost-sharing or nonprofit basis; ~~or~~ (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a

minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated by the secretary is exempt from the solid waste assessment ~~fee~~ fees; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler must keep accurate records of incoming and outgoing waste by weight. Such records must be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code shall apply to the ~~fee~~ fees imposed by this section with like effect as if said act were applicable only to the ~~fee~~ fees imposed by this section and were set forth in extenso herein.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 of this code, sections three through seventeen, article nine, chapter eleven of this code shall apply to the ~~fee~~ fees imposed by this section with like effect as if said sections were applicable only to the ~~fee~~ fees imposed by this section and were set forth in extenso herein.

(h) *Dedication of proceeds.* — Except as provided in subdivision (2), subsection (a) of this section, The the net proceeds of the ~~fee~~ fees collected by the Tax Commissioner pursuant to this section shall be deposited at least monthly in an account designated by the secretary. The secretary shall allocate \$0.25 for each ton of solid waste disposed of in this state upon which the ~~fee~~ fees imposed by this section is collected and shall deposit the total amount so allocated into the Solid Waste Reclamation and Environmental Response Fund to be expended for the purposes hereinafter specified. The first \$1 million dollars of the net proceeds of the ~~fee~~ fees imposed by this section collected in each fiscal year shall be deposited in the Solid Waste Enforcement Fund and expended for the purposes hereinafter specified. The next \$250,000 of the net proceeds of the ~~fee~~ fees imposed by this section collected in each fiscal year shall be deposited in the Solid Waste Management Board Reserve Fund, and expended for the purposes hereinafter specified: *Provided,* That in any year in which the Water Development Authority determines that the Solid Waste Management Board Reserve Fund is adequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause no less than \$50,000 nor more than \$250,000 to be deposited to the fund: *Provided, however,* That in any year in which the Water Development Authority determines that the Solid Waste Management Board Reserve Fund is inadequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause not less than \$250,000 nor more than \$500,000 to be deposited in the fund: *Provided further,* That if a facility owned or operated by the State of West Virginia is denied site approval by a county or regional solid waste authority, and if such denial contributes, in whole or in part, to a default, or drawing upon a reserve fund, on any indebtedness issued or approved by the Solid Waste Management Board, then in that event the Solid Waste Management Board or its fiscal agent may withhold all or any part of any funds which would otherwise be directed to such county or regional authority and shall deposit such withheld funds in the appropriate reserve fund. The secretary shall allocate the remainder, if any, of said net

proceeds among the following three special revenue accounts for the purpose of maintaining a reasonable balance in each special revenue account, which are hereby continued in the State Treasury:

(1) The Solid Waste Enforcement Fund which shall be expended by the secretary for administration, inspection, enforcement, and permitting activities established pursuant to this article;

(2) The Solid Waste Management Board Reserve Fund which shall be exclusively dedicated to providing a reserve fund for the issuance and security of solid waste disposal revenue bonds issued by the solid waste management board pursuant to §22C-3-1 *et seq.* of this code;

(3) The Solid Waste Reclamation and Environmental Response Fund which may be expended by the secretary for the purposes of reclamation, cleanup, and remedial actions intended to minimize or mitigate damage to the environment, natural resources, public water supplies, water resources and the public health, safety, and welfare which may result from open dumps or solid waste not disposed of in a proper or lawful manner.

(i) *Findings.* — In addition to the purposes and legislative findings set forth in §22-15-1 of this code, the Legislature finds as follows:

(1) In-state and out-of-state locations producing solid waste should bear the responsibility of disposing of said solid waste or compensate other localities for costs associated with accepting such solid waste;

(2) The costs of maintaining and policing the streets and highways of the state and its communities are increased by long distance transportation of large volumes of solid waste; and

(3) Local approved solid waste facilities are being prematurely depleted by solid waste originating from other locations.

(j) The Gas Field Highway Repair and Horizontal Drilling Waste Study Fund is hereby created as a special revenue fund in the State Treasury to be administered by the West Virginia Division of Highways and to be expended only on the improvement, maintenance, and repair of public roads of three lanes or less located in the county where the waste is generated watershed from which the revenue was received through the Division of Highways county office in that county that are identified by the Commissioner of the Division of Highways as having been damaged by trucks and other traffic associated with horizontal well drilling sites or the disposal of waste generated by such sites, and that experience congestion caused, in whole or in part, by such trucks and traffic that interferes with the use of said roads by residents in the vicinity of such roads: *Provided*, That up to \$750,000 from such fund shall be made available to the Department of Environmental Protection from the same fund to offset contracted costs incurred by the Department of Environmental Protection while undertaking the horizontal drilling waste disposal studies mandated by the provisions of §22-15-8(j) of this code. Any balance remaining in the special revenue account at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account and shall be used solely in a manner consistent with this section. The fund shall consist of the fee provided for in subsection (k) of this section.

(k) *Horizontal drilling waste assessment fee.* — An additional solid waste assessment fee is hereby imposed upon the disposal of drill cuttings and drilling waste generated by horizontal well sites in the amount of \$1 per ton, which fee is in addition to all other fees and taxes levied by this

section or otherwise and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility: *Provided*, That the horizontal drilling waste assessment fee shall be collected and administered in the same manner as the solid waste assessment fee imposed by this section, but shall be imposed only upon the disposal of drill cuttings and drilling waste generated by horizontal well sites.

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

§22-15A-1. Legislative findings and purpose.

(a) The Legislature finds that litter is a public nuisance and distracts from the beauty of the state and its natural resources. It is therefore necessary to establish and implement a litter control program to coordinate public and private litter control efforts; to establish penalties for littering; to provide for litter pickup programs; to create education programs; and to provide assistance to local solid waste authority litter control efforts.

(b) The Legislature further finds that the improper management of commercial and residential solid waste and the unlawful disposal of such waste ~~creates~~ create open dumps that adversely ~~impacts~~ impact the state's natural resources, public water supplies, and the public health, safety, and welfare of the citizens of the state. It is therefore necessary to establish a program to promote pollution prevention and to eliminate and remediate open dumps.

(c) The Legislature further finds that waste tire piles are a direct product of state citizens' use and enjoyment of state roads and highways, and proper tire waste disposal is a necessary component of maintenance of the transportation system. The accumulation of waste tires has also become a significant environmental and public health hazard to the state, and the location and number of waste tires are directly related to the efficiency of travel, by citizens, visitors, and commerce, along public highways in West Virginia. In particular, the Legislature recognizes that waste tires are widespread in location and in number throughout the state; waste tires physically touch and concern public highways, including, but not limited to, state roads, county roads, park roads, secondary routes, and orphan roads, all of which interferes with the efficiency of public highways; and further that the existence of waste tires along and near public highways is sometimes accompanied by other hazards and, in turn, adversely impacts the proper maintenance and efficiency of public highways for citizens.

(d) The Legislature also recognizes and declares that waste tires are a public nuisance and hazard; that waste tires serve as harborage and breeding places for rodents, mosquitoes, fleas, ticks, and other insects and pests injurious to the public health, safety, and general welfare; that waste tires collected in large piles pose an excessive risk to public health, safety, and welfare from disease or fire; that the environmental, economic, and societal damage resulting from fires in waste tire piles can be avoided by removing the piles; and that tire pile fires cause extensive pollution of the air and surface and groundwater for miles downwind and downstream from the fire.

(e) Therefore, in view of the findings relating to waste tires, the Legislature declares it to be the public policy of the State of West Virginia to eliminate the present danger resulting from discarded or abandoned waste tires and to eliminate the visual pollution resulting from waste tire piles and that in order to provide for the public health, safety, welfare, and quality of life, and to reverse the adverse impacts to the proper maintenance and efficiency of public highways, it is

necessary to enact legislation to those ends by providing expeditious means and methods for effecting the disposal of waste tires.

(f) The Legislature further finds that abandoned and dilapidated structures statewide have become a significant hazard and can result in the formation of open dumps or solid waste not disposed of in a proper or lawful manner. In particular, the Legislature recognizes that damage to the environment, natural resources, and the public health, safety, and welfare may result from abandoned and dilapidated structures. Abandoned and dilapidated structures are widespread in location and in number throughout the state; and further, that the existence of abandoned and dilapidated structures along and near public highways is sometimes accompanied by other hazards and, in turn, adversely impacts the proper maintenance and efficiency of public highways for citizens.

(g) In view of the findings relating to abandoned and dilapidated structures, the Legislature declares it to be the public policy of the State of West Virginia to establish a program to eliminate and remediate abandoned and dilapidated structures.

~~(f)~~ (h) The Legislature finds that many citizens desire a recycling program in order to conserve limited natural resources, reduce litter, recycle valuable materials, extend the useful life of solid waste landfills, reduce the need for new landfills, and create markets for recyclable materials. It is therefore necessary to establish goals for recycling solid waste; to require certain municipalities to implement recycling programs; to authorize counties to adopt comprehensive recycling programs; to encourage source separation of solid waste; to increase the purchase of recycled products by the various agencies and instrumentalities of government; and to educate the public concerning the benefits of recycling.

~~(g)~~ (i) The Legislature finds that the effectiveness of litter control, open dump, tire cleanup programs and recycling programs have been made less efficient by fragmented implementation of the various programs by different agencies. It is therefore necessary to coordinate all such programs under one program managed by the department to ensure that all current and future litter, open dump, waste tire, and recycling issues are managed and addressed efficiently and effectively.

~~(h)~~ (j) This article implements the A. James Manchin Rehabilitation Environmental Action Plan, a coordinated effort to address litter, waste, open dump, tire cleanup, and recycling programs.

§22-15A-19. Recycling assessment fee; regulated motor carriers; dedication of proceeds; criminal penalties.

(a) *Imposition.* — A recycling assessment fee is hereby levied and imposed upon the disposal of solid waste at all solid waste disposal facilities in this state, to be collected at the rate of \$2 per ton or part of a ton of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(b) *Collection, return, payment, and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not that person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner:

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility;

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall file returns on forms and in the manner as prescribed by the Tax Commissioner;

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner;

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for the amount that he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code;

(5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring the operator to collect the fees which become collectible after service of the notice, to deposit the fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax Commissioner. The notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner;

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section;

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers of the association or corporation are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them and against the association or corporation which they represent; and

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the motor carrier, the Commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition.* — For purposes of this section, "solid waste disposal facility" means any approved solid waste facility or open dump in this state and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section.

Nothing in this section authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by~~ persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;

(2) Reuse or recycling of any solid waste; and

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the secretary by rule as exempt from the fee imposed pursuant to §22-15-11 of this code.

(f) *Procedure and administration.* — Notwithstanding the provisions of §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 ~~of this code~~ and §11-9-3 through §11-9-17, inclusive, of this code apply to the fee imposed by this section with like effect as if the sections were the only fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — The proceeds of the fee collected pursuant to this section shall be deposited by the Tax Commissioner, at least monthly, in a special revenue account designated as the Recycling Assistance Fund which is hereby continued and transferred to the Department of Environmental Protection. The secretary shall allocate the proceeds of the fund as follows:

(1) Fifty percent of the total proceeds shall be provided in grants to assist municipalities, counties, and other interested parties in the planning and implementation of recycling programs, public education programs and recycling market procurement efforts, established pursuant to this article. The secretary shall promulgate rules, in accordance with ~~§29A-1-1 et seq.~~ §29A-3-1 et seq. of this code, containing application procedures, guidelines for eligibility, reporting requirements, and other matters considered appropriate: *Provided*, That persons responsible for collecting, hauling, or disposing of solid waste who do not participate in the collection and payment of the solid waste assessment fee imposed by this section in addition to all other fees and taxes levied by law for solid waste generated in this state which is destined for disposal, are not eligible to receive grants under the provisions of this article;

(2) Twelve and one-half percent of the total proceeds shall be expended for personal services and benefit expenses of full-time salaried natural resources police officers;

(3) Twelve and one-half percent of the total proceeds shall be directly allocated to the solid waste planning fund;

(4) Twelve and one-half percent of the total proceeds shall be transferred to the Solid Waste Reclamation and Environmental Response Fund, established pursuant to §22-15-11 of this code, to be expended by the Department of Environmental Protection to assist in the funding of the pollution prevention and open dumps program (PPOD) which encourages recycling, reuse, waste reduction, and clean-up activities; and

(5) Twelve and one-half percent of the total proceeds shall be deposited in the Hazardous Waste Emergency Response Fund established in §22-19-1 *et seq.* of this code.

§22-15A-30. Reclamation of Abandoned and Dilapidated Properties Program.

(a) To assist county commissions or municipalities in their efforts to remediate abandoned and dilapidated structures as provided by §7-1-3ff and §8-38-5 of this code, the Department of Environmental Protection may develop a program called the Reclamation of Abandoned and Dilapidated Properties Program. Using the fund established in subsection (b) of this section, the Department of Environmental Protection may work with county commissions or municipalities and implement redevelopment plans which will, at a minimum, establish prioritized inventories of structures eligible to participate in the program, offer reuse options for high-priority sites, and recommend actions county commissions or municipalities may take to remediate abandoned and dilapidated structures in their communities.

(b) There is created in the State Treasury a special revenue fund known as the Reclamation of Abandoned and Dilapidated Properties Program Fund. The fund shall be comprised of any money granted by charitable foundations, allocated by the Legislature, allocated from federal agencies, and earned from the investment of money held in the fund, and all other money designated for deposit to the fund from any source, public or private. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(c) The fund, to the extent that money is available, may be used solely to assist county commissions or municipalities in remediating abandoned and dilapidated structures in their communities by demolishing or deconstructing them and other activities as authorized by a charitable grant or legislative appropriation. The fund may also be used to defray costs incurred by the Department of Environmental Protection in administering the provisions of this section. However, no more than five percent of money transferred from the Solid Waste Facility Closure Cost Assistance Fund may be used for administrative purposes.

(d) The Department of Environmental Protection may promulgate rules, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to govern the disbursement of money from the fund, establish the Reclamation of Abandoned and Dilapidated Properties Program, direct the distribution of money from the fund, and establish criteria for eligibility to receive money from the fund.

(e) Nothing in this section shall be construed to limit, restrain, or otherwise discourage this state and its political subdivisions from disposing of abandoned and dilapidated structures in any other manner provided by the laws of this state.

ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.

§22-16-4. Solid waste assessment fee; penalties.

(a) *Imposition.* — A solid waste assessment fee is levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of ~~\$3.50~~ \$3.30 per ton beginning July 1, 2021, \$3.10 per ton beginning July 1, 2022, \$2.90 per ton beginning July 1, 2023, \$2.70 per ton beginning July 1, 2024, and \$2.50 per ton beginning July 1, 2025, and thereafter or like ratio on any part of a ton of solid waste, except as provided in subsection (e) of this section: *Provided*, That any solid waste disposal facility may deduct from this assessment fee an amount, not to exceed the fee, equal to the amount that the facility is required by the Public Service Commission to set aside for the purpose of closure of that portion of the facility required to close by article fifteen of this chapter. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility.

(b) *Collection, return, payment, and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not that person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner:

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility;

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall file returns on forms and in the manner prescribed by the Tax Commissioner;

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner;

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for the amount he or she failed to collect, plus applicable additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* of this code;

(5) Whenever any operator fails to collect, truthfully account for, remit the fee, or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring the operator to collect the fees which become collectible after service of the notice, to deposit the fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax Commissioner. The notice shall remain in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner;

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section;

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers of the association or corporation are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and

any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent; and

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter 24A of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States environmental protection agency.

(d) *Definitions.* — For purposes of this section, the term "solid waste disposal facility" means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section. Nothing in this section authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by~~ persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the director as exempt from the solid waste assessment fee; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler shall keep accurate records of incoming and outgoing waste by weight. The records shall be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding ~~§11-9-2 of this code,~~ and §11-9-3 through §11-9-17 of this code apply to the fee imposed by this section with like effect as if the sections were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — (1) The proceeds of the fee collected pursuant to this section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12 of this code: *Provided,* That the director may transfer up to 50 cents for each ton of solid waste disposed of in this state upon which the fee imposed by this section is collected on or after July 1, 1998, to the solid waste enforcement fund established pursuant to §22-15-11 of this code.

(2) Fifty percent of the proceeds of the fee collected pursuant to this article in excess of 30,000 tons per month from any landfill which is permitted to accept in excess of 30,000 tons per month pursuant to §22-15-9 of this code shall be remitted, at least monthly, to the county commission in the county in which the landfill is located. The remainder of the proceeds of the fee collected pursuant to this section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12 of this code.

§22-16-12. Solid Waste Facility Closure Cost Assistance Fund; closure extension; reporting requirements.

(a) The Solid Waste Facility Closure Cost Assistance Fund continues as a special revenue account in the State Treasury. The fund operates as a special fund in which all deposits and payments do not expire to the General Revenue Fund, but remain in the account and are available for expenditure in the succeeding fiscal year. Separate subaccounts may be established within the special account for the purpose of identification of various revenue resources and payment of specific obligations.

(b) Interest earned on any money in the fund shall be deposited to the credit of the fund.

(c) The fund consists of the following:

(1) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in the fund, including moneys collected and deposited into the fund pursuant to §22-16-4 of this code;

(2) Contributions, grants, and gifts from any source, both public and private, which may be used by the secretary for any project or projects;

(3) Amounts repaid by permittees pursuant to §22-15-18 of this code; and

(4) All interest earned on investments made by the state from moneys deposited in this fund.

(d) The Solid Waste Management Board, upon written approval of the secretary, has the authority to pledge all or part of the revenues paid into the Solid Waste Facility Closure Cost Assistance Fund as needed to meet the requirements of any revenue bond issue or issues of the Solid Waste Management Board authorized by this article, including the payment of principal of, interest and redemption premium, if any, on the revenue bonds and the establishing and maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption premium, if any, on the revenue bond issue or issues where other moneys pledged may be insufficient. Any pledge of moneys in the Solid Waste Facility Closure Cost Assistance Fund for revenue bonds is a prior and superior charge on the fund over the use of any of the moneys in

the fund to pay for the cost of any project on a cash basis. Expenditures from the fund, other than for the retirement of revenue bonds, may only be made in accordance with this article.

(e) The amounts deposited in the fund may be expended only on the cost of projects as provided in §22-16-3 and §22-16-15 of this code, as provided in subsection (f) of this section, and for payment of bonds and notes issued pursuant to §22-16-5 of this code. No more than two percent of the annual deposits to the fund may be used for administrative purposes.

(f) Notwithstanding any provision of this article, upon request of the Solid Waste Management Board, and with the approval of the projects by the Secretary of the Department of Environmental Protection, the secretary may pledge and place into escrow accounts up to an aggregate of \$2 million of the fund to satisfy two years debt service requirement that ~~permitees~~ permittees of publicly owned landfills and transfer stations are required to meet in order to obtain loans. Pledges shall be made on a project-by-project basis, may not exceed \$500,000 for a project, and are made available after loan commitments are received. The secretary may pledge funds for a loan only when the following conditions are met:

(1) The proceeds of the loan are used only to perform construction of a transfer station or a composite liner system that is required to meet Title 47, Series 38, Solid Waste Management Rules;

(2) The permittee dedicates all yearly debt service revenue, as determined by the Public Service Commission, to meet the repayment schedule of the loan, before it uses available revenue for any other purpose; and

(3) That any funds pledged may only be paid to the lender if the permittee is in default on the loan.

(g) Notwithstanding any provision of this code to the contrary, the Elkins-Randolph County Landfill, located in Randolph County, and the Webster County Landfill, located in Webster County, are eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to complete their closure upon the filing of appropriate application. Upon the filing of an appropriate application, the Department of Environmental Protection shall work with the applicant to ensure the application meets the department's requirements.

(h) The Department of Environmental Protection is required to file, by January 1 of each year, an annual report with the Joint Committee on Government and Finance providing details on the manner in which the landfill closure assistance funds were expended for the prior fiscal year.

(i) The Prichard Landfill in Wayne County is eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to complete post-closure maintenance and monitoring upon the filing of an appropriate application. In the event of a permit transfer, neither the state nor the Wayne County Economic Development Authority or entity may assume any liability from the private landfill other than post-closure maintenance and monitoring costs.

(j)(1) Notwithstanding any other provision of this code, upon completion of the landfill closure-related services at all eligible landfills pursuant to §22-16-3 of this code, the secretary may transfer excess money from the Solid Waste Facility Closure Cost Assistance Fund to the Reclamation of Abandoned and Dilapidated Properties Program Fund created by §22-15A-30 of this code. However, the secretary may not transfer moneys from the Solid Waste Facility Closure Cost Assistance Fund that are required to be maintained so that the department can conduct post-

closure activities authorized by this article and the legislative rules promulgated thereunder. The department shall maintain in the Solid Waste Facility Closure Cost Assistance Fund a minimum balance of twice the total cost of post-closure expenses projected for the fiscal year as a buffer for unanticipated necessary post-closure activities.

(2) Contingent upon the Department of Environmental Protection securing private foundation funding to establish the Reclamation of Abandoned and Dilapidated Properties Program, and prior to the completion of the landfill closure-related services at all eligible landfills, the secretary may expend money from the Solid Waste Facility Closure Cost Assistance Fund for pilot projects conducted by the Department of Environmental Protection demonstrating the function of the Reclamation of Abandoned and Dilapidated Properties Program.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS, AND COMPACTS.

ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.

§22C-4-30. Solid waste assessment interim fee; regulated motor carriers; dedication of proceeds; criminal penalties.

(a) *Imposition.* — Effective July 1, 1989, a solid waste assessment fee is hereby levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state to be collected at the rate of \$1 per ton or part thereof of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(b) *Collection, return, payment, and record.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not such person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner.

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility.

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator is required to file returns on forms and in the manner as prescribed by the Tax Commissioner.

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner.

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code.

(5) Whenever any operator fails to collect, truthfully account for, remit the fee, or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring such operator to collect the fees which become collectible after service of such notice, to deposit such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of such fees in such account until

remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner.

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section.

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers thereof are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent.

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in such form as the Tax Commissioner may require in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section and §7-5-22 of this code is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of said fee in said motor carrier's rates for solid waste removal service. In calculating the amount of said fee to said motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition of solid waste disposal facility.* — For purposes of this section, the term "solid waste disposal facility" means any approved solid waste facility or open dump in this state and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section. Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by~~ persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated by the director of the Division of

Environmental Protection as exempt from the fee imposed pursuant to §22-15-11 of this code; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler must keep accurate records of incoming and outgoing waste by weight. Such records must be made available to the appropriate inspectors from the Division of Environmental Protection of solid waste authority, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if said act were applicable only to the fee imposed by this section and were set forth in extenso herein.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 and §11-9-3 through §11-9-17, inclusive, of this code apply to the fee imposed by this section with like effect as if said sections were the only fee imposed by this section and were set forth in extenso herein.

(h) *Dedication of proceeds.* — The net proceeds of the fee collected by the Tax Commissioner pursuant to this section shall be deposited, at least monthly, in a special revenue account known as the Solid Waste Planning Fund which is hereby continued. The solid waste management board shall allocate the proceeds of the said fund as follows:

(1) Fifty percent of the total proceeds shall be divided equally among, and paid over, to, each county solid waste authority to be expended for the purposes of this article: *Provided*, That where a regional solid waste authority exists, such funds shall be paid over to the regional solid waste authority to be expended for the purposes of this article in an amount equal to the total share of all counties within the jurisdiction of said regional solid waste authority; and

(2) Fifty percent of the total proceeds shall be expended by the solid waste management board for:

(A) Grants to the county or regional solid waste authorities for the purposes of this article; and

(B) Administration, technical assistance, or other costs of the solid waste management board necessary to implement the purposes of this article and §22C-3-1 *et seq.* of this code.

(i) *Effective date.* — This section is effective on July 1, 1990. The amendment and reenactment of this section in 2021 is effective on July 1, 2021.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1m. Commission jurisdiction does not extend to materials recovery facilities, mixed waste processing facilities, and ~~oil and natural gas solid waste disposal~~ certain mixed waste processing and resource recovery facilities.

Notwithstanding any other provision of this code, the jurisdiction of the commission does not extend to materials recovery facilities or mixed waste processing facilities as defined by §22-15-2 of this code, except within a 35 mile radius of a facility sited in a county that is, in whole or in

part, within a karst region as determined by the West Virginia Geologic and Economic Survey that has been permitted and classified by the ~~WVDEP~~ West Virginia Department of Environmental Protection as a mixed waste processing resource recovery facility and has received a certificate of need by July 1, 2016: *Provided*, That nothing in this section shall affect the requirements of §24A-2-5 and §24A-3-3 of this code: *Provided, however*, That the jurisdiction of the commission does not extend to any mixed waste processing and resource recovery facility that processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis.;

And,

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

Eng. Com. Sub. for Senate Bill 368—A Bill to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-15A-1 and §22-15A-19 of said code; to amend said code by adding thereto a new section, designated §22-15A-30; to amend and reenact §22-16-4 and §22-16-12 of said code; to amend and reenact §22C-4-30 of said code; and to amend and reenact §24-2-1m of said code; all relating to regulation of certain waste disposal and processing activities generally; authorizing certain additional solid waste assessment fees; providing for the distribution of the additional solid waste assessment fees; changing the location of certain public roads upon which the moneys of the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund is to be expended for their improvement, maintenance and repair from those public roads located in the watershed from which certain revenues are received to those public roads located in the county where the waste is generated; providing that those funds only be expended through the Division of Highways county office in that county; exempting certain mixed waste processing and resource recovery facilities from certain fees and assessments; providing legislative findings; authorizing the Department of Environmental Protection to develop the Reclamation of Abandoned and Dilapidated Properties Program to assist county commissions or municipalities in their efforts to remediate abandoned and dilapidated structures; creating a special revenue fund to be known as the Reclamation of Abandoned and Dilapidated Properties Program Fund; permitting the payment of excess money from the Solid Waste Facility Closure Cost Assistance Fund into the Reclamation of Abandoned and Dilapidated Properties Program Fund; authorizing increases in certain solid waste assessment fees; providing that the jurisdiction of the West Virginia Public Service Commission does not extend to these mixed waste processing and resource recovery facilities; and providing effective date.

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

Engrossed Committee Substitute for Senate Bill 368, 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. 368) passed with its House of Delegates amended title.

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

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 S. B. 368) takes effect July 1, 2021.

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 amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 470, Limiting release of certain personal information maintained by state agencies.

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:

On page two, section twenty-four, line four, after the word “prosecutors,” by inserting the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,”;

On page three, section twenty-four, line fifteen, after the word “prosecutors,” by inserting the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,”;

On page three, section twenty-four, line thirty-one, after the word “prosecutors,” by inserting the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,”;

On page three, section twenty-four, line thirty-three, after the words “otherwise make” by inserting the word “publicly”;

On page four, section twenty-four, line forty-nine, after the words “otherwise made” by inserting the word “publicly”;

On page four, section twenty-four, line fifty-six, after the words “otherwise made” by inserting the word “publicly”;

On page four, section twenty-four, line thirty-five, after the word “prosecutors,” by inserting the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,”;

On page four, section twenty-four, line forty, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutors”;

On page four, section twenty-four, line fifty-six, after the word “prosecutors,” by inserting the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,”;

On page four, section twenty-four, line fifty, after the word “association” by inserting the words “in violation of subparagraph (e)”;

On page four, section twenty-four, line fifty-seven, after the word “association” by inserting the words “in violation of subparagraph (e)”;

And,

On page five, section twenty-four, line seventy-two, after the word “prosecutors,” by inserting the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,”.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 470) were reported by the Clerk and considered simultaneously:

On page two, section twenty-four, line four, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal and state public defenders, federal and state assistant public defenders,”;

On page three, section twenty-four, line fifteen, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal or state public defender, federal or state assistant public defender,”;

On page three, section twenty-four, line thirty-one, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal or state public defender, federal or state assistant public defender,”;

On page three, section twenty-four, line thirty-three, by striking out the word “publicly”;

On page four, section twenty-four, line thirty-five, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal or state public defender, federal or state assistant public defender,”;

On page four, section twenty-four, line thirty-nine, after the word “prosecutor,” by inserting the words “federal or state public defender, federal or state assistant public defender,”;

On page four, section twenty-four, line forty, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal or state public defender, federal or state assistant public defender,”;

On page four, section twenty-four, line forty-seven, after the word “prosecutor” by inserting the words “federal or state public defender, federal or state assistant public defender,”;

On page four, section twenty-four, line forty-nine, by striking out the word “publicly”;

On page four, section twenty-four, line fifty, by striking out the words “subparagraph (e)” and inserting in lieu thereof the words “subsection (e) of this section”;

On page four, section twenty-four, line fifty-three, after the word “prosecutor” by inserting the words “federal or state public defender, federal or state assistant public defender,”;

On page four, section twenty-four, line fifty-six, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal or state public defender, federal or state assistant public defender,”;

On page four, section twenty-four, line fifty-six, by striking out the word “publicly”;

On page four, section twenty-four, line fifty-seven, by striking out the words “subparagraph (e)” and inserting in lieu thereof the words “subsection (e) of this section”;

On page five, section twenty-four, line seventy-two, by striking out the words “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” and inserting in lieu thereof the words “federal or state public defender, federal or state assistant public defender,”;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 470—A Bill to amend and reenact §5A-8-21 and §5A-8-22 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5A-8-24, all relating certain disclosures of certain personal information; clarifying that certain personal information which is maintained by state agencies regarding persons in their capacity as state officers, employees, retirees, or legal dependents thereof is confidential and exempt from disclosure to non-governmental entities as an unreasonable invasion of privacy; protecting confidentiality of the former legal name of certain individuals associated with state agencies; clarifying that certain personal information which is maintained by state executive branch agencies regarding individuals and their dependents is exempted from disclosure as an unreasonable invasion of privacy; creating Daniel’s Law; providing for liberal construction to accomplish certain purposes and public policies; defining terms; prohibiting certain disclosures regarding certain persons in the judicial system; authorizing a civil action against certain private persons and entities; authorizing relief to be granted by the court; providing for certain individuals to request that certain persons or entities refrain from disclosing certain information and that the disclosed information be removed; requiring immediate removal of certain disclosed information; authorizing a civil action for failure to comply with request

to refrain from and remove certain disclosed information; providing for misdemeanor crime for willful refusal to remove certain disclosed information and establishing penalties therefor; and clarifying that Daniel's Law does not prohibit disclosures required by state or federal law.

Following discussion,

The question being on the adoption of Senator Takubo's amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 470, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, 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)—33.

The nays were: None.

Absent: Baldwin—1.

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 Com. Sub. for S. B. 470) passed with its Senate 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 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 478, Permitting use of established federal marketplace programs to purchase supplies.

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:

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

ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.

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

(a) The West Virginia Military Authority is hereby established to administer national security, homeland security, and other military-related or sponsored programs.

(b) The authority will be administered by the Adjutant General of the West Virginia National Guard.

(c) Funds provided by the federal government and any state funds authorized by appropriation of the Legislature used as a required match to secure federal funding for programs administered by the authority pursuant to this section shall be administered by the Adjutant General subject to the provisions of §4-11-1 *et seq.* of this code.

(d) Except as otherwise prohibited by statute, the authority, as a governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purpose of this article, including the authority to:

(1) Execute cooperative agreements between the guard and the federal and/or state governments;

(2) Contract on behalf of the guard with the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals;

(3) Use funds administered by the authority pursuant to subsection (c) of this section for the maintenance, construction, or reconstruction of capital repair and replacement items as necessary and approved by the authority;

(4) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for the purposes of national security, homeland security, and other military-related or sponsored programs;

(5) Procure insurance with state funds through BRIM covering property and other assets of the authority in amounts and from insurers that BRIM determines necessary;

(6) Contract on behalf of the guard with the federal government, its instrumentalities, and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for specialized technical services at a rate commensurate with industry standards as determined by the Adjutant General to support specific activities related to national security, homeland security, and other military-related programs;

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

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

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

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

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

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

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

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

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

Engrossed Committee Substitute for Senate Bill 478, 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. 478) 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 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 562, Relating to juvenile competency proceedings.

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 4. COURT ACTIONS.

§49-4-712. Intervention and services by the department pursuant to initial disposition for status offenders or juvenile found incompetent to stand trial; enforcement; further disposition; detention; out-of-home placement; department custody; least restrictive alternative; appeal; prohibiting placement of status offenders or a juvenile found incompetent to stand trial in a Division Bureau of Juvenile Services facility. ~~on or after January 1, 2016~~

(a) ~~The services~~ Services provided by the department ~~to~~ for juveniles adjudicated as status offenders shall be consistent with §49-2-1001 *et seq.* of this code. ~~and Services provided by the department for juveniles adjudicated as status offenders pursuant to §49-4-711 of this code and juveniles found to be incompetent to stand trial and in need of services pursuant to §49-4-734(b)(2) of this code~~ shall be designed to develop skills and supports within families and to resolve problems related to the juveniles or conflicts within their families. Services may include, but are not limited to, referral of juveniles and parents, guardians, or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the juvenile and his or her family.

(b) If the juvenile, or his or her parent, guardian, or custodian, fails to comply with the services provided in subsection (a) of this section, the department may petition the circuit court:

(1) For a valid court order, as defined in §49-1-207 of this code, to enforce compliance with a service plan or to restrain actions that interfere with or defeat a service plan; or

(2) For a valid court order to place a juvenile out of home in a nonsecure or staff-secure setting, and/or to place a juvenile in custody of the department: *Provided*, That a juvenile adjudicated as a status offender may not be placed in an out-of-home placement, excluding placements made for abuse and neglect, if that juvenile has had no prior adjudications for a status or delinquency offense, or no prior disposition to a pre-adjudatory improvement period or probation for the current matter: *Provided, however*, That if the court finds by clear and convincing evidence the existence of a significant and likely risk of harm to the juvenile, a family member, or the public and continued placement in the home is contrary to the best interests of the juvenile, ~~such~~ the juvenile may be ordered to an out-of-home placement: *Provided further*, That the court finds the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that such reasonable efforts are not required due to an emergent situation.

(c) In ordering any further disposition under this section, the court is not limited to the relief sought in the department's petition and shall make reasonable efforts to prevent removal of the juvenile from his or her home or, as an alternative, to place the juvenile in a community-based facility which is the least restrictive alternative appropriate to the needs of the juvenile and the community. The disposition may include reasonable and relevant orders to the parents, guardians, or custodians of the juvenile ~~as is~~ that are necessary and proper to effectuate the disposition.

(d) (1) If the court finds that placement in a residential facility is necessary to provide the services under subsection (a) of this section, except as prohibited by subdivision (2), subsection (b) of this section, the court shall make findings of fact as to the necessity of this placement, stated

on the record or reduced to writing and filed with the record or incorporated into the order of the court.

(2) The findings of fact shall include the factors that indicate:

(A) The likely effectiveness of placement in a residential facility for the juvenile; and

(B) The community services which were previously attempted.

(e) The disposition of the juvenile may not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. Any order providing disposition other than mandatory referral to the department for services is subject to appeal to the Supreme Court of Appeals.

(f) Following any further disposition by the court, the court shall inquire of the juvenile whether or not appeal is desired and the response shall be transcribed; a negative response may not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel if it is requested for purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(g) A juvenile adjudicated solely as a status offender or a juvenile found to be incompetent to stand trial on or after January 1, 2016 may not be placed in a Bureau Division of Juvenile Services facility.

§49-4-727. Juvenile competency proceedings.

(a) Subject to the provisions of subsection (c) of this section, a juvenile's attorney, the prosecuting attorney, or the court may raise the issue of his or her competency to participate in the proceeding any time during proceedings under this article. Once competency is raised, all proceedings unrelated to competency shall be stayed until the issue of competency is resolved. A juvenile presumed incompetent under subsection (c) of this section shall not be adjudicated unless the presumption of incompetency has been rebutted as provided in subsections (b) and (c) of this section.

(b) In any delinquency proceeding pursuant to this article, a juvenile 14 years or older is presumed to be competent. A juvenile has the burden of proof to rebut this presumption by showing incompetency by a preponderance of the evidence.

(c) In any delinquency proceeding pursuant to this article, if the juvenile is under 14 years of age, there exists a rebuttable presumption that he or she is incompetent to proceed beyond the stage of the proceeding resolving the issue of competency, unless judicially determined to be competent pursuant to the procedures set forth in §49-4-728 through §49-4-734 of this code. The state has the burden of proof to rebut this presumption by showing competency by a preponderance of the evidence.

(d) Regardless of the age of the juvenile, the court may dismiss the petition without ordering a competency evaluation or competency hearing if the prosecuting attorney, the juvenile's attorney, and the guardian ad litem, if previously appointed, agree that there is compelling evidence that the juvenile is not competent to participate in the proceedings: *Provided*, That a court may not order services authorized by §49-4-733 of this code without a competency evaluation.

(e) If and when the issue of a juvenile's competency is raised under subsection (a) or a rebuttable presumption of incompetency exists under subsection (c), the court shall appoint a guardian ad litem for the juvenile. The Supreme Court of Appeals is requested to establish a training program for persons acting as guardians ad litem in juvenile competency matters.

§49-4-728. Definitions for juvenile competency proceedings.

As used in §49-4-727 through §49-4-734 of this code:

"Competent" and "competency" refer to whether or not a juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and has a rational as well as factual understanding of the proceedings against him or her. A juvenile is incompetent if, due to developmental disability, intellectual disability, or mental illness, the juvenile is presently incapable of understanding the nature and objective of proceedings against him or her or of assisting in his or her defense.

"Competency attainment services" means services provided to a juvenile to assist the juvenile in attaining competency.

"Department" means the Department of Health and Human Resources.

"Developmental disability" means a severe and chronic disability that is attributable to a mental or physical impairment, including, but not limited to, neurological conditions that lead to impairment of general intellectual functioning or adaptive behavior.

"Developmental immaturity" means a condition based on a juvenile's chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or intellectual disability.

"Intellectual disability" means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical domains.

"Mental illness" means a manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion, and physical well-being.

"Proceeding" means any delinquency proceeding under this article.

"Qualified forensic evaluator" means a licensed psychologist or psychiatrist with the necessary education, training, and experience to perform juvenile competency evaluations, and who has been approved to render opinions for the court pursuant to the requirements of §49-4-729 of this code.

§49-4-729. Motion for determination of competency, time frames, order for evaluation.

(a) When the prosecuting attorney, the juvenile's attorney, or the guardian ad litem has reasonable basis to believe that:

(1) A juvenile age 14 or older is incompetent to proceed in the delinquency action, that party shall file a motion for a determination of competency. The motion shall state any known facts to

the movant of in support thereof. If the court raises the issue sua sponte, it shall, by written order, set forth the basis for ordering a competency evaluation.

(2) A juvenile under the age of 14 is competent to proceed in the delinquency action, the prosecuting attorney shall file a motion for determination of competency. The motion shall state the basis to believe the juvenile is competent to proceed despite the presumption of incompetency due to age and shall state any known facts to the prosecuting attorney in support of the motion. If the court raises the issue sua sponte, the court by written order shall set forth the factual basis supporting the finding that the juvenile is competent to proceed.

(b) Within 10 judicial days after a motion is made, the court shall make one of the following determinations regardless of which presumption applies:

(1) Find that there is compelling evidence that the juvenile is not competent to participate in the proceedings and dismiss the case pursuant to §49-4-727(d) of this code;

(2) Without conducting a hearing, find that there exists a reasonable basis to conduct a competency evaluation; or

(3) Schedule a hearing to determine whether there exists a reasonable basis to conduct a competency evaluation. The hearing shall be held within 30 judicial days. The court's determination shall be announced no later than three judicial days after the conclusion of the hearing.

(c) If the court determines there is a reasonable basis to order a competency evaluation pursuant to §49-4-731 of this code, or if the prosecutor and the juvenile's attorney agree to the evaluation, the court shall order a competency evaluation. If the court orders a competency evaluation, the court shall order that the competency evaluation be conducted in the least restrictive environment, taking into account the public safety and the best interests of the juvenile.

(1) Notwithstanding any other provisions of this code, the court shall provide in its order that the qualified forensic evaluator shall have access to all relevant confidential and public records related to the juvenile, including competency evaluations and reports conducted in prior delinquent proceedings. The court shall provide to the qualified forensic evaluator a copy of the petition and the names and contact information for the judge, prosecutor, juvenile's attorney, and parents or legal guardians.

(2) Within five judicial days after the court orders an evaluation, the prosecutor shall deliver to the evaluator copies of relevant police reports and other background information relevant to the juvenile that are in the prosecutor's possession.

(3) Within five judicial days after the court orders an evaluation, the juvenile's attorney shall deliver to the qualified forensic evaluator copies of police reports and other records including, but not limited to, educational, medical, psychological, and neurological records that are relevant to the evaluation and that are in the attorney's possession. Upon good cause shown, the court may extend the time frame to deliver these documents noting that time is of the essence.

§49-4-730. Juvenile competency qualified forensic evaluator; qualifications.

An evaluation ordered by the court shall be conducted by a qualified forensic evaluator.

(1) A qualified forensic evaluator shall have education and training in the following areas:

(A) Forensic evaluation procedures for juveniles, including accepted criteria used in evaluating competency;

(B) Evaluation, diagnosis, and treatment of children and adolescents with developmental disability, developmental immaturity, intellectual disability, or mental illness;

(C) Clinical understanding of child and adolescent development; and

(D) Familiarity with competency standards in this state.

(2) The department shall establish procedures for ensuring the training and qualifications of qualified forensic evaluators. Annually, the department shall provide a list of qualified forensic evaluators to the Administrative Office of the Supreme Court of Appeals of West Virginia.

§49-4-731. Juvenile competency evaluation.

(a) The qualified forensic evaluator shall file with the court a written competency evaluation report within 30 days after the date of entry of the order requiring the juvenile to be evaluated and appointing the qualified forensic evaluator. For good cause shown, the court may extend the time for filing for a period not to exceed an additional 30 days. The report shall include the evaluator's opinion as to whether or not a juvenile, due to developmental disability, intellectual disability, or mental illness, has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and whether the juvenile has a rational as well as factual understanding of the proceedings against him or her. The report shall not include the evaluator's opinion as to whether the juvenile committed the alleged offense or recite or reference any self-incriminating or inculpatory statements as reported by the juvenile. A self-incrimination or inculpatory statement made by a juvenile during an evaluation or hearing conducted pursuant to this article shall not be admissible on the issue of responsibility or guilt in subsequent court proceedings, including adjudication and disposition or transfer hearings.

(b) A competency evaluation report shall include:

(1) A statement of the procedures used, including psychometric tests administered, records reviewed, and the identity of persons interviewed;

(2) Pertinent background information, including a history of educational performance, psychiatric or psychological history, developmental and family history;

(3) Results of the mental status examination;

(4) A diagnosis, if one has been made, which shall address any psychological or psychiatric conditions or cognitive deficiencies determined to exist; and

(5) An opinion as to the juvenile's developmental maturity or developmental immaturity as it would affect his or her ability to proceed.

(c) If the qualified forensic evaluator determines that the juvenile is not competent to participate in the proceedings, the competency evaluation report shall address the following questions:

(1) Whether the juvenile has a developmental disability, intellectual disability, or mental illness;

(2) Whether the juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding;

(3) Whether a juvenile has a rational as well as factual understanding of the proceedings against him or her; and

(4) Whether the juvenile can attain competency in the foreseeable future if provided with a course of treatment, therapy, or training.

(d) If the qualified forensic evaluator determines that the juvenile is incompetent, but that there is a reasonable probability that he or she can attain competency within the periods set forth in §49-4-733(c)(3) of this code, the report shall include the following recommendations:

(1) A recommendation as to the treatment or therapy; and

(2) The least restrictive setting for juvenile competency attainment services consistent with the juvenile's ability to attain competency and the safety of both the juvenile and the public.

(e) The court shall provide a copy of each competency evaluation report it receives to the prosecutor, the juvenile's attorney, and guardian ad litem and may provide a copy upon request to the juvenile's parents or legal guardian.

(f) The department shall pay qualified forensic evaluators for all matters related to conducting a court-ordered competency evaluation. The department shall develop and implement a process for prompt payment of qualified forensic evaluators including a rate schedule. The amount of payment for court-ordered evaluations shall reasonably compensate qualified forensic evaluators for the work performed in a particular case.

§49-4-732. Hearing to determine juvenile's competency to participate in the proceedings.

(a) Not more than 15 judicial days after receiving the evaluator's report, the court shall conduct a hearing to determine the juvenile's competency to participate in the proceedings. The court may continue the hearing for good cause shown.

(b) The competency evaluation report is admissible as evidence in the competency proceedings. The qualified forensic evaluator may be called as a witness and is subject to cross examination by all parties. If authorized by the court, hearings held pursuant to this section may be conducted by or participated in using teleconference or video conference technology. If the court contacts the qualified forensic evaluator to obtain clarification of the report contents, the court shall promptly inform all parties and allow each party to participate in each contact.

(c) In determining the competency of the juvenile to participate in the proceedings, the court shall consider the content of all competency evaluation reports admitted as evidence. The court may consider additional evidence introduced at the hearing by the prosecuting attorney, the juvenile's attorney, or guardian ad litem.

(d) (1) Except as otherwise provided, the court shall make a written determination as to the juvenile's competency based on a preponderance of the evidence within 10 judicial days after

completion of the hearing. The applicable burden of proof shall be set forth in section 49-4-727, subsections (b) and (c).

(2) The court shall not find a juvenile competent to proceed solely because the juvenile is receiving or has received in-patient treatment or is receiving or has received psychotropic or other medication, even if the juvenile might become incompetent to proceed without that medication.

§49-4-733. Procedure after determination of juvenile's competency to participate in the proceedings.

(a) After a hearing pursuant to §49-4-732 of this code, if the court determines by a preponderance of the evidence that the juvenile is competent to proceed despite any presumption that may have applied, the delinquency proceedings shall resume as provided by law.

(b) If the court determines by a preponderance of the evidence that a juvenile is incompetent to proceed, but is likely to attain competency within a reasonable time with services, the court shall stay the proceedings and order the juvenile to receive services designated to assist the juvenile in attaining competency, based upon the recommendations in the competency evaluation report, unless the court makes specific findings that the recommended services are not justified. The court shall order the juvenile's parent or legal guardian to contact a court-designated provider by a specified date to arrange for services.

(1) The competency attainment services provided to a juvenile shall be based on the recommendations contained in the qualified forensic evaluator's report described in §49-4-731(d) of this code, and are subject to the conditions and time periods required pursuant to this section measured from the date the court approves the plan.

(2) The court shall order that the competency attainment services ordered are provided in the least restrictive environment, taking into account the public safety and the best interests of the juvenile. If the juvenile has been released on temporary orders and refuses or fails to cooperate with the service provider, the court may modify the orders to require a more appropriate setting for further services. A juvenile may not be placed in a Bureau of Juvenile Services facility to receive competency attainment services. Additionally, a juvenile presumed incompetent under §49-4-727(c) of this code shall not be placed in a Bureau of Juvenile Services facility, except in compliance with §49-4-705 and §49-4-706 of this code, and corresponding Rules of Juvenile Procedure as adopted by the Supreme Court of Appeals of West Virginia.

(3) A juvenile shall not be required to participate in competency attainment services for longer than is necessary to attain competency or after the court determines that there is no reasonable likelihood that competency can be attained. The following maximum time limits apply to the participation of a juvenile:

(A) A juvenile charged with an act which would constitute a misdemeanor or nonviolent felony if committed by an adult shall not be required to participate in competency attainment services beyond his or her 19th birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 90 days of services.

(B) A juvenile charged with an act which would constitute a felony crime of violence if committed by an adult shall not be required to participate in competency attainment services beyond his or her 21st birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 180 days of services.

(4) Not later than 10 judicial days after the court orders competency attainment services, the department shall identify the appropriate entity and location to provide those services.

(5) Within 10 judicial days after the department identifies the appropriate entity and location, the provider responsible for the juvenile's competency attainment services shall commence. The court shall deliver to that provider:

(A) The name and address of the juvenile's counsel;

(B) A copy of the juvenile's petition;

(C) A copy of the competency evaluation report;

(D) The name, address, and phone number of the juvenile's parents or legal guardian;

(E) The name of the department's caseworker, if any; and

(F) Any other relevant documents or reports concerning the juvenile's health that have come to the attention of the court.

(c) The court shall order and conduct review hearings no less often than every 90 days as determined appropriate by the court. The multidisciplinary team shall meet prior to any review hearing and provide a written status report to the court prior to the hearing. Unless sooner ordered by the court, the qualified forensic evaluator shall submit a report to the court prior to any review hearing, and upon completion or termination of services, and shall include the following:

(1) The services provided to the juvenile, including medication, education, and counseling;

(2) The likelihood that the competency of the juvenile to proceed will be restored within the applicable period of time set forth in subdivision (3), subsection (b) of this section; and

(3) The progress made toward the goals and objectives for the restoration of competency identified in the recommendations from the competency evaluation adopted by the court.

(d) The provider responsible for the juvenile's competency attainment services shall report to the court within three judicial days if he or she determines that:

(1) The juvenile is failing to cooperate, and the lack of cooperation is significantly impeding or precluding the attainment of competency; or

(2) The current setting is no longer the least restrictive setting that is consistent with the juvenile's ability to attain competency taking into account public safety and the best interests of the juvenile. The provider shall include in the report an assessment of the danger the juvenile poses to himself, herself or others and an assessment of the appropriateness of the placement.

(e) The provider responsible for the juvenile's competency attainment services shall request a subsequent evaluation when the provider has reason to believe:

(1) The juvenile has achieved the goals of the plan and would be able to understand the nature and objectives of the proceedings against him or her, to assist in his or her defense, and to understand and appreciate the consequences that may be imposed or result from the proceedings with or without reasonable accommodations; and

(2) The juvenile will not achieve the goals of the plan within the applicable period of time pursuant to subdivision (3), subsection (b) of this section.

(f) The evaluator shall assess the observation of the provider and provide a written report to the court within 10 days of receiving a report from the provider pursuant to subsection (e) of this section.

(g) The court shall provide copies of any report made by the provider to the prosecuting attorney, the juvenile's attorney, the juvenile's case worker, and the juvenile's guardian ad litem, if any. The court shall provide copies of any reports made by the provider to the juvenile's parents or legal guardians, unless the court finds that doing so is not in the best interest of the juvenile.

(h) Within 15 judicial days after receiving an evaluator's report, the court may hold a hearing to determine if new, additional, or further orders are necessary.

(i) If the court determines that the juvenile is not making progress toward competency or is so uncooperative that attainment services cannot be effective, the court may order a change in setting or services that would help the juvenile attain competency within the relevant period of time as set forth in subdivision (3), subsection (b) of this section.

§49-4-734. Disposition alternatives for incompetent juveniles.

(a) If the court determines that the juvenile has attained competency, the court shall proceed with the delinquent juvenile's proceeding in accordance with this article.

(b) After a hearing pursuant to §49-4-732 of this code, if the court determines by the preponderance of the evidence that the juvenile is incompetent to proceed and cannot attain competency within the period of time set forth in §49-4-733(b)(3) of this code, the court may dismiss the petition without prejudice, or may take the following actions or any combination thereof the court determines to be in the juvenile's best interest and the interest of protecting the public:

(1) Refer the matter to the department and request a determination on whether a child abuse or neglect petition, pursuant to §49-4-601 *et seq.* of this code, should be filed;

(2) Refer the juvenile to the department for services pursuant to §49-4-712 of this code. Services may include, but are not limited to, referral of the juvenile and his or her parents, guardians, or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, education, or other social services, as appropriate to the needs of the juvenile and his or her family;

(3) Place the juvenile in the custody of his or her parents or other suitable person or private or public institution or agency under terms and conditions as determined to be in the best interests of the juvenile and the public, which conditions may include the provision of out-patient services by any suitable public or private agency; or

(4) Upon motion by the prosecuting attorney, stay the proceeding for no more than 20 days to allow the prosecuting attorney to initiate proceedings for civil commitment pursuant to §27-5-1 *et seq.* of this code if the juvenile has attained majority.

(c) A circuit court may, sua sponte or upon a motion by any party direct that a dangerous assessment be performed prior to directing the resolutions set forth in subsection (b) of this section.

§49-4-735. Stay of transfer to criminal jurisdiction.

If a juvenile is presumed incompetent under §49-4-727(c) of this code, or if the issue of the juvenile's competency to participate in the proceedings is raised at any time during the proceedings for a juvenile presumed competent under §49-4-727(b) of this code, the procedures outlined in §49-4-727 through §49-4-734 of this code shall be used to determine the juvenile's competency and if appropriate, restore the juvenile's competency regardless of whether the case is to proceed under the court's juvenile jurisdiction or transfer to adult criminal jurisdiction pursuant to §49-4-710 of this code and corresponding Rules of Juvenile Procedure adopted by the Supreme Court of Appeals of West Virginia.;

And,

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

Eng. Com. Sub. for Senate Bill 562—A Bill to amend and reenact §49-4-712 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §49-4-727, §49-4-728, §49-4-729, §49-4-730, §49-4-731, §49-4-732, §49-4-733, §49-4-734, and §49-4-735, all relating to juvenile competency proceedings generally; creating a process to raise and resolve questions of a competency in juvenile delinquency matters; prohibiting a juvenile found to be incompetent to stand trial to be placed in Bureau of Juvenile Services facility; defining terms; creating a rebuttable presumption that juveniles 14 years of age and older are competent to proceed; creating a rebuttable presumption that juveniles under 14 years of age are incompetent to proceed; providing all proceedings stayed until competency resolved; requiring the appointment of a guardian ad litem when the issue of a juvenile's competency is raised or a rebuttable presumption of incompetency exists; establishing qualifications for qualified forensic evaluators; requiring written competency evaluation report; requesting the Supreme Court to establish a training program for guardians ad litem; establishing time frames for jurisdiction and competency attainment services; establishing procedures for competency hearings; and providing disposition alternatives for incompetent juveniles and staying transfer to criminal jurisdiction.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 562) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section seven hundred twelve, subsection (a), by striking out the words "stand trial" and inserting in lieu thereof the word "proceed";

On page three, section seven hundred twelve, by striking out the words "stand trial" and inserting in lieu thereof the word "proceed";

On page four, section seven hundred twenty-seven, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) If and when the issue of a juvenile's competency is raised under subsection (a) of this section or, a rebuttable presumption of incompetency exists under subsection (c) of this section,

the court shall appoint a guardian ad litem for the juvenile. The Supreme Court of Appeals is requested to establish a training program for persons acting as guardians ad litem in juvenile competency matters.;

And,

On page ten, section seven hundred thirty-two, subsection (d), by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

(d) (1) Except as otherwise provided, the court shall make a written determination as to the juvenile's competency based on a preponderance of the evidence within 10 judicial days after completion of the hearing. The applicable burden of proof shall be as set forth in §49-4-727 of this code.

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

Engrossed Committee Substitute for Senate Bill 562, 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. 562) 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 amendment by that body, adoption as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Joint Resolution 4, Incorporation of Churches or Religious Denominations Amendment.

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

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

By striking out everything after the Resolved Clause and inserting in lieu thereof the following:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held on July 24,

2021, which proposed amendment is that section 47, article VI thereof, be amended to read as follows:

ARTICLE VI. THE LEGISLATURE.

§47. Incorporation of religious ~~denominations prohibited~~ institutions permitted.

~~No charter of incorporation shall be granted to any church or religious denomination. Provisions may be made by general laws for securing the title to church property, and for the sale and transfer thereof, so that it shall be held, used, or transferred for the purposes of such church or religious denomination institution. Provision may also be made by general law for the incorporation of churches or religious institutions.~~

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Incorporation of Churches or Religious Institutions Amendment" and the purpose of the proposed amendment is summarized as follows: "To authorize the incorporation of churches or religious institutions.

Senator Takubo moved that the Senate refuse to concur in the foregoing House amendment to the resolution (Eng. S. J. R. 4) and request the House of Delegates to recede therefrom.

Following discussion,

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

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 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 2760, Relating to economic development incentive tax credits.

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

On further motion of Senator Takubo, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

Engrossed Committee Substitute for House Bill 2760, 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. 2760) 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 that that body had refused to concur in the Senate amendment to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 2962, Relating generally to dental practice.

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

On further motion of Senator Takubo, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

Engrossed Committee Substitute for House Bill 2962, 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. 2962) passed with its title.

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

The Senate again proceeded to the eighth order of business.

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

On third reading, coming up out of regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on Thursday, April 8, 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 Government Organization, was reported by the Clerk:

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

ARTICLE 1. LIMITATIONS ON LABOR AND CONSUMER MARKETING REGULATIONS.

§8B-1-1. Short title.

This chapter may be known and cited as the Local Government Labor and Consumer Marketing Regulatory Limitation Act.

§8B-1-2. Legislative findings and declarations.**(a) Legislative findings. —**

(1) An increasing number of political subdivisions across the United States have attempted to enact labor and employment law and consumer marketing mandates on businesses operating within their borders.

(2) Mandates above the state and federal minimums for wages, scheduling and overtime, required paid leave, and efforts to reinstate the prevailing wage requirements previously repealed by the Legislature to regulate labor-management relations at the local level are examples of actions that, if taken by political subdivisions, would interfere with the uniformity of wage and hour laws across the state.

(3) Bans on the use of plastic bags or drinking straws, or the sale of consumer products such as soda or bottled water, are examples of improvident attempts by political subdivisions across the United States to regulate consumer merchandise within their borders.

(4) Such local mandates or restrictions, if allowed to happen in West Virginia, would create an unworkable patchwork of regulations throughout the state.

(5) Regulation of employment law and consumer products in this manner would place a burden on employers and retailers alike of having to comply with regulatory schemes on a city-by-city or county-by-county basis.

(6) Piecemeal regulation of consumer products would also have the potential to harm both our local retailers, who are subject to significant competition across our state borders, and our economy.

(b) Legislative intent. — It is the intent of the Legislature that the provisions of this article be construed as a limitation on the use of local ordinances, regulations, or other policies by political subdivisions to regulate labor and employment law and the sale or marketing of consumer merchandise in a manner contrary to existing state law or public policy.

§8B-1-3. Definitions.**For the purposes of this article:**

(1) “Consumer merchandise” means goods offered for sale, or provided with a sale, primarily, but not exclusively, for personal, family, or household purposes, and includes any container used for consuming, carrying, or transporting the merchandise.

(2) “Container” means a bag, cup, package, container, bottle, device, or other packaging that is all of the following:

(A) Designed to be either reusable or single use;

(B) Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, or postconsumer recycled or similar material or substrates, including coated, laminated, or multilayer substrates; and

(C) Designed for consuming, transporting, or protecting merchandise, food, or beverages from or at a food service or retail facility.

(3) "Political subdivision" means any county commission, municipality, and county board of education; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; any instrumentality supported in most part by municipalities; any public body charged by law with the performance of a government function and whose jurisdiction is coextensive with one or more counties, cities, or towns; a combined city-county health department created pursuant to §16-2-1 et seq. of this code; public service districts; and other instrumentalities including, but not limited to, volunteer fire departments and emergency services organizations as recognized by an appropriate public body and authorized by law to perform a government function: *Provided*, That hospitals of a political subdivision and their employees are expressly excluded from the provisions of this article.

§8B-1-4. Prohibited areas of regulation.

(a) A political subdivision may not adopt, enforce, or administer an ordinance, regulation, local policy, local resolution, or other legal requirement regarding any of the following specific areas:

(1) Regulating information an employer or potential employer may request, require, or exclude on an application for employment from an employee or a potential employee: *Provided*, That this section does not prohibit an ordinance, local policy, or local resolution requiring a criminal background check for an employee or potential employee in connection with the receipt of a license or permit from a local governmental body;

(2) Requiring an employer to pay to an employee a wage higher than any applicable state or federal law;

(3) Requiring an employer to pay to an employee a wage or fringe benefit based on wage and fringe benefit rates prevailing in the locality;

(4) Regulating work stoppage or strike activity of employers and their employees or the means by which employees may organize;

(5) Requiring an employer to provide to an employee paid or unpaid leave time;

(6) Requiring an employer or its employees to participate in any educational apprenticeship or apprenticeship training program that is not required by state or federal law;

(7) Regulating hours and scheduling that an employer is required to provide to employees;

(8) Regulating standards or requirements regarding consumer merchandise that are different from, or in addition to, any state or federal law or standard; and

(9) Regulating standards of care, conduct, or licensing fees for any profession regulated, licensed, or certified by the State of West Virginia.

(b) This section does not prohibit any lawfully enacted ordinance, local policy, or local resolution relating to zoning or time, place, and manner of operation requirements in accordance with state law, and does not apply to city solid waste or recycling collection programs, or ordinances which prohibit littering, as described in §22-15A-2 of this code.

§8B-1-5. Civil relief; damages.

Any person injured as a result of any violation of this article has a cause of action, and, if proven in a court of competent jurisdiction, may be entitled to preliminary and permanent injunctive relief, and any other appropriate equitable relief.

§8B-1-6. Exceptions; applicability.

(a) This article does not prohibit a political subdivision from enforcing a written agreement voluntarily entered into and in effect prior to the effective date of this article.

(b) The provisions of §8B-1-4 of this code do not apply to the employees of a political subdivision.

(c) This article does not prohibit or limit a political subdivision from complying with the West Virginia Alcohol and Drug-Free Workplace Act, set forth in §21-1D-1 *et seq.* of this code, or otherwise require similar drug and alcohol policies and testing of a political subdivision's vendors.

Senator Lindsay arose to a point of order that the Government Organization committee amendment was not germane to the bill.

Which point of order, the President ruled well taken.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 2500) was then read a third time and 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 present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2500) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2500) 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. Com. Sub. for House Bill 2694, Create the 2nd Amendment Preservation Act.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

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

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

ARTICLE 7B. THE WEST VIRGINIA SECOND AMENDMENT PRESERVATION AND ANTI-FEDERAL COMMANDEERING ACT.

§61-7B-1. Short title.

This article shall be known and may be cited as the West Virginia Second Amendment Preservation and Anti-Federal Commandeering Act.

§61-7B-2. Legislative findings and intent.

The Legislature of the State of West Virginia finds:

(1) The right to keep and bear arms is a fundamental right and freedom enshrined in the federal and state constitutions. The Second Amendment to the Constitution of the United States provides “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed”. Article III, section 22 of the Constitution of the State of West Virginia provides “A person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use.”;

(2) Article VI, Clause two of the Constitution of the United States provides “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”;

(3) The Constitution of the State of West Virginia provides “[t]he state of West Virginia is, and shall remain, one of the United States of America. The Constitution of the United States of America, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.”;

(4) The Constitution of the State of West Virginia reserves to the state the exclusive regulation of its own internal government and police;

(5) The Supreme Court of the United States held “Congress cannot compel the States to enact or enforce a federal regulatory program. Today we hold that Congress cannot circumvent that prohibition by conscripting the States’ officers directly. The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States’ officers, or those of their political subdivisions, to administer or enforce a federal regulatory program. It matters not whether policymaking is involved, and no case-by-case weighing of the burdens or benefits is necessary; such commands are fundamentally incompatible with our constitutional system of dual sovereignty”. Printz v. United States, 521 U.S. 898 (1997):

(6) There is a genuine concern among a significant number of West Virginians that the executive branch of the federal government is poised to improperly infringe on the right to keep and bear arms using executive orders issued by the President of the United States or under acts of the Congress of the United States that violate the liberties guarded by the Second Amendment to the Constitution of United States;

(7) The legislature finds that the increased use of executive orders to effectuate policy goals in lieu of legislation considered by both houses of congress is clearly not what the founders intended and subverts the process of governance;

(8) There is also genuine concern that the reliance on executive orders to effectuate policy goals rather than legislation could cause the commandeering of state and local law-enforcement personnel and resources to attempt to enforce policies regarding firearms which would violate both the United States and West Virginia Constitutions;

(9) On April 8, 2021, in remarks delivered at the White House Rose Garden in Washington, D.C., the President of the United States announced his support of new federal initiatives, some of which, like the proposal for model “red flag” laws, are an anathema to law-abiding West Virginians, who cherish their natural rights and liberties which are guarded by both the Constitution of the United States and the West Virginia Constitution.

(10) It is the express intent of this article to defend the state from any attempt at federal commandeering of already stressed state and local law-enforcement resources for purposes that violate the constitutional rights of our citizens, while supporting the cooperation between local, state, and federal law enforcement which has proven to be a benefit to all parties; and

(11) It is the further express intent of this bill to protect the rights of the citizens of West Virginia to keep and bear arms which rights are guarded and protected by the Second Amendment to the Constitution of the United States and Article III, Section 22 of the West Virginia Constitution.

(12) It is the further intent of this article to provide for and create a means of challenging, by and through the office of the Attorney General of this state, the constitutionality of enactments by the Congress of the United States which transgress the limits of federal authority established by the Second Amendment to the Constitution of the United States.

§61-7B-3. Definitions.

For purposes of this article, the following words and phrases have the following meaning:

“Commandeering” means taking control of or seizing the assets, personnel, or operations of an agency of this state, or of a political subdivision of this state, or the employees of an agency

or political subdivision of this state without the express authority for the control having been formally given by the state or political subdivision of the state.

“Federal commandeering” means commandeering by the government of the United States, or any department, bureau, agency, or commission of the assets, personnel, operations, or employees of an agency of this state, or of a political subdivision.

“Inconsistent federal firearms law, regulation, or rule” means a federal statute, regulation, or rule relating to firearms, firearms accessories, or ammunition that is inconsistent with the laws of the State of West Virginia. Inconsistent federal firearms law also means and includes any federal firearms law which the enactment, enforcement, or execution of which violates the Second Amendment of the Constitution of the United States.

“Inconsistent presidential firearms executive order or action” means an executive order or action issued by the President of the United States relating to the enforcement or execution of an inconsistent federal firearms law.

“Inconsistent with the law of West Virginia” in the context of an inconsistent federal firearms law means a federal firearms law which criminalizes the possession of a firearm, firearm accessory, or ammunition for federal purposes when the possession of that firearm, firearm accessory or ammunition would not be, and is not, a violation of the law of the State of West Virginia.

“New inconsistent federal firearms law” means an inconsistent federal firearms law that was not in effect prior to January 1, 2021.

“New inconsistent presidential firearms executive order or action” means an inconsistent presidential firearms executive order or action which was not in effect prior to January 1, 2021.

“Red flag law” means a law under which a person may petition for a court to temporarily take away another person’s right to possess a firearm which it is otherwise lawful under the law of West Virginia for the respondent to possess.

§61-7B-4. Federal commandeering prohibited.

No agency of this state, political subdivision of this state, or employee of an agency, or political subdivision of this state, acting in his or her official capacity, may be commandeered by the United States government under an executive order or action of the President of the United States or under an act of the Congress of the United States. Federal commandeering of West Virginia law-enforcement for purposes of enforcement of federal firearms laws is prohibited.

§61-7B-5. Prohibitions on police activity.

(a) No police agency, department, or officer of this state may participate in the execution of a federal search warrant when the only property sought to be taken and seized under the warrant is firearms, firearms accessories, or ammunition which is lawful for the person, whose premises are to be searched, to possess under the laws of this state.

(b) No police department, agency or officer of this state may participate in the execution of a federal arrest warrant of a citizen of this state or a person subject to the protections of the state constitution and the laws of West Virginia when the federal arrest warrant charges no crime other

than the crime of the possession of firearms, firearm accessories, or ammunition which is lawful for the person who is to be arrested under the warrant to possess under the laws of this state.

(c) No police department, agency, or officer of the state may enforce an order under a red flag law against a citizen of this state or a person subject of the protections of the laws of this state when the person against whom the order is directed has the lawful right under the laws of this state to possess firearms.

(d) No police department, agency, or officer of this state engaged in a traffic stop or in response to a noise complaint may arrest or detain a person who is subject to the protection of the Constitution and laws of this state for the violation of a new inconsistent federal firearms law or inconsistent presidential executive order or action.

§61-7B-6. Prohibition on court action.

No court of this state has authority or jurisdiction to issue an order depriving a citizen of this state of his or her right to possess firearms, firearm accessories, or ammunition under any red flag law.

§61-7B-7. Permitted activities.

Notwithstanding the limitations in sections four and five of this article, this article does not prevent any West Virginia law-enforcement agency from doing any of the following that does not violate any policy of the law-enforcement agency or any local law or policy of the jurisdiction in which the agency is:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for, a violation of law that is detected during law-enforcement activity authorized by law;

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

(3) Conducting enforcement or investigative activities or duties associated with a joint law-enforcement task force, including the sharing of confidential information with other law-enforcement agencies for purposes of task force investigations, as long as the following conditions are met:

(A) The primary purpose of the joint law-enforcement task force is something other than the enforcement of inconsistent federal firearms laws; or

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

§61-7B-8. Attorney General authorized and directed to challenge unconstitutional federal actions related to firearms.

Whenever any federal statute, presidential executive order, agency order, federal law, rule, or regulation is determined by the Attorney General of this state to infringe upon the right to keep and bear arms affirmed under the Second Amendment to the Constitution of the United States, the Attorney General shall commence and prosecute legal challenges to the federal action. In

exercising and discharging the duties required by this section, the Attorney General shall pursue all available appeals in the courts of the United States, and he or she may expend the public moneys necessary for these purposes. The Attorney General may solicit the participation in these efforts of attorneys general of the other states of the United States and join actions brought by attorneys general of other states or other persons seeking to protect such rights.

§61-7B-9. Attorney General to publish model policies.

On or before January 1, 2022, and as often thereafter as he or she shall consider necessary, the Attorney General shall publish policies for police departments and agencies of this state, and for the police departments and agencies of the political subdivisions of this state, providing guidance on resistance to federal commandeering and lawful measures which can be taken by the law-enforcement agencies and departments of this state and its political subdivisions to protect the citizens of this state from the consequences of any attempts or efforts at federal commandeering.

§61-7B-10. Law-enforcement immunity.

(a) No head of a law-enforcement agency or law-enforcement officer under his or her command may be required, at the direction of an agency of the federal government, to act in a law-enforcement capacity to enforce a federal statute, executive order, agency order, rule or regulation determined by the Attorney General to infringe upon rights granted by the Second Amendment of the Constitution of the United States.

(b) No head of a law-enforcement agency or law-enforcement officer may be held liable civilly or criminally, nor shall his or her employment be terminated, nor shall he or she be decertified as a law-enforcement officer, for refusing to enforce a federal statute, executive order, agency order, rule, or regulation determined by the Attorney General of West Virginia to infringe upon the right to keep and bear arms under the Second Amendment to the Constitution of the United States while the constitutionality of the statute, executive order, agency order, rule, or regulation is being challenged judicially pursuant to §61-7B-8 of this code, nor thereafter if the challenge is successful.

(c) Any head of a law-enforcement agency or law-enforcement officer under his or her command who is charged criminally or civilly, or who has had his or her employment terminated, or who has had his or her certification as a law enforcement officer suspended or revoked, for failing or refusing to enforce a federal statute executive order, agency order, rule, or regulation referenced in subsection (a) of this section is entitled to reimbursement of reasonable attorney's fees related to his or her defense.

Following extended discussion,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Trump's amendment to the bill (Eng. Com. Sub. for H. B. 2694), the same was put and prevailed.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2694), 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, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, 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)—30.

The nays were: Beach, Caputo, Ihlenfeld, and Lindsay—4.

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. 2694) 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 2694—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-7B-1, §61-7B-2, §61-7B-3, §61-7B-4, §61-7B-5, §61-7B-6, §61-7B-7, §61-7B-8, and §61-7B-9 all relating to creating the “West Virginia Second Amendment Preservation Act and Anti-Federal Commandeering Act”; providing a short title; stating legislative findings and intent; defining terms; prohibiting Federal commandeering of any agency of the state or political subdivisions of the state, including West Virginia law-enforcement for purposes of enforcement of federal firearms laws or presidential executive orders; establishing prohibitions on police activities; identifying permitted law-enforcement activities; authorizing the Attorney General to challenge unconstitutional federal actions relating to firearms; requiring the Attorney General to publish model policies; and establishing immunity for law-enforcement.

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

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

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

“Board” means the West Virginia Disaster Recovery Board created by this article;

“Code” means the Code of West Virginia, 1931, as amended;

“Community facilities” means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

“Critical infrastructure” includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

“Disaster recovery activities” means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

“Emergency services” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

“Essential business activities” means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or ~~service~~ critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

“Essential workers” means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness.

“Local organization for emergency services” means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

“Mobile support unit” means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

“Person” means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

“Political subdivision” means any county or municipal corporation in this state;

“Recovery fund” means the West Virginia Disaster Recovery Trust Fund created by this article;

“Residential housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

“Secretary” means the Secretary of the West Virginia Department of Military Affairs and Public Safety; and

“Temporary housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-30. State of emergency; state of preparedness; essential workers.

(a) During a state of emergency or state of preparedness, set forth by the Governor, employees of public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems shall be considered essential workers to ensure that these services can continue to operate or be restored.

(b) Contractors, vendors, and suppliers of public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems of the state shall be considered essential workers to aid the utilities and telecommunications services in continuation of services to its customers.

(c) The provisions of subsections (a) and (b) of this section apply only and specifically for the purpose of ensuring that public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems can continue to operate or be restored and may not be construed or interpreted in any way to have any relevance or meaning beyond this specific purpose.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 3089), 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3089) 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 3089—A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15-5-30, all relating to homeland security and emergency management; defining terms; and providing that employees of public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems shall be considered essential workers to ensure that these services can continue to operate or be restored during a state of emergency or state of preparedness.

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

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.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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:

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

§11-14C-34. Shipping documents; transportation of motor fuel ~~by barge, watercraft, railroad tank car or transport truck~~; civil penalty.

(a) A person shall not transport in this state ~~any motor fuel by barge, watercraft, railroad tank car or transport vehicle~~ motor fuel loaded at a terminal rack unless the person has a machine-generated shipping document, including applicable multiple copies thereof, for the motor fuel that complies with this section. ~~Provided, That in the event a terminal operator or operator of a bulk plant does not have installed on January 1, 2004, an automated machine that will print machine-generated shipping documents, the commissioner may authorize the terminal operator or operator of a bulk plant to issue manually prepared shipping documents: Provided, however, That in the event of an extraordinary unforeseen circumstance, including an act of God, that temporarily interferes with the ability to issue an automated machine-generated shipping document, a manually prepared shipping document that contains all of the information required by subsection (b) of this section shall be substituted for the machine-generated shipping document.~~ A terminal operator ~~or operator of a bulk plant~~ shall give a shipping document to the person who operates the ~~barge, watercraft, railroad tank car or transport vehicle~~ into means of conveyance into which motor fuel is loaded at the terminal rack ~~or bulk plant rack~~.

(b) The shipping document issued by the terminal operator ~~or operator of a bulk plant~~ shall be machine-printed and shall contain the following information and any other information required by the commissioner:

(1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received;

(2) Date the motor fuel was loaded;

(3) Invoiced gallons loaded;

(4) Destination state of the motor fuel as represented by the purchaser of the motor fuel or the purchaser's agent;

(5) In the case of aviation jet fuel, the shipping document shall be marked with the phrase "Aviation Jet Fuel, Not for On-road Use" or a similar phrase;

(6) In the case of dyed diesel fuel, the shipping document shall be marked with the phrase "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase; and

(7) If the document is issued by a terminal operator, the invoiced gallons loaded and a statement indicating the name of the supplier that is responsible for the tax due on the motor fuel.

(c) A terminal operator or bulk plant operator may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. In the event that either the terminal operator, ~~bulk plant operator~~, purchaser or transporter determines prior to the shipment of motor fuel leaving the terminal ~~or bulk plant~~ that the destination state indicated on the shipping document is incorrect, the diversion procedure provided in subdivision (3), subsection (d) of this section shall be used to obtain authorization to deliver the motor fuel to a different state. A purchaser is liable for any tax due as a result of the purchaser's diversion of motor fuel from the represented destination state.

(d) A person to whom a shipping document was issued shall:

(1) Carry the shipping document in the means of conveyance for which it was issued when transporting the motor fuel described;

(2) Show the shipping document upon request to any law-enforcement officer, representative of the commissioner and any other authorized individual when transporting the motor fuel described;

(3) Deliver motor fuel to the destination state printed on the shipping document unless the person:

(A) ~~Notifies the commissioner before transporting the motor fuel into a state other than the printed destination state~~ commissioner's designated entity by the next business day that the person has received instructions after the shipping document was issued to deliver the motor fuel to a different destination state;

(B) Receives from the ~~commissioner~~ commissioner's designated entity, a confirmation number authorizing the diversion; ~~and~~

(C) ~~Writes on~~ Records with the shipping document the change in destination state and the confirmation number for the diversion; and

(4) ~~Gives a copy of the shipping document~~ Provides the confirmation number for the diversion to the person to whom the motor fuel is delivered.

(e) The person to whom motor fuel is delivered by ~~barge, watercraft, railroad tank car or transport vehicle~~ any means of conveyance shall not accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is a state other than West Virginia: *Provided*, That delivery may be accepted if the destination state is other than West Virginia if the document contains a diversion number authorized by the ~~commissioner~~ commissioner's designated entity. The person to whom the motor fuel is delivered shall examine the shipping document to determine that West Virginia is the destination state and shall retain a copy of the shipping document: (1) At the place of business where the motor fuel was delivered for ninety days following the date of delivery; and (2) at the place or another place for at least three years following the date of delivery. The person who accepts delivery of motor fuel in violation of this subsection and any person liable for the tax on the motor fuel pursuant to section five of this article is jointly and severally liable for any tax due on the motor fuel.

(f) Any person who transports motor fuel ~~in a barge, watercraft, railroad tank car or transport vehicle~~ by any means of conveyance without a shipping document or with a false or an incomplete shipping document or delivers motor fuel to a destination state other than the destination state shown on the shipping document, is subject to the following civil penalty.

(1) If the motor fuel is transported in a barge, watercraft, or transport vehicle, the civil penalty shall be payable by the person in whose name the means of conveyance is registered.

(2) If the motor fuel is transported in a railroad tank car, the civil penalty shall be payable by the person responsible for shipping the motor fuel in the railroad tank car.

(3) The amount of the civil penalty for a first violation is \$5,000.

(4) The amount of the civil penalty for each subsequent violation, after notice to correct the shipping document, is \$10,000.

(5) Civil penalties prescribed under this section are assessed, collected, and paid in the same manner as the motor fuel excise tax imposed by this article.

(g) Penalty Defense. - Compliance with the conditions set out in this subsection is a defense to a civil penalty imposed under subsection (f) of this section, resulting from the delivery of motor fuel to a state other than the destination state printed on the shipping document for the motor fuel. The commissioner shall waive a penalty imposed against the person who transported the motor fuel under that subsection, if that person establishes a defense under this subsection. The conditions for the defense are:

(1) The person who transported the motor fuel notified the commissioner's designated entity of the diversion and received a confirmation number for the diversion before the imposition of the penalty; and

(2) Unless the person is a motor fuel transporter, the tax was timely paid on the diverted motor fuel.

On motion of Senator Martin, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 2997) was reported by the Clerk and adopted:

On page one, section thirty-four, subsection (b), by striking out the words “be machine printed and shall”.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. H. B. 2997), 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2997) 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 2997—A Bill to amend and reenact §11-14C-34 of the Code of West Virginia, as amended, relating to transportation of motor fuel; removing requirement that bulk plants issue shipping documents; requiring shipping documents for motor fuel loaded at a terminal rack; requiring notices to and from the commissioner’s designated agency related to the diversion of motor fuel; and adding a defense to the civil penalty imposed for delivery of motor fuel to a state other than the destination state that is printed on the shipping document for the motor fuel.

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 2891, Creating minimum statutory standards for law-enforcement officers.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 29. LAW ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

For the purposes of this article, unless a different meaning clearly appears in the context:

(1) “Approved law-enforcement training academy” means any training facility which is approved and authorized to conduct law-enforcement training as provided in this article;

(2) “Chief executive” means the Superintendent of the State Police; the chief Natural Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief Natural Resources police officer of the Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement agency;

(3) “County” means the 55 major political subdivisions of the state;

(4) “Exempt rank” means any noncommissioned or commissioned rank of sergeant or above;

(5) “Governor’s Committee on Crime, Delinquency, and Correction” or “Governor’s committee” means the Governor’s Committee on Crime, Delinquency, and Correction established as a state planning agency pursuant to §15-9-1 of this code;

(6) “Law-enforcement officer” means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests, and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons employed by the Public Service Commission as motor carrier inspectors and weight-enforcement officers charged with enforcing commercial motor vehicle safety and weight restriction laws, although those institutions and agencies may not be considered law-enforcement agencies. The term also includes those persons employed as county litter control officers charged with enforcing litter laws: *Provided*, That those persons have been trained and certified as law-enforcement officers and that certification is currently active. The term also includes those persons employed as rangers by resort area districts in accordance with the provisions of §7-25-23 of this code, although no resort area district may be considered a law-enforcement agency: *Provided, however*, That the subject rangers shall pay the tuition and costs of training. As used in this article, the term “law-enforcement officer” does not apply to the chief executive of any West Virginia law-enforcement agency or any watchman or special Natural Resources police officer;

(7) “Law-enforcement official” means the duly appointed chief administrator of a designated law-enforcement agency or a duly authorized designee;

(8) “Municipality” means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

(9) “Pre-certified law-enforcement officer” means a person employed or offered employment by a West Virginia law-enforcement agency prior to his or her initial certification by the subcommittee. This term does not include a person employed or offered employment by a West Virginia law-enforcement agency whose certification status is inactive, suspended, or has been revoked.

(10) “Subcommittee” or “law-enforcement professional standards subcommittee” means the subcommittee of the Governor’s Committee on Crime, Delinquency, and Correction created by §30-29-2 of this code; and

~~(40)~~ (11) "West Virginia law-enforcement agency" means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service Commission nor any state institution of higher education nor any hospital nor any resort area district is a law-enforcement agency.

§30-29-14. Minimum standards for hiring of pre-certified law-enforcement officers; disqualification for entry into basic law-enforcement academy or from certification; direct supervision of uncertified officers; maintenance and transfer of records; applicability; limitation on disclosure of records.

(a) Notwithstanding other provisions of law to the contrary, a West Virginia law-enforcement agency may not employ or offer to employ a pre-certified law-enforcement officer until it makes written findings documenting that the person meets the minimum standards contained in this subsection, or adopts a previous employing West Virginia law-enforcement agency's written findings, which shall be made available upon request to the subcommittee: *Provided*, That the hiring West Virginia law-enforcement agency may set higher minimum standards, or the subcommittee may promulgate legislative rules which establish higher minimum standards or interpret the minimum standards contained this section, as the agency or the subcommittee considers necessary for the employment of law-enforcement officers: *Provided, however*, That nothing in this section shall be construed to limit, abrogate, or modify any existing rule promulgated by the subcommittee. The minimum standards apply only to the hiring of a pre-certified law-enforcement officer and consist of the following:

(1) The person is 18 years of age or older;

(2) The person is a high school graduate or equivalent;

(3) The person has submitted to a psychological assessment and has been recommended for hire as a result;

(4) The person has submitted to and passed a polygraph examination;

(5) The person has not been dishonorably discharged from any branch of the armed forces of the United States or the National Guard;

(6) The person has not been convicted in any civilian or military court of a crime punishable by imprisonment for a term exceeding one year, a crime involving moral turpitude, or a crime of domestic violence, or who has been administratively pardoned for any such crime;

(7) The person has not admitted to committing any criminal acts as set forth in subdivision (6) of this subsection which did not result in a conviction;

(8) The person is not prohibited by state or federal law from shipping, transporting, receiving, or possessing firearms or ammunition;

(9) The person is not addicted to narcotics or other controlled substances; and

(10) The person has consented to a thorough investigation by the hiring West Virginia law-enforcement agency into the person's background and moral character, including, but not limited to, a nationwide criminal background check consisting of inquiries of the National Instant Criminal

Background Check System, the West Virginia criminal history record responses and the National Interstate Identification index, the report of which shall be made a part of the written findings required by this section.

(b) Upon review of the written findings of the hiring West Virginia law-enforcement agency and the background investigation, the subcommittee may deny the certification of a law-enforcement officer or, if applicable, deny admission to a basic entry-level training program to a person failing to meet the minimum standards set forth in this section in the discretion of the subcommittee.

(c) A pre-certified law-enforcement officer who is employed by a West Virginia law-enforcement agency must be directly supervised by a certified law-enforcement officer at all times when the pre-certified law-enforcement officer is engaged in law-enforcement duties. For purposes of this section, "directly supervised" means that the certified law-enforcement officer is physically present with, maintains a close visual and verbal contact with, and provides adequate direction to, the pre-certified law-enforcement officer while he or she is engaged in law-enforcement duties.

(d) The initial hiring West Virginia law-enforcement agency shall maintain the written findings and background investigation required herein, for the duration of the person's term of employment, at a minimum. Each time the person transfers to a different West Virginia law-enforcement agency, copies of the written findings and background investigation shall be transmitted by the West Virginia law-enforcement agency which is the person's most recent employer to the West Virginia law-enforcement agency which is the person's new employer: *Provided*, That the provisions of this subsection do not apply to the West Virginia State Police.

(e) The provisions of this section apply to any person hired by a West Virginia law-enforcement agency as a pre-certified law-enforcement officer after the effective date of this section.

(f) Written findings and information obtained in the course of any investigation authorized by this section are not public records and are not subject to disclosure under §29B-1-1 *et seq.* of this code.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2891), 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, 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: Maroney—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. 2891) 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 2891—A Bill to amend and reenact §30-29-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-29-14, all relating to minimum standards for hiring of pre-certified law-enforcement officers; adding “pre-certified law-enforcement officer” as a defined term; prohibiting West Virginia law-enforcement agencies from employing or offering to employ a pre-certified law-enforcement officer without certain findings; requiring a hiring West Virginia law-enforcement agency to make written findings or adopt the written findings of a previous employing West Virginia law-enforcement agency documenting that the pre-certified law-enforcement officer meets certain minimum standards; requiring such written findings to be made available to the Law-Enforcement Professional Standards Subcommittee of the Governor’s Committee on Crime, Delinquency, and Correction; providing ten minimum standards for hiring of a pre-certified law-enforcement officer; requiring report from background investigation to be made part of written findings; authorizing Law-Enforcement Professional Standards Subcommittee to deny certification or deny admission to a basic entry-level training program to a person failing to meet minimum standards; requiring direct supervision of a pre-certified law-enforcement officer by a certified law-enforcement officer while engaged in law-enforcement duties; providing meaning of “directly supervised”; providing for recordkeeping; providing for transfer of records between employing West Virginia law-enforcement agencies; providing exception for West Virginia State Police; specifying application of requirements pertaining to minimum standards for hiring of pre-certified law-enforcement officers; and providing exception to disclosure under West Virginia Freedom of Information Act for certain records.

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 2671, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults.

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 55. ACTIONS, SUITS, AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7J. FINANCIAL EXPLOITATION OF AN ELDERLY PERSON, PROTECTED PERSON, OR INCAPACITATED ADULT.

§55-7J-1. Action for financial exploitation of an elderly person, protected person, or incapacitated adult; definitions.

(a) Any elderly person, protected person, or incapacitated adult against whom an act of financial exploitation has been committed may bring an action under this article against any person who has committed an act of financial exploitation against him or her by filing a civil complaint for financial exploitation, a petition for a financial exploitation protective order, or both.

(b) For the purposes of this article:

(1) "Incapacitated adult" has the same meaning as prescribed under §61-2-29 of this code;

(2) "Elderly person" means a person who is 65 years or older;

(3) "Financial exploitation" or "financially exploit" means the intentional misappropriation or misuse of funds or assets or the diminishment of assets due to undue influence of an elderly person, protected person, or incapacitated adult, but may not apply to a transaction or disposition of funds or assets where the defendant made a good-faith effort to assist the elderly person, protected person, or incapacitated adult with the management of his or her money or other things of value; and

(4) "Protected person" means any person who is defined as a "protected person" in §44A-1-4 of this code and who is subject to the protections of §44A-1-1 *et seq.* or §44C-1-1 *et seq.* of this code.

(c) Any person who believes that an elderly person, protected person, or incapacitated adult is suffering financial exploitation due to the intentional misappropriation or misuse of funds or undue influence may bring an action for a protective order pursuant to this section in the magistrate court or circuit court in the county in West Virginia in which the elderly person, protected person, or incapacitated adult resides or the financial exploitation occurred: *Provided,* That an action for relief brought in the magistrate court of the county of residence of the elderly person, protected person, or incapacitated adult believed to be the victim of financial exploitation order granting a financial exploitation protective order to stay further diminution of the person's assets of an elderly person, protected person, or incapacitated adult shall be temporary in nature.

(d) An action for a financial exploitation protective order brought under this section is commenced by the filing of a verified petition. Temporary relief may be granted without notice to the person alleged to be engaging in financial exploitation and without that person being present; *Provided,* That notice shall be provided to the person alleged to be engaging in financial exploitation as soon as practicable, and that no final relief may be granted on the petition without a full, adversarial evidentiary hearing on the merits before the court.

(e) If a magistrate court grants the petition for a financial exploitation protective order and issues a temporary financial exploitation protective order, the magistrate court shall immediately transfer the matter to the circuit court of the county in which the petition was filed. Upon receipt of the notice of transfer from the magistrate court, the circuit court shall set the matter for a review hearing within 20 days. Any review hearing shall be a full, adversarial evidentiary hearing on the merits before the court. After a hearing, the circuit court may issue a permanent protective order containing any relief the circuit court determines necessary to protect the alleged victim if the court finds by a preponderance of the evidence that:

(1) The respondent has committed an act against the victim that constitutes financial exploitation; and

(2) There is reasonable cause to believe continued financial exploitation will occur unless relief is granted; or

(3) The respondent consents to entry of the permanent protective order.

(f) An order entered under this section shall state that a violation of the order may result in criminal prosecution under §61-2-29b of this code and state the penalties therefor.

§55-7J-4. Attorneys' fees; court costs and burden of proof; statute of limitations.

(a) The court may award reasonable attorneys' fees and costs to a person that brings an action under this ~~section~~ article and prevails.

(b) The standard of proof in proving that a person committed financial exploitation in an action pursuant to this article is a preponderance of the evidence.

(c) An action under this article shall be brought within two years from the date of the violation or from the date of discovery, whichever is later in time.

§55-7J-5. Action to freeze assets; burden of proof; options the court may exercise.

(a) An elderly person, protected person, or incapacitated adult may bring an action to enjoin the alleged commission of financial exploitation and may petition the court to freeze the assets of the person allegedly committing the financial exploitation in an amount equal to, but not greater than, the alleged value of lost property or assets for purposes of restoring to the victim the value of the lost property or assets. The burden of proof required to freeze the assets of a person allegedly committing financial exploitation shall be a preponderance of the evidence. Upon a finding that the elderly person, protected person, or incapacitated adult has been formally exploited, the court may:

(1) Grant injunctive relief;

(2) Order the violator to, place in escrow an amount of money equivalent to the value of the misappropriated assets for distribution to the aggrieved elderly person, protected person, or incapacitated adult;

(3) Order the violator to return to the elderly person, protected person, or incapacitated person any real or personal property which was misappropriated; ~~or~~

(4) Provide for the appointment of a receiver; or

(5) Order any combination or all of the above.

(b) In ~~an~~ any action under §55-7J-1 et seq. of this code, the court may void or limit the application of contracts or clauses resulting from the financial exploitation.

(c) In ~~an~~ any civil action brought under this article, upon the filing of the complaint or on the appearance of any defendant, claimant, or other party, or at any later time, the court may require the plaintiff, defendant, claimant, or other party or parties to post security, or additional security, in a sum the court directs to pay all costs, expenses, and disbursements that are awarded against that party or that the party may be directed to pay by any interlocutory order, by the final judgment or after appeal.

(d) An order entered under this section shall state that a violation of the order may result in criminal prosecution under §61-2-29b of this code and state the penalties therefor.

§55-7J-6. Penalty for violation of injunction; retention of jurisdiction.

Any person who violates the terms of an order issued under ~~section five~~ of this article shall be subject to proceeding for contempt of court. The court issuing the injunction may retain jurisdiction

if, in its discretion, it determines that to do so is in the best interest of the elderly person, protected person, or incapacitated adult. ~~Whenever~~ If the court determines that an injunction issued under ~~section five of this article~~ §55-7J-5 of this code has been violated, the court may award reasonable costs to the party asserting that a violation has occurred.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-29b. Financial exploitation of an elderly person, protected person, or incapacitated adult; penalties; definitions.

(a) Any person who financially exploits an elderly person, protected person, or an incapacitated adult in the amount of less than \$1,000 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(b) Any person who financially exploits an elderly person, protected person, or an incapacitated adult in the amount of \$1,000 or more is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 and imprisoned in a state correctional facility not less than two nor more than 20 years.

(c) Any person convicted of a violation of this section shall, in addition to any other penalties at law, be subject to an order of restitution.

(d) In determining the value of the money, goods, property, or services referred to in subsection (a) of this section, it shall be permissible to cumulate amounts or values where ~~such~~ the money, goods, property, or services were fraudulently obtained as part of a common scheme or plan.

(e) Financial institutions and their employees, as defined by §31A-2A-1 of this code and as permitted by §31A-2A-4 of this code, others engaged in financially related activities, as defined by §31A-8C-1 of this code, caregivers, relatives, and other concerned persons are permitted to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney, and to the Department of Health and Human Resources, Adult Protective Services Division, or Medicaid Fraud Division, as appropriate. Public officers and employees are required to report suspected cases of financial exploitation to the appropriate entities as stated above. The requisite agencies shall investigate or cause the investigation of the allegations.

(f) When financial exploitation is suspected and to the extent permitted by federal law, financial institutions and their employees or other business entities required by federal law or regulation to file suspicious activity reports and currency transaction reports shall also be permitted to disclose suspicious activity reports or currency transaction reports to the prosecuting attorney of any county in which the transactions underlying the suspicious activity reports or currency transaction reports occurred.

(g) Any person or entity that in good faith reports a suspected case of financial exploitation pursuant to this section is immune from civil liability founded upon making that report.

(h) For the purposes of this section:

(1) “Incapacitated adult” means a person as defined by §61-2-29 of this code;

(2) “Elderly person” means a person who is 65 years or older;

(3) “Financial exploitation” or “financially exploit” means the intentional misappropriation or misuse of funds or assets of an elderly person, protected person, or incapacitated adult, but shall not apply to a transaction or disposition of funds or assets where the accused made a good-faith effort to assist the elderly person, protected person, or incapacitated adult with the management of his or her money or other things of value; and

(4) “Protected person” means any person who is defined as a “protected person” in §44A-1-4 of this code and who is subject to the protections of ~~chapter 44A or 44C~~ §44A-1-1 et seq. or §44C-1-1 et seq. of this code.

(i) Notwithstanding any provision of this code to the contrary, acting as guardian, conservator, trustee, or attorney for, or holding power of attorney for, an elderly person, protected person, or incapacitated adult shall not, standing alone, constitute a defense to a violation of subsection (a) of this section.

(j) Any person who willfully violates a material term of an order entered pursuant to ~~§55-7J-5~~ §55-7J-1 et seq. of this code is guilty of a misdemeanor and, upon conviction thereof, shall:

(1) For the first offense, be fined not more than \$1,000 or confined in jail not more than 90 days, or both fined and confined; and

(2) For a second or subsequent offense, be fined not more than \$2,500 or confined in jail not more than one year, or both fined and confined.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2671), 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, 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: Maroney—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. 2671) 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 2671—A Bill to amend and reenact §55-7J-1, §55-7J-4, §55-7J-5, and §55-7J-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-2-29b of said code, all relating to financial exploitation of elderly persons, protected persons

or incapacitated adults; updating terms; clarifying actions by civil complaint, petition for financial exploitation protective order, or both; providing that financial exploitation protective orders are temporary; requiring notice be given to the person alleged to be engaging in financial exploitation as soon as practicable; requiring a full adversarial hearing on the merits before a court before final relief may be granted; including criminal penalties for violation or contempt of protective orders for victims of financial exploitation; and requiring notice of potential criminal penalties in all injunctive or protective orders.

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 7:29 p.m., the Senate recessed until 8 p.m. tonight.

The Senate reconvened at 8:03 p.m. and, without objection, returned to the third order of business.

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 332, Providing procedure for WV to select delegates to Article V Convention.

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:

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

ARTICLE 11A. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

§3-11A-1. Definitions.

For the purposes of this article:

“Article V convention” means a convention for proposing amendments as expressly provided in Article V of the Constitution of the United States of America.

“Article V application” means a joint resolution passed by the Legislature on the same subject, or containing the same proposed amendment text, as 33 other sovereign states requiring Congress to call an Article V convention by setting the time and place.

“Delegate” or “alternate” means a person selected by the Legislature or any other method provided by law to represent the State of West Virginia at an Article V convention.

“Legislative instructions” mean instructions given by the Legislature to delegates and alternates before and during an Article V convention.

“Unauthorized amendment” means a proposed amendment that is outside the subject matter of the Article V application, the call, the commission, or any legislative instructions.

§3-11A-2. Committee of correspondence for Article V convention.

(a) The Legislature shall designate one or more legislative committees for purposes of communicating, exchanging information, and otherwise engaging in discussion and dialogue with the several states and the state's congressional delegation regarding acts, resolutions, and issues that may be the subject of an Article V convention, and the rules, processes, potential amendments, procedures for proposing amendments, interstate compacts, common credentials, and instructions for delegates that may govern an Article V convention.

(b) The Legislature may vest this function in the Joint Committee on Government and Finance, in existing committees of each chamber, other legislative committees, or committees it may establish.

§3-11A-3. Prohibition against participation in Article V convention requiring proportional representation.

Delegates from West Virginia may only be authorized to attend an Article V convention for proposing amendments where each state has one equal vote. A delegate or alternate from West Virginia may not attend an Article V convention for the purpose of proposing amendments that require proportional representation of any state based on its respective populations.

§3-11A-4. Delegate duties and responsibilities.

(a) Every candidate for delegate or alternate from West Virginia to the Article V convention shall take the following oath: "I do solemnly swear or affirm that, to the best of my abilities, I will, as a delegate or alternate to an Article V convention, uphold the constitution and laws of the United States of America and the State of West Virginia. I will not vote to allow consideration of or to approve any unauthorized amendment proposed for ratification to the United States of America Constitution. So help me God."

(b) The Legislature, or an official or committee authorized pursuant to §3-11A-2(b) of this code, shall certify in writing to the Article V convention the delegates and alternates selected, the amendments a delegate or alternate is authorized to consider and vote to approve, the recall procedures set forth in subsection (c) of this section, and the mandatory nullification of any votes cast by a delegate or alternate on an unauthorized amendment.

(c) Delegates may not vote to allow consideration of, or vote to approve, an unauthorized amendment for ratification to the Constitution of the United States. Any such vote is an unauthorized vote and is void.

(d) Any delegate casting a vote to allow consideration or approval of an unauthorized amendment shall be immediately recalled by an official or committee authorized pursuant to §3-11A-2(b) of this code and be replaced by an alternate.

(e) Any delegate or alternate is a public official, as that term is defined in §6B-1-3 of this code, and is subject to the requirements of the West Virginia Governmental Ethics Act.

§3-11A-5. Violation of oath; criminal penalty.

Any delegate who violates the oath set forth in §3-11A-4 of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100,000 nor more than \$500,000 and be confined in a state correctional facility for not more than 10 years.

On motion of Senator Karnes, the following amendments to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 332) were reported by the Clerk and considered simultaneously:

On page three, after section five, by adding a new section, designated section six, to read as follows:

§3-11A-6. Issuance of call for Article V convention.

(a) By passage of this section in the 2021 Regular Legislative Session, the West Virginia Legislature hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states.

(b) This Convention is to be limited to proposing amendments to the Constitution of the United States that

(1) Impose fiscal restraints on the federal government,

(2) Limit the power and jurisdiction of the federal government, and

(3) Limit the terms of office for its officials and for members of Congress.

Absolutely no other business will be authorized or permitted at this convention.

(c) This application constitutes a continuing application, in accordance with the provisions of Article V of the Constitution of the United States, until the legislatures of at least two thirds of the several states shall have made applications on the same subject.

(d) Upon enactment of this legislation, and authorization of the same by the Governor, the Clerk of the West Virginia House of Delegates and the Clerk of the West Virginia Senate, are hereby directed to jointly forward a copy of the engrossed and approved legislation

(1) As an application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives,

(2) To transmit copies of the same to the members of West Virginia's congressional delegation, and

(3) To the presiding officers of each of the legislative houses in the several states requesting their cooperation.;

And,

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

Eng. Com. Sub. for Senate Bill 332—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4, §3-11A-5, and §3-11A-6, all relating to providing procedures for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; defining terms; directing Legislature to establish committee of correspondence for Article V convention; authorizing participation by delegates in Article V convention only when each state has equal vote; setting forth delegate duties and responsibilities; setting forth oath for candidate

for delegate or alternate; designating delegates and alternates as public officials and subject to West Virginia Governmental Ethics Act; providing for immediate recall of delegate casting unauthorized vote and replacement with alternate; directing Legislature to certify certain information to Article V convention; making violation of delegate's oath a felony; declaring and limiting issues to be considered at a convention of states; and providing criminal penalties for violation of a delegate's oath.

Senator Romano arose to a point of order that the amendments offered by Senator Karnes to the House of Delegates amendment was not germane to the bill.

Which point of order, the President ruled not well taken.

The question being on the adoption of the amendments offered by Senator Karnes to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 332), the same was put and prevailed.

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

Engrossed Committee Substitute for Senate Bill 332, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

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

Absent: Maroney—1.

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. 332) passed with its Senate 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 amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 485, Relating to use or presentation of firearm during commission of felony.

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:

On page one, section fifteen-a, line six, by striking out the words "other than those set forth in subsection (c) of this section";

And,

On page one, section fifteen-a, line seven, after the word “who” by inserting the words “is otherwise prohibited by law from possessing a firearm”.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 485) and requested the House of Delegates to recede therefrom.

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 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 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities.

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 32. THE WEST VIRGINIA WIND AND SOLAR ENERGY FACILITY RECLAMATION ACT.

§22-32-1. Legislative findings and purpose.

(a) The Legislature finds that the State of West Virginia has an interest in assuring that wind generation facilities and solar generation facilities are properly decommissioned and reclaimed once the facility has been permanently closed.

(b) The Legislature further finds that the most efficient manner by which to protect the citizens of the State of West Virginia is to require that wind generation facilities and solar generation facilities secure bonding sufficient to pay for all decommissioning and reclamation costs of the property on which wind generation facilities and solar generation facilities are operated.

(c) Therefore, in view of the findings relating to the decommissioning and reclamation of wind generation facilities and solar generation facilities, the Legislature declares it to be the public policy of the State of West Virginia to eliminate the present danger resulting from abandoned wind generation facilities and solar generation facilities and that in order to provide for the public health, safety, and welfare, it is necessary to enact legislation to those ends by requiring companies that construct and operate wind generation facilities and solar generation facilities to post bonds and execute agreements sufficient to cover the costs of decommissioning and reclamation in the event they are abandoned after closure.

§22-32-2. Short title.

This article shall be known and cited as The West Virginia Wind and Solar Energy Facility Reclamation Act.

§22-32-3. Definitions.

As used in this article, unless the context requires otherwise, the following definitions apply:

(a) "Board" means the Environmental Quality Board provided for in §22B-1-7 of this code.

(b) "Decommission" or "decommissioning" means:

(1) The removal and proper disposal of the solar generation facility and its foundation after the end of the facility's useful life or abandonment; or

(2) The removal and proper disposal of an aboveground wind turbine tower and its foundation after the end of a wind generation facility's useful life or abandonment; and

(3) Except as otherwise provided in §22-32-4 of this code, the removal and proper disposal of buildings, equipment, cabling, electrical components, roads, or any other facilities associated with a wind generation or solar generation facility; and

(4) Except as otherwise provided in §22-32-4 of this code, the reclamation of the surface lands upon which buildings, equipment, and equipment foundations using backfill and compacting of soil in order to return the surface to beneficial use and to prevent adverse hydrologic effects.

(c) "Department", "agency", and "DEP" mean the West Virginia Department of Environmental Protection.

(d) "Owner" means a person who owns a wind generation or solar generation facility operated in West Virginia for the generation of electricity.

(e) "Person" means any individual, firm, partnership, company, association, corporation, limited liability company, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

(f) "Solar generation facility" means an installation or combination of solar panels or plates, including a canopy or array, and other associated property, including appurtenant land, improvements, and personal property, that are normally operated together to capture and convert solar radiation to produce electricity, including flat plate, focusing solar collectors, or photovoltaic solar cells, and that has a nameplate capacity, singularly or in the aggregate, greater than or equal to 1.0 megawatts.

(g) "Wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land, improvements, and personal property, that are normally operated together to produce electric power from wind and that have a nameplate capacity, singularly or in the aggregate, greater than or equal to 1.0 megawatts.

(h) "Bond" means a surety bond or any other arrangement, including but not limited to letters of credit and escrow accounts, that represent a financial guarantee from the owner of a wind generation facility or solar generation facility to meet decommissioning requirements as established in this Act.

§22-32-4. Bonding required.

(a) Within 12 months of a wind generation facility or solar generation facility commencing commercial operation, except as provided in subsections (b) and (c) of this section, the owner of a wind generation facility or solar generation facility operating in West Virginia shall:

(1) Notify the Department of Environmental Protection (DEP) in writing of the date that the facility began commercial operation;

(2)(A) Submit a plan, certified by a qualified independent licensed professional engineer, for decommissioning the facility to the DEP in compliance with DEP standards and technical specifications including a scope of work to be completed and cost estimates for completion and salvage estimates, taking into account local siting conditions, or (B) if exempt hereunder, submit a copy of a properly executed and legally binding decommissioning agreement with all attachments, schedules, and addendums thereto;

(3) Provide the DEP with any other necessary information in accordance with this article and rules adopted pursuant to this article in order for the department to determine bond requirements in accordance with this section; and

(4) Submit a fee for a new application of \$100 per megawatt of nameplate generation capacity or a fee for any modification of \$50 per megawatt of nameplate generation capacity to be deposited into the Wind and Solar Decommissioning Account and utilized for implementing this article and its rules.

(b) If a wind generation facility or solar generation facility commenced commercial operation before July 1, 2021, the owner of the facility shall submit to the department the information required in subsection (a) of this section on or before July 1, 2022.

(c) If a wind generation facility or solar generation facility commenced commercial operation before July 1, 2021, and the owner of the facility submitted information required by subsection (a) of this section on or before July 1, 2021, the owner is not required to resubmit the information.

(d) If a property owner and the owner of a wind generation facility or solar generation facility and to the extent necessary any local governing body reach an agreement concerning: (1) Alternative restoration of buildings, equipment, other associated property (including appurtenant land, improvements, and personal property), cabling, electrical components, roads, or any other associated facilities (instead of removal); or (2) alternative plans for reclamation of surface lands; or (3) both, the agreement must be provided to the DEP for review and approval by the Cabinet Secretary or his assigns. The DEP must approve or deny the alternative plan submission within 90 days of receipt. Decommissioning agreements which legally bind exempt parties are not subject to approval or modification by DEP but are subject to review and comment by DEP.

(e)(1) Upon application by the wind generation facility or solar generation facility, the DEP may modify a plan for decommissioning and adjust bond requirements in accordance with this article.

(2) The DEP shall notify the owner of the facility of any modification. The owner of the wind generation facility or solar generation facility may appeal a modification by the DEP of a plan for decommissioning to the Environmental Quality Board within 30 days of receiving notice of the modification to the plan.

(f) To determine the amount of a bond required in accordance with this act, the DEP shall take into account the report submitted with an application and assess a bond value based upon the total disturbed acreage of land upon which the wind generation or solar generation facility is operated, less salvage value: *Provided*, That the amount of the bond required shall not exceed the total projected future cost of decommissioning, less salvage value.

(g) Except as provided in subsection (i) of this section, the owner of a wind generation facility or solar generation facility shall submit to the DEP a bond payable to the State of West Virginia in a form acceptable by the DEP and in the sum determined by the DEP, conditioned on the faithful decommissioning of the wind generation facility or solar generation facility.

(h)(1) Except as provided in subsection (i) of this section, if a wind generation facility or solar generation facility commenced commercial operation on or before July 1, 2021, the operator shall submit the decommissioning bond to the DEP on or before July 1, 2022.

(2) Except as provided in subsection (i) of this section, if a wind generation facility or solar generation facility commenced commercial operation after July 1, 2021, the operator shall submit the decommissioning bond to the DEP within one year of the date on which the wind generation facility or solar generation facility first produces electricity for consumer or industrial use.

(i) An owner of a wind generation facility or solar generation facility is exempt from the requirements of this section if:

(1) the facility has less than 1.0 megawatts in nameplate capacity;

(2) the facility is operated by a regulated public utility who can successfully demonstrate to the Public Service Commission and the DEP an acceptable showing of financial integrity and long-term viability; or

(3) the facility is legally bound by a decommissioning agreement, based upon a qualified independent party and executed before the effective date of this article; or is or was granted a siting certificate or other authorization to construct by the Public Service Commission, conditioned upon the execution of such agreement before the effective date of this article: Such facilities are exempt, unless or until the facility, is (A) found to be in breach of such agreement or such agreement is found to be unenforceable, (B) sold or transferred to a party or parties not bound under such agreement, or (C) substantially expanded in total disturbed acreage.

(j)(1) If the owner of the wind generation facility or solar generation facility fails to submit a decommissioning bond acceptable to the DEP or the properly executed and legally binding decommissioning agreement within the time frame required by this section, the DEP shall provide notice to the facility owner. If, after 30 days, the owner of a wind generation facility or solar generation facility has not submitted a decommissioning bond or such agreement, the DEP may assess an administrative penalty of not more than \$10,000 for the first day of violation and may assess an additional administrative penalty of not more than \$500 for each day the failure to submit the decommissioning bond continues.

(2) The owner of the wind generation facility or solar generation facility may appeal a penalty assessment to the Environmental Quality Board within 30 days after receipt of written notice of the penalty. The provisions of §22B-1-1 *et seq.* of this code shall apply to such appeals.

(k) If the owner of a bonded wind generation facility or solar generation facility transfers ownership of the facility to a successor owner, the first owner's bond must be released after 90 days. The new owner of a bonded facility shall submit any necessary bond within 90 days after transfer of ownership or be subject to penalties in accordance with this section. The new owner of an unbonded facility shall submit any necessary bond within 90 days after transfer of ownership or be subject to penalties in accordance with this section.

(l) Once every five years, the owner of a wind generation facility or solar generation facility may submit an amended plan for the DEP's approval. As part of the submission, the owner of a wind generation facility or solar generation facility may also apply to the DEP for a reduction in the amount of the decommissioning bond applicable to the wind energy facility or solar generation facility. The owner's application to the DEP must include written evidence of a reduction in the total disturbed acreage upon which the facility is sited and a modification fee of \$50 per megawatt of nameplate generation capacity.

(m) Submitting a bond or a properly executed and legally binding decommissioning agreement in accordance with this section does not absolve the owner of a wind generation facility or solar generation facility from complying with all other applicable laws, rules, regulations, and requirements applicable to a wind generation facility or solar generation facility.

(n) The Public Service Commission of West Virginia shall condition all siting certificates issued on full compliance, as determined by the DEP, with the provisions of this article and the rules promulgated hereunder and shall not require further decommission bonding. Entities subject to and in compliance with this article shall not be subjected to any municipal, county, or local political subdivision's code, ordinances, rules, or regulations including additional decommission bonding.

(o) DEP shall issue a decision approving, approving with modifications, or denying an application, plan, amended plan, modification, or bond within 90 days of receipt.

(p) Any person adversely affected by a decision of DEP to approve or deny a decommissioning plan; establish the amount of a decommissioning bond; approve or deny an application to modify a decommissioning plan or bond; grant or release a decommissioning bond; or to forfeit a decommissioning bond may appeal that decision to the Environmental Quality Board and thereafter to the appropriate court in accordance with the provisions of §22B-1-1, et seq of this code.

§22-32-5. Wind and solar decommissioning account, bonds to be held.

(a) This article establishes a Wind and Solar Decommissioning Account within the State Treasury. There must be paid into the account:

(1) Fees and penalties collected in accordance with the article; and

(2) Interest income earned on the account.

(b)(1) Money in the account may only be used by the Department of Environmental Protection (DEP) in implementing this article and rules adopted pursuant to this article.

(2) The DEP shall administer this program using existing resources and money in the account.

(c) The DEP shall maintain and hold bonds or other surety received by the DEP as authorized by this article for use in accordance with this article.

§22-32-6. Bond release.

(a)(1) Subject to subdivision (2) of this subsection, the Department of Environmental Protection (DEP) shall release the bond if it is satisfied that an owner has properly

decommissioned a wind generation facility or solar generation facility in accordance with the plan required by this article.

(2) At any time, an owner of a wind generation facility or solar generation facility may petition the DEP for release of the bond, and the DEP shall reply with a determination within 90 days.

(b) If the owner of a wind generation facility or solar generation facility fails to properly decommission a wind generation facility or solar generation facility and has not commenced action to rectify deficiencies within 90 days after notification by the DEP, the DEP shall cause the bond to be forfeited. The DEP, through its Office of Environmental Remediation or by contract with a private entity, may take any necessary actions to decommission the wind generation facility or solar generation facility. Upon completion, the DEP may file suit to enforce the permit conditions, plans, and agreements to recoup the cost of decommissioning and reclamation in the circuit court of Kanawha County or in the circuit court of the county in which the wind generation facility or solar generation facility is located.

§22-32-7. Rulemaking

The Department of Environmental Protection (DEP) may promulgate such emergency, interpretive, legislative, and procedural rules as the secretary deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature in accordance with the provisions of §29A-3-1 *et seq.* of this code, prescribing:

(a) Standards and procedures for reclamation, submission of applications and agreements, and reasonable bonds with good and sufficient surety by the owners of wind generation facilities and solar generation facilities;

(b) The collection of fees and penalties in accordance with this article;

(c) Criteria and the process for releasing a bond in accordance with this article;

(d) The DEP's use of a bond in the event that the owner of a wind generation facility or solar generation facility fails to decommission a wind generation facility or solar generation facility;

(e) Information required by the department to determine bond requirements in accordance with this article; and

(f) Any additional requirements to ensure compliance with this article.

§22-32-8. Decommissioning Agreements.

Decommissioning agreements entered by wind and solar facilities not exempted from this Act shall address, at a minimum:

(a) the term and scope of the agreement, including access and easement rights for decommissioning activities thereunder;

(b) the establishment of a bond or fund for decommissioning activities; provisions governing the same; initial balances; and whether an escrow agreement is required for the fund;

(c) the requirement to review, amend, and restate the decommissioning agreement every five years and adjust the required balance of the bond or fund for decommissioning activities;

(d) the Department of Environmental Protection's right to review, modify, and approve the independent third-party's plan: Provided, that the Department of Environmental Protection's approval of a qualified independent third-party evaluation shall not be unreasonably withheld;

(e) industry standards or citations to the same to be met for decommissioning wind and solar facilities, including a statement of the restoration goal and the treatment of abandoned equipment on owned or leased property;

(f) the process for making claims and disbursements under the agreement's decommissioning fund;

(g) the termination of the decommissioning agreement following the completion of decommissioning activities;

(h) required notices;

(i) the assignment of rights and obligations under the agreement; and

(j) force majeure provisions excusing performance or delays in performance due to fire, earthquake, flood, tornado, disasters, or act of God, terrorism, pandemic, change of law, or any other cause beyond a party's control.

The secretary of the Department of Environmental Protection may propose rules for legislative approval in accordance with the provisions of chapter twenty-nine-a of this code establishing a model decommissioning agreement for wind and solar facilities governed under this Act.;

And,

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

Eng. Com. Sub. for Senate Bill 492—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-32-1, §22-32-2, §22-32-3, §22-32-4, §22-32-5, §22-32-6, §22-32-7, and §22-32-8, all relating generally to establishing and implementing a program to decommission and reclaim wind and solar electrical generation facilities upon closure; making legislative findings; stating legislative purpose; providing a short title; defining terms including bond; requiring the owners of wind generation facilities and solar generation facilities to notify and provide certain information to the Department of Environmental Protection (DEP), including dates when operations began and plans with certified cost and salvage estimates for decommissioning facilities; establishing fees for new and modified applications; requiring DEP to determine and assess a reclamation bond based on applicant's filings and a facility's total disturbed acreage, less salvage value; establishing a maximum bond value limit; requiring the owners of said facilities to submit bonds payable to the state in a form and in a sum determined by the DEP, conditioned on the satisfactory decommissioning; providing that owners of said facilities may enter into alternative reclamation agreements after approval by the DEP; providing that the DEP may modify said plans after proper notification and appeals; providing exemptions from bond requirements for certain facilities including those with nameplate capacities of less than 1.0 megawatts, those facilities operated by regulated public utilities who can demonstrate financial integrity and stability, and those facilities with qualifying pre-existing

agreements or siting certificates from the PSC within specified limitations; providing for administrative penalties for failure to submit decommissioning bonds and agreements; providing appellate rights to the Environmental Quality Board; providing transfer of ownership provisions; providing for amended plans for allowing reductions in bond amounts; providing that bond submission does not absolve owners from complying with other applicable regulations and requirements; providing that the PSC must condition siting certificates on compliance as determined by the DEP; providing a liability shield for entities in compliance to avoid double bonding; requiring the DEP to decide on submissions within 90 days; establishing a Wind and Solar Decommissioning Account within the State Treasury in to which fees, assessed penalties, and accrued interest must be paid and held; providing that the account may only be used by the DEP to implement this article and adopted rules; providing that DEP shall administer this act using existing resources and the account; requiring the DEP to maintain and hold bonds or other surety received; providing for the release of bonds after the DEP is satisfied property has been properly decommissioned in accordance with the plan; providing for bond forfeiture when a facility is not properly decommissioned, if the deficiencies are not rectified; providing that the Office of Environmental Remediation or a private entity by contract may decommission facilities; providing that DEP may file suit to enforce permit and plan conditions and to recoup costs of reclamation; authorizing rulemaking and standardized model agreements; and providing effective dates.

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

Engrossed Committee Substitute for Senate Bill 492, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Caputo, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—29.

The nays were: Baldwin, Ihlenfeld, Romano, and Woelfel—4.

Absent: Maroney—1.

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. 492) passed with its House of Delegates amended 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 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 660, Providing for cooperation between law-enforcement agencies and military authorities.

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

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

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

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

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

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

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

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

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

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

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

§15-10-8 Non-commandeering of civilian law enforcement agencies by military authorities.

(a) Other than compliance with an order of a court of this state, notwithstanding any law, regulation, rule, or order to the contrary, no agency of this state, political subdivision of this state, or employee of an agency or political subdivision of this state acting in his or her official capacity may not use agency or department moneys or personnel to investigate, interrogate, detain, detect, or aid the National Guard of this state, or any other service component of the United States Department of Defense in whole or in part or arrest persons for federal law enforcement purposes, including any of the following:

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

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

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

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

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

(6) Placing law enforcement officers under the supervision of the National Guard of this state, or any other service component of the United States Department of Defense or employ law enforcement officers deputized as special federal officers or special federal deputies for purposes of federal firearm law enforcement unless the act, law, order, rule, or regulation for which such enforcement is sought is the same as or substantially similar to a law of West Virginia. All law enforcement officers remain subject to West Virginia law governing conduct of law enforcement officers and the policies of the employing agency;

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

(8) Utilizing any assets, state funds, or funds allocated by the state to local entities on or after the effective date of this article, in whole or in part, to engage in any activity that aids the National Guard of this state, or any other service component of the United States Department of Defense in the enforcement or any investigation pursuant to the enforcement of any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule, or regulation does not exist under the laws of this state or is not substantially similar to a law of this state.

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

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

(2) Responding to a request from the National Guard of this state, or any other service component of the United States Department of Defense for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information, or where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies, including the National Guard of this state, or any other service component of the United States

Department of Defense for purposes of task force investigations, and shall serve as immunity for involved officers against prosecution so long as the following conditions are met:

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

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

§15-10-9 Severability.

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

And,

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

Eng. Com. Sub. for Senate Bill 660—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §15-10-7, §15-10-8, and §15-10-9, all relating generally to providing for cooperation between civilian law-enforcement agencies and military authorities to facilitate objective independent investigations of possible offenses; authorizing assistance for certain instances; prohibiting any civilian law enforcement officer from assisting military authorities to investigate or enforce crimes relating to federal firearms laws; prohibiting civilian law enforcement from being commandeered by military authorities to investigate certain crimes relating to firearms; permitting local law enforcement to enforce policies of the law enforcement agency and any local law or policy; and clarifying that the provisions are severable.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 660) and requested the House of Delegates to recede therefrom.

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 Senate amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

Eng. Com. Sub. for House Bill 2770, Including home confinement officers in definition of law-enforcement officers.

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

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

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

CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant:

(1) Arrest or order confinement of any parolee or probationer under his or her supervision; and

(2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute

the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) (1) Notwithstanding any other provision of this section, The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(2) State parole officers, in recognition of the duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in 18 U.S.C §926B.

(3) Any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes.

(B) For those state parole officers wishing to avail themselves of the provisions of this subdivision, there shall be in place in the Division of Corrections and Rehabilitation a requirement that those state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers who meet the provisions of this subdivision, as law-enforcement employees of the Division of Corrections and Rehabilitation pursuant to the provisions of §30-29-12 of this code.

(D) Any policy instituted pursuant to this subsection includes provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(E) Any state parole officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(F) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B:

(G) The privileges authorized by the amendments in this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law enforcement official under this chapter.~~

(b) In recognition of the duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, state juvenile probation officers are determined to be qualified law enforcement officers as that term is used in 18 U.S.C §926B.

(c) Any state juvenile probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing a state juvenile probation officer to carry a concealed firearm for self-defense purposes;

(2) There shall be in place in the Supreme Court of Appeals a requirement that state juvenile probation officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state juvenile probation officers as law-enforcement employees as that term is contemplated by 18 U.S.C §926B.

(4) Any policy instituted pursuant to this subsection includes provisions which:

(A) preclude or remove a person from participation in the concealed firearm program;

(B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any state juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state juvenile probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(7) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

~~(b)~~ (e) The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under this article. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

~~(e)~~ (f) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in

this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: Provided, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or state juvenile probation officer appointed pursuant to §49-4-719 ~~chapter 49~~ of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in performance of his or her official duties;

~~(G)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (L) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: Provided, That:

(i) When he or she is occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 et seq. of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the

transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT.

§62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.

(a) The county commission may employ one or more persons with the approval of the circuit court and who shall be subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. ~~Any person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) In recognition of the duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, home confinement supervisors, are determined to be qualified law enforcement officers as that term is used in 18 U.S.C. §926B.

(c) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes.

(2) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(3) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program of §30-29-12 of this code.

(4) Any policy instituted pursuant to subsection (b) of this section shall include provisions which:

(A) preclude or remove a person from participation in the concealed firearm program;

(B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

(7) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants ~~so appointed~~.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation

of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may to hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) In recognition of the duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, state probation officers are determined to be qualified law enforcement officers as that term is used in 18 U.S.C. §926B.

(i) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes.

(2) There is in place a requirement that the state probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to this subsection shall include provisions which:

(A) Preclude or remove a person from participation in the concealed firearm program;

(B) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(C) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any state juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(7) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

§62-12-6. Powers and duties of probation officers.

(a) Each probation officer shall:

(1) Investigate all cases which the court refers to the officer for investigation and shall report in writing on each case;

(2) Conduct a standardized risk and needs assessment, using the instrument adopted by the Supreme Court of Appeals of West Virginia, for any probationer for whom an assessment has not been conducted either prior to placement on probation or by a specialized assessment officer. The results of all standardized risk and needs assessments are confidential;

(3) Supervise the probationer and enforce probation according to assessment and supervision standards adopted by the Supreme Court of Appeals of West Virginia;

(4) Furnish to each person released on probation under the officer's supervision a written statement of the probationer's conditions of probation together with a copy of the rules prescribed by the Supreme Court of Appeals of West Virginia;

(5) Stay informed concerning the conduct and condition of each probationer under the officer's supervision and report on the conduct and condition of each probationer in writing as often as the court requires;

(6) Use all practicable and suitable methods to aid and encourage the probationer to improve his or her conduct and condition;

(7) Perform random drug and alcohol testing on probationers under his or her supervision as directed by the circuit court;

(8) Maintain detailed work records; and

(9) Perform any other duties the court requires.

(b) The probation officer may, with or without an order or warrant, arrest any probationer as provided in section ten of this article, and arrest any person on supervised release when there is reasonable cause to believe that the person on supervised release has violated a condition of release. A person on supervised release who is arrested shall be brought before the court for a prompt and summary hearing.

(c) Notwithstanding any provision of this code to the contrary:

(1) Any probation officer appointed on or after July 1, 2002, may carry handguns in the course of the officer's official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency and Correction. The qualifications shall include the successful completion of handgun training, which is comparable to the handgun training provided to law-enforcement officers by the West Virginia State Police and includes a minimum of four hours' training in handgun safety.

(2) Probation officers may only carry handguns in the course of their official duties after meeting the specialized qualifications set forth in subdivision (1) of this subsection.

~~(3) Nothing in this subsection includes probation officers within the meaning of law-enforcement officers as defined in section one, article twenty-nine, chapter thirty of this code.~~

(d) The Supreme Court of Appeals of West Virginia may adopt a standardized risk and needs assessment with risk cut-off scores for use by probation officers, taking into consideration the assessment instrument adopted by the Division of Corrections under subsection (h), section thirteen of this article and the responsibility of the Division of Justice and Community Services to evaluate the use of the standardized risk and needs assessment. The results of any standardized risk and needs assessment are confidential.;

And,

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

Eng. Com. Sub. for House Bill 2770—A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code; to amend and reenact §62-12-5, of said code and to amend and reenact §62-12-6 of said code, all relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state adult probation officers, juvenile probation officers, and state parole officers are, by virtue of their duties, qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to applicable federal law; requiring annual firearm training pursuant to federal law; removing inconsistent language relating to probation officers; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing for training to enable home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers to fully qualify as law enforcement officers if they have not previously done so; and setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 2770) and requested the House of Delegates to recede therefrom.

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 Senate amendments to, and the passage as amended with its Senate amended title, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

Eng. House Bill 3304, Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program.

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

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

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, 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: Maroney—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. 3304) takes effect from passage.

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 that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. House Bill 3177, Removing expired, outdated, inoperative and antiquated provisions and report requirements in education.

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

On further motion of Senator Takubo, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

Engrossed House Bill 3177, 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3177) 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 amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

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

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

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

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

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 1. GENERAL PROVISIONS, DEFINITIONS.

§48-1-220. Decision-making responsibility defined.

“Decision-making responsibility” refers to authority for making significant life decisions on behalf of a child, including, but not limited to, the child’s education, spiritual guidance and health care; Provided, That with regard to healthcare, both parents in any shared parenting plan, regardless of the relative ratio of parenting time allocated between the parents, shall have the authority to make emergency or other non-elective healthcare decisions concerning their child necessary for the child’s health or welfare during such parent’s parenting time.

§48-1-239. Shared parenting defined.

(a) “Shared parenting” means either basic shared parenting or extended shared parenting.

(b) “Basic shared parenting” means an arrangement under which one parent keeps a child or children overnight for less than 35 percent of the year and under which both parents contribute to the expenses of the child or children in addition to the payment of child support.

(c) “Extended shared parenting” means an arrangement under which each parent keeps a child or children overnight for more than 35 percent of the year and under which both parents contribute to the expenses of the child or children in addition to the payment of child support.

(d) In any case where, in the absence of an agreement between the parents, a court orders shared parenting; the order shall be in writing and include specific findings of fact supporting the Court’s determination

§48-1-239a. Shared legal custody defined.

“Shared legal custody” means a continued mutual responsibility and involvement by both parents in major decisions regarding the child’s welfare including matters of education, medical care, and emotional, moral, and religious development consistent with the provisions of §48-9-207 of this code.

§48-1-239b. Sole legal custody defined.

“Sole legal custody” means that one parent has the right and responsibility to make major decisions regarding the child’s welfare including matters of education, non-emergency medical care, and emotional, moral, and religious development.

§48-1-241a. Shared physical custody defined.

“Shared physical custody” means a child has periods of residing with, and being under the supervision of, each parent consistent with the provisions of §48-9-206 of this code: *Provided*, That physical custody shall be shared by the parents in such a way as to assure a child has frequent and continuing contact with both parents. Such frequent and continuing contact with both parents is rebuttably presumed to be in the best interests of the child unless the evidence shows otherwise.

§48-1-241b. Sole physical custody defined.

“Sole physical custody” means a child resides with and is under the supervision of one parent, subject to reasonable visitation by the other parent, unless the court determines that the visitation would not be in the best interests of the child.

ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.**§48-9-102. Objectives; best interests of the child.**

- (a) The primary objective of this article is to serve the child’s best interests, by facilitating:
- (1) Stability of the child;
 - (2) Parental planning and agreement about the child’s custodial arrangements and upbringing;
 - (3) Continuity of existing parent-child attachments;
 - (4) Meaningful contact between a child and each parent;
 - (5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child’s needs, and who place a high priority on doing so;
 - (6) Security from exposure to physical or emotional harm; ~~and~~
 - (7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child’s care and control; and
 - (8) Meaningful contact between a child and his or her siblings, including half-siblings.
- (b) A secondary objective of article is to achieve fairness between the parents.

§48-9-105. Venue for custodial allocation actions independent of divorce.

(a) Venue for the initial determination of custodial allocation or child custody determination within a divorce action shall be governed by §48-5-106 or §48-20-101 *et seq.* of this code, or both.

(b) Venue for the initial determination of custodial allocation or child custody determination as between parties who reside in separate states shall be governed by §48-20-101 *et seq.* of this code.

(c) Venue for modification of custodial allocation or modification of child custody determination which was previously determined in a tribunal of a state other than West Virginia shall be governed by §48-20-101 et seq. of this code.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment; vacation of order.

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address and length of residence with the person or persons with whom the child has lived for the preceding twelve months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

(3) The parents' work and child-care schedules for the preceding twelve months;

(4) The parents' current work and child-care schedules; and

(5) Any of the circumstances set forth in ~~section 9-209~~ §48-9-209 of this code that are likely to pose a serious risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with ~~section two hundred seven of this article~~ §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; ~~and~~

(5) Restraining orders, if applicable; and

(6) Specific findings of fact upon which the court bases its determinations.

(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(d) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of

~~section 9-209~~ §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to ~~section 9-203~~ §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in ~~subsection 9-209(a)~~ §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

§48-9-206. Allocation of custodial responsibility.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent may be expected to achieve any of the following objectives:

(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;

(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(3) To keep siblings together when the court finds that doing so is necessary to their welfare;

(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between

each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;

(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;

(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(7) To apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section;

(8) To consider the stage of a child's development; ~~and~~

(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;

(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and

(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan.

(b) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties.

(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: Provided, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.

(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.

(e) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a hearing, which shall not be conducted exclusively by the presentation of evidence by proffer. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility.

(a) Unless otherwise resolved by agreement of the parents under ~~section 9-201~~ §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to two parents jointly, in accordance with the child's best interest, in light of:

(1) The allocation of custodial responsibility under ~~section 9-206 of this article~~ §48-9-206 of this code;

(2) The level of each parent's participation in past decision-making on behalf of the child;

(3) The wishes of the parents;

(4) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child;

(5) Prior agreements of the parties; and

(6) The existence of any limiting factors, as set forth in section 9-209 of this article.

(b) If each of the child's legal parents has been exercising a reasonable share of parenting functions for the child, the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption is overcome if there is a history of domestic abuse, neglect, or abandonment, or by a showing that joint allocation of decision-making responsibility is not in the child's best interest: Provided, That the court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise provided or agreed by the parents, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

PART 2 – PARENTING PLANS

§48-9-209. Parenting plan; limiting factors.

(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:

(1) Has abused, neglected or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in ~~articles eight b and eight d, chapter sixty one~~ §61-8B-1 et seq. and §61-8D-1 et seq. of this code;

(3) Has committed domestic violence, as defined in ~~section 27-202~~ §48-27-202 of this code;

(4) Has ~~interfered persistently with the other parent's access to the child, overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child,~~ except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of them;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with or proximity to the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the twenty-four hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court deems necessary to provide for the safety of the child, a child's parent or any person whose safety immediately affects the child's welfare.

(c) If a parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part three of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. Such reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5) of subsection (a), may move the court pursuant to subdivision (4), subsection (b), section one hundred and one, article five, chapter forty-nine of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

PART 3. FACT FINDING.

§48-9-301. Court-ordered investigation.

(a) In its discretion, the court may order a written investigation and report to assist it in determining any issue relevant to proceedings under this article: Provided, That the court must serve notice to all parties of the court's order. The investigation and report may be made by the guardian ad litem, the staff of the court, or other professional social service organization experienced in counseling children and families: Provided, That the court shall identify to all

parties the identity of the assigned investigator, and the investigator shall be a compulsory witness and subject to full examination and cross-examination by both parties. The court shall specify the scope and objective of the investigation or evaluation and the authority of the investigator.

(b) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements; Provided, That the person(s) consulted by the investigator shall be identified to the parties and shall be subject to complete discovery including but not limited to pre-hearing deposition. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (c) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(c) The investigator shall deliver the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing unless a shorter time is ordered by the court for good cause shown; Provided, That in no event shall the hearing take place until after the report has been provided to the parties and the completion of any discovery requested thereupon. The court may grant a continuance, upon motion by a party showing good cause that discovery cannot be adequately completed within 10 days. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, records or documents reviewed or relied upon by the investigator, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (b) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call as a hearing witness the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

(d) Services and tests ordered under this section shall be ordered only if at no cost to the individuals involved, or at a cost that is reasonable in light of the available financial resources.

PART 4. MODIFICATION OF PARENTING PLAN.

§48-9-403. Relocation of a parent.

~~(a) The relocation of a parent constitutes a substantial change in the circumstances under subsection 9-401(a) of the child only when it significantly impairs either parent's ability to exercise responsibilities that the parent has been exercising.~~

~~(b) Unless otherwise ordered by the court, a parent who has responsibility under a parenting plan who changes, or intends to change, residences for more than ninety days must give a minimum of sixty days' advance notice, or the most notice practicable under the circumstances, to any other parent with responsibility under the same parenting plan. Notice shall include:~~

- ~~(1) The relocation date;~~
- ~~(2) The address of the intended new residence;~~
- ~~(3) The specific reasons for the proposed relocation;~~

~~(4) A proposal for how custodial responsibility shall be modified, in light of the intended move; and~~

~~(5) Information for the other parent as to how he or she may respond to the proposed relocation or modification of custodial responsibility.~~

~~Failure to comply with the notice requirements of this section without good cause may be a factor in the determination of whether the relocation is in good faith under subsection (d) of this section and is a basis for an award of reasonable expenses and reasonable attorney's fees to another parent that are attributable to such failure.~~

~~The Supreme Court of Appeals shall make available through the offices of the circuit clerks and the secretary clerks of the family courts a form notice that complies with the provisions of this subsection. The Supreme Court of Appeals shall promulgate procedural rules that provide for an expedited hearing process to resolve issues arising from a relocation or proposed relocation.~~

~~(c) When changed circumstances are shown under subsection (a) of this section, the court shall, if practical, revise the parenting plan so as to both accommodate the relocation and maintain the same proportion of custodial responsibility being exercised by each of the parents. In making such revision, the court may consider the additional costs that a relocation imposes upon the respective parties for transportation and communication, and may equitably allocate such costs between the parties.~~

~~(d) When the relocation constituting changed circumstances under subsection (a) of this section renders it impractical to maintain the same proportion of custodial responsibility as that being exercised by each parent, the court shall modify the parenting plan in accordance with the child's best interests and in accordance with the following principles:~~

~~(1) A parent who has been exercising a significant majority of the custodial responsibility for the child should be allowed to relocate with the child so long as that parent shows that the relocation is in good faith for a legitimate purpose and to a location that is reasonable in light of the purpose. The percentage of custodial responsibility that constitutes a significant majority of custodial responsibility is seventy percent or more. A relocation is for a legitimate purpose if it is to be close to significant family or other support networks, for significant health reasons, to protect the safety of the child or another member of the child's household from significant risk of harm, to pursue a significant employment or educational opportunity or to be with one's spouse who is established, or who is pursuing a significant employment or educational opportunity, in another location. The relocating parent has the burden of proving of the legitimacy of any other purpose. A move with a legitimate purpose is reasonable unless its purpose is shown to be substantially achievable without moving or by moving to a location that is substantially less disruptive of the other parent's relationship to the child.~~

~~(2) If a relocation of the parent is in good faith for legitimate purpose and to a location that is reasonable in light of the purpose and if neither has been exercising a significant majority of custodial responsibility for the child, the court shall reallocate custodial responsibility based on the best interest of the child, taking into account all relevant factors including the effects of the relocation on the child.~~

~~(3) If a parent does not establish that the purpose for that parent's relocation is in good faith for a legitimate purpose into a location that is reasonable in light of the purpose, the court may modify the parenting plan in accordance with the child's best interests and the effects of the~~

relocation on the child. Among the modifications the court may consider is a reallocation of primary custodial responsibility, effective if and when the relocation occurs, but such a reallocation shall not be ordered if the relocating parent demonstrates that the child's best interests would be served by the relocation.

~~(4) The court shall attempt to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements for the exercise of custodial responsibility appropriate to the parents' resources and circumstances and the developmental level of the child.~~

~~(e) In determining the proportion of caretaking functions each parent previously performed for the child under the parenting plan before relocation, the court may not consider a division of functions arising from any arrangements made after a relocation but before a modification hearing on the issues related to relocation.~~

~~(f) In determining the effect of the relocation or proposed relocation on a child, any interviewing or questioning of the child shall be conducted in accordance with the provisions of rule 17 of the rules of practice and procedure for family law as promulgated by the Supreme Court of Appeals.~~

(a) The relocation of a parent constitutes a substantial change in the circumstances of the child under §48-9-401(a) of this code when it impairs either parent's ability to exercise responsibilities that the parent has been exercising, or when it impairs the schedule of custodial allocation that has been ordered by the court for a parent or any other person.

(b) A parent who has responsibility under a parenting plan who changes, or intends to change, residences must file a verified petition with the court for modification of the parenting plan, and cause a copy of the same to be served upon the other parent and upon all other persons who, pursuant to the court's order in effect at the time of the petition, have been allocated custodial time with the child. The petition shall be filed at least 90 days prior to any relocation, and the summons must be served at least 60 days in advance of any relocation, unless the relocating parent establishes that it was impracticable under the circumstances to provide such notice 90 days in advance. The verified petition shall include:

(1) The proposed relocation date;

(2) The address of the intended new residence;

(3) The specific reasons for the proposed relocation;

(4) A proposal for how custodial responsibility shall be modified, in light of the intended move;
and

(5) A request for a hearing.

Failure to comply with the requirements of this section may be a factor in the determination of whether the relocation is in good faith under subsection (d) of this section, and may also be a basis for reallocation of the primary residence and custodial responsibility for the child and for an award of reasonable expenses and reasonable attorney's fees to another parent or another person exercising custodial responsibility for the child pursuant to an order of the court that are attributable to such failure.

(c) A hearing on the petition shall be held by the court at least 30 days in advance of the proposed date of relocation. A parent proposing to relocate may move for an expedited hearing upon the petition in circumstances under which the parent needs an answer expeditiously. If the hearing is held fewer than 30 days in advance of the proposed date of relocation, the court's order shall include findings of fact as to why the hearing was not held at least 30 days prior to the petition's proposed date of relocation. After a hearing upon a petition filed under this section, the court shall, if practical, revise the parenting plan so as to both accommodate the relocation and maintain the same proportion of custodial responsibility being exercised by each of the parents and all such other persons exercising custodial responsibility for the child pursuant to the order of the court. In making such revision, the court may consider the additional costs that a relocation imposes upon the respective parties for transportation and communication, and may equitably allocate such costs between the parties and may consider §48-13-702 of this code authorizing the court to disregard the child support formula relating to long distance visitation costs.

(d) (1) At the hearing held pursuant to this section, the relocating parent has the burden of proving that: (A) The reasons for the proposed relocation are legitimate and made in good faith; (B) that allowing relocation of the relocating parent with the child is in the best interests of the child as defined in §48-9-102 of this code; and (C) that there is no reasonable alternative, other than the proposed relocation, available to the relocating parent that would be in the child's best interests and less disruptive to the child.

(2) A relocation is for a legitimate purpose if it is to be close to immediate family members, for substantial health reasons, to protect the safety of the child or another member of the child's household from significant risk of harm, to pursue a significant employment or educational opportunity, or to be with one's spouse or significant other with whom the relocating parent has cohabitated for at least a year, who is established, or who is pursuing a significant employment or educational opportunity, in another location.

(3) The relocating parent has the burden of proving the proposed relocation is for one of these legitimate purposes. The relocating parent has the burden of proving the legitimacy of any other purpose. A move with a legitimate purpose is unreasonable unless the relocating parent proves that the purpose is not substantially achievable without moving, and that moving to a location that is substantially less disruptive of the other parent's relationship to the child is not feasible.

(4) When the relocation is for a legitimate purpose, in good faith, and renders it impractical to maintain the same proportion of custodial responsibility as that being exercised by each parent and all other persons exercising custodial responsibility for the child pursuant to an order of the court, the court shall modify the parenting plan in accordance with the child's best interests.

(5) If the relocating parent does not establish that the purpose for that parent's relocation is made in good faith for a legitimate purpose to a location that is reasonable in light of the purpose, the court may modify the parenting plan in accordance with the child's best interests and the effects of the relocation on the child. Among the modifications the court may consider is a reallocation of primary custodial responsibility, to become effective if and when the parent's relocation occurs.

(6) The court shall attempt to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements for the exercise of custodial responsibility appropriate to the parents' resources and circumstances and the developmental level of the child.

(e) If the parties file with the court a modified parenting plan signed by all the parties the court may enter an order modifying custodial responsibility in accordance with the parenting plan if the court determines that the parenting plan is in the best interest of the child to do so.

(f) Except in extraordinary circumstance articulated in the court's order, a relocation may not be considered until an initial permanent parenting plan is established.

(g) In determining the effect of the relocation or proposed relocation on a child, any interviewing or questioning of the child shall be conducted in accordance with the provisions of Rule 17 of the Rules of Practice and Procedure for Family Court as promulgated by the Supreme Court of Appeals.

PART 6. MISCELLANEOUS PROVISIONS.

§48-9-601. Access to a child's records.

(a)(1) Each parent has full and equal access to a child's educational records absent a court order to the contrary. Neither parent may veto the access requested by the other parent. Educational records are academic, attendance and disciplinary records of public and private schools in all grades pre-kindergarten through 12 and any form of alternative school. Educational records are any and all school records concerning the child that would otherwise be properly released to the primary custodial parent, including, but not limited to, report cards and progress reports, attendance records, disciplinary reports, results of the child's performance on standardized tests and statewide tests and information on the performance of the school that the child attends on standardized statewide tests; curriculum materials of the class or classes in which the child is enrolled; names of the appropriate school personnel to contact if problems arise with the child; information concerning the academic performance standards, proficiencies, or skills the child is expected to accomplish; school rules, attendance policies, dress codes and procedures for visiting the school; and information about any psychological testing the school does involving the child.

(2) In addition to the right to receive school records, the nonresidential parent has the right to participate as a member of a parent advisory committee or any other organization comprised of parents of children at the school that the child attends.

(3) The nonresidential parent or noncustodial parent has the right to question anything in the child's record that the parent feels is inaccurate or misleading or is an invasion of privacy and to receive a response from the school.

(4) Each parent has a right to arrange appointments for parent-teacher conferences absent a court order to the contrary. Neither parent can be compelled against their will to exercise this right by attending conferences jointly with the other parent.

(b)(1) Each parent has full and equal access to a child's medical records and vital records absent a court order to the contrary. Neither parent may veto the access requested by the other parent. If necessary, either parent is required to authorize medical providers to release to the other parent copies of any and all information concerning medical care provided to the child which would otherwise be properly released to either parent.

(2) If the child is in the actual physical custody of one parent, that parent is required to promptly inform the other parent of any illness of the child which requires medical attention.

(3) Each parent is required to consult with the other parent prior to any elective surgery being performed on the child, and in the event emergency medical procedures are undertaken for the child which require the parental consent of either parent, if time permits, the other parent shall be consulted, or if time does not permit such consultation, the other parent shall be promptly informed of the emergency medical procedures: *Provided*, That nothing contained herein alters or amends the law of this state as it otherwise pertains to physicians or health care facilities obtaining parental consent prior to providing medical care or performing medical procedures.

(c)(1) Each parent has full and equal access to a child's juvenile court records, process and pleadings, absent a court order to the contrary. Neither parent may veto any access requested by the other parent. Juvenile court records are limited to those records which are normally available to a parent of a child who is a subject of the juvenile justice system.

(2) Each parent has the right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of the investigating law-enforcement officer or agency, if known. There is no duty to notify if the party to be notified is the alleged perpetrator.

§48-9-603. Effect of enactment; operative dates.

(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.

(b) The provisions of ~~section 9-202~~ §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.

(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter made during the 2021 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.;

And,

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

Eng. Com. Sub. for House Bill 2363—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto five new sections, designated §48-1-239a, §48-1-239b, §48-1-241a, §48-1-241b, and §48-9-105; to amend and reenact §48-1-220, §48-1-239, §48-9-102, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-209, §48-9-301, §48-9-403, §48-9-601, §48-9-603 of said code, all relating to domestic relations and child custody allocation; providing definitions;

amending definitions; clarifying the authority of parents to make emergency and non-elective healthcare decisions; requiring the court to consider parenting functions in determining best interests of the child; adding meaningful contact between a child and his or her siblings, including half-siblings, as an objective of the best interests of the child; providing for venue of custody actions outside of divorce proceedings; requiring the court to consider parenting functions in temporary parenting plans and allocation of custody; adding a preference time allocated to the parent resulting in the child being under the care of that parent is preferred to the parent resulting in time allocated to the parent resulting in the child being under the care of a third party as an objective in allocation determinations; adding an objective for reasonable access to the child by telephone or other electronic contact as an objective in allocation determinations; requiring that, in the absence of agreement of the parents, a final allocation determination must be made pursuant to hearing which cannot be conducted exclusively by presentation of evidence by proffer; adding neglect and abandonment as criteria that may overcome presumption that joint decision-making responsibility is in the best interests of the child; clarifying criteria of interference with the other parent's relationship with the child; providing notice requirements during a court-ordered investigation; requires that a hearing cannot take place until after the investigation report is provided to the parties and completion of any requested discovery; allowing for continuance of a hearing following an investigation; providing a mechanism for the adjudication of requests for relocation of a parent with a child; providing circumstances for which relocation of a parent constitutes a substantial change in the circumstances of the child; requiring the relocating parent to file a verified petition for the court for modification of the parenting plan; identifying consequences of failure to comply with the requirements of this section; requiring a copy of the petition to be served on the other parent and all other persons allocated custodial time with the child; establishing requirements for the petition for modification of the parenting plan; requiring a hearing to be held on the petition at least 30 days in advance of the proposed date of relocation; providing for an expedited hearing; authorizing the court to revise the parenting plan; authorizing the court to allocate costs between the parties; establishing the burden of proof for the relocating parent; defines when a relocation is for a legitimate purpose; establishing a move with a legitimate purpose is unreasonable unless the relocating parent proves that the purpose is not substantially achievable without moving and that moving to a location that is substantially less disruptive of the other parent's relationship to the child is not feasible; requiring the court to consider the best interests of the child when modifying the parenting plan; requiring the court to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements; setting forth the opportunity for parties to file a modified parenting plan signed by all parties; conditionally requiring an initial permanent parenting plan to be established before a relocation is considered; requiring interviewing or questioning of the child to be conducted in accordance with Rule 17 of the Rules of Practice and Procedure for Family Court; providing for parental access to a child's vital records; requiring notice to the other party if the child is a victim of a crime unless the other party is the perpetrator; providing an effective date; and providing that existing orders remain in effect unless modified by a court of competent jurisdiction.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 2363) and requested the House of Delegates to recede therefrom.

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 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 702, Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes.

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 four, section two-a, line fourteen, after the words “at an outpatient facility,” by inserting the words “at a Division of Corrections and Rehabilitation Facility by a qualified forensic evaluator”.

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

Engrossed Committee Substitute for Senate Bill 702, 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, 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: Maroney—1.

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. 702) passed with its title.

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

The Senate again proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2933, Anti-Discrimination Against Israel Act.

On third reading, coming up out of regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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, further consideration of the bill and the pending unreported Government Organization committee amendment was deferred until the conclusion of bills on today’s third reading calendar.

Eng. House Bill 3128, Relating to carrier fees on 911 fee revenues.

On third reading, coming up out of regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, April 9, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the bill was withdrawn.

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:

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-6b. Wireless enhanced 911 fee; public safety wireless fee; wireless tower fee.

(a) All CMRS providers as defined in §24-6-2 of this code shall, on a monthly basis or otherwise for good cause and as directed by order of the Public Service Commission, collect from each of their in-state two-way service subscribers a wireless enhanced 911 fee, a public safety fee, and a wireless tower fee. As used in this section "in-state two-way service subscriber" has the same meaning as that set forth in the rules of the Public Service Commission. The CMRS providers shall, on a monthly basis, after retaining a billing fee of three percent of the sum of the wireless enhanced 911 fee, ~~the public safety fee, and the wireless tower fee~~, send moneys collected from the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee to the Public Service Commission.

(b) The wireless enhanced 911 fee is \$3.47 per month for each valid in-state two-way service subscriber, as that term is defined by Public Service Commission rules. Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that it increases or decreases by the same percentage as the change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: *Provided*, That the wireless enhanced 911 fee may never be increased by more than 25 percent of its value at the beginning of the respecification year: *Provided, however*, That the fee may never be less than the amount set in subsection (b) of this section.

(c) The Public Service Commission shall, on a quarterly and approximately evenly staggered basis, disburse net wireless enhanced 911 fee revenue in the following manner:

(1) Each county that does not have a 911 ordinance in effect as of the original effective date of this section in the year 1997, or has enacted a 911 ordinance within the five years prior to the original effective date of this section in the year 1997, shall receive eight and one-half tenths of one percent of the net fee revenues received by the Public Service Commission: *Provided*, That after the effective date of this section, in the year 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive one percent of the net fee revenues received by the Public Service Commission for itself and for each county merged into the consolidated county. Each county shall receive eight and one-half tenths of one percent of the remainder of the net wireless enhanced 911 fee revenues received by the Public Service Commission: *Provided, however*, That after the effective date of this section, in the year 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive one percent of the net fee revenues received by the Public

Service Commission for itself and for each county merged into the consolidated county. Then, from any moneys remaining, each county shall receive a pro rata portion of that remainder based on that county's population as determined in the most recent decennial census as a percentage of the state total population. The Public Service Commission shall recalculate the county disbursement percentages on a yearly basis, with the changes effective on July 1, and using data as of the preceding March 1. The public utilities which normally provide local exchange telecommunications service by means of lines, wires, cables, optical fibers, or by other means extended to subscriber premises shall supply the data to the Public Service Commission on a county specific basis no later than June 1 of each year;

(2) Counties which have an enhanced 911 ordinance in effect shall receive their share of the net wireless enhanced 911 fee revenue for use in the same manner as the enhanced 911 fee revenues received by those counties pursuant to their enhanced 911 ordinances;

(3) The Public Service Commission shall deposit the net wireless enhanced 911 fee revenue for each county which does not have an enhanced 911 ordinance in effect into an escrow account which it has established for that county. Any county with an escrow account may, immediately upon adopting an enhanced 911 ordinance, receive the moneys which have accumulated in the escrow account for use as specified in subdivision (2) of this subsection: *Provided*, That a county that adopts a 911 ordinance after the original effective date of this section in the year 1997, or has adopted a 911 ordinance within five years of the original effective date of this section in the year 1997, shall continue to receive one percent of the total net 911 fee revenue for a period of five years following the adoption of the ordinance. Thereafter, each county shall receive that county's eight and one-half tenths of one percent of the remaining net fee revenue, plus that county's additional pro rata portion of the net fee revenues then remaining, based on that county's population as determined in the most recent decennial census as a percentage of the state total population: *Provided, however*, That every five years from the year 1997, all fee revenue residing in escrow accounts shall be disbursed on the pro rata basis specified in subdivision (1) of this subsection, except that data for counties without enhanced 911 ordinances in effect shall be omitted from the calculation and all escrow accounts shall begin again with a zero balance. From any funds distributed to a county pursuant to this section, a total of three percent shall be set aside in a special fund to be used exclusively for the purchase of equipment that will provide information regarding the x and y coordinates of persons who call an emergency telephone system through a commercial mobile radio service: *Provided further*, That upon purchase of the necessary equipment, the special fund shall be dissolved and any surplus shall be used for general operation of the emergency telephone system as may otherwise be provided by law.

(d) Beginning July 1, 2020, CMRS providers shall collect the public safety fee from each in-state two-way service subscriber. The public safety fee shall be 29 cents per month and will be shown as ~~a separate fee on the subscriber's bill~~ two separate fees on the subscriber's bill, \$0.10 for the West Virginia State Police and \$0.19 for the Division of Emergency Management. On a monthly basis, the Public Service Commission will distribute 10 cents of the public safety fee to the West Virginia State Police to be used for equipment upgrades for improving and integrating their communication efforts with those of the enhanced 911 systems, and the Public Service Commission will deposit 19 cents of the public safety fee in a special fund established by the Division of Homeland Security and Emergency Management to be used solely for the construction, maintenance, and upgrades of the West Virginia Interoperable Radio Project and any other costs associated with establishing and maintaining the infrastructure of the system. Any funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated for the following year.

(e) Beginning July 1, 2020, CMRS providers shall collect the wireless tower fee from each in-state two-way service subscriber. The wireless tower fee shall be 8 cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the commission shall distribute the wireless tower fee to a fund administered by the Public Service Commission, entitled the Wireless Tower Access Assistance Fund, to subsidize the construction of wireless towers. The moneys shall be expended in accordance with an enhanced 911 wireless tower access matching grant order adopted by the Public Service Commission. The commission order shall contain terms and conditions designed to provide financial assistance loans or grants to state agencies, political subdivisions of the state, and wireless telephone carriers for the acquisition, equipping, and construction of new wireless towers, which would not be available otherwise due to marginal financial viability of the applicable tower coverage area: *Provided*, That the grants shall be allocated among potential sites based on application from county commissions demonstrating the need for enhanced 911 wireless coverage in specific areas of this state. Any tower constructed with assistance from the fund created by this subsection shall be available for use by emergency services, fire departments, and law-enforcement agencies' communications equipment, so long as that use does not interfere with the carriers' wireless signal.

(f) CMRS providers have the same rights and responsibilities as other telephone service suppliers in dealing with the failure by an in-state two-way service subscriber to timely pay the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

(g) Notwithstanding the provisions of §24-6-1a of this code, for the purposes of this section, the term "county" means one of the counties provided in §1-1-1 of this code.

(h) Notwithstanding anything to the contrary in this code, prepaid wireless calling service is not subject to the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

(i) The Public Service Commission shall promulgate rules in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this section. The Public Service Commission may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

§24-6-12. Dispatching of towing services for emergency towing of vehicles; districts; policy; exceptions; prohibitions.

(a) Every three years, the county commission of each county or the municipality operating an emergency telephone system or an enhanced emergency telephone system shall, in consultation with all public safety units, public agencies, and all ~~available~~ towing services registered as common carriers within the county or municipality pursuant to the provisions of chapter 24A of this code: ~~establish a policy that provides for the most prompt, fair, equitable and effective response to requests or dispatches for emergency towing services~~

(1) Establish individual districts or zones that cover and include all emergency telephone systems and enhanced emergency telephone systems within the county or municipality whereby all towing services authorized by the Public Service Commission to conduct business located within the newly created districts or zones may be dispatched when the need arises; and/or

(2) Establish a policy requiring eligible towing services within the area currently being served by an emergency services organization be dispatched on a rotating basis, where required.

(3) Each individual district or zone shall compile two dispatch lists:

(A) A list of towing services within the district that are only able to service light-duty vehicles that weigh 26,000 pounds or less; and

(B) A list of towing services within the district that are capable of servicing vehicles that weigh 26,001 pounds or more.

(4) Towing services will be placed in individual districts or zones based on the addresses on file with the Public Service Commission.

(b) An owner or operator of a vehicle to be towed shall have an opportunity to select the towing service of their choice if:

(1) The towing service company is authorized through the Public Service Commission to conduct business; and

(2) The request will not delay the clearing of vehicles from the roadways that are involved in a traffic crash or hinder a law-enforcement investigation in any manner.

(c) "Emergency services organization" means the organization established under §15-5-1 et seq. of this code.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 3128), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 3128 pass?"

On this question, the yeas were: Azinger, Boley, Clements, Karnes, Maynard, Nelson, Phillips, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Woodrum, and Blair (Mr. President)—15.

The nays were: Baldwin, Beach, Caputo, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Martin, Plymale, Roberts, Romano, Stollings, Stover, Trump, Unger, Weld, and Woelfel—18.

Absent: Maroney—1.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. H. B. 3128) rejected.

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

Eng. Com. Sub. for House Bill 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool.

On third reading, coming up out of 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, 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: Maroney—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. 2370) 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 2370—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-9b, relating to exempting sewer charges for privately-owned swimming pools; requiring the owner of the swimming pool to provide the dimensions of a pool that is being filled with water; requiring the public service district to calculate the volume of the pool and allow the swimming pool's owner to use that amount of water for filling the pool without being charged for the corresponding sewer charges; and allowing the public service district to inspect the swimming pool in order to verify the dimensions.

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, 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: Maroney—1.

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. 2370) takes effect from passage.

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 2195, Relating to motor vehicle crash reports.

On third reading, coming up out of 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, 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: Maroney—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. 2195) 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 2195—A Bill to amend and reenact §17C-4-7 of the Code of West Virginia, 1931, as amended, relating to motor vehicle crash reports; requiring the investigating law-enforcement officer, within 24 hours of a motor vehicle crash, to provide the owner, operator, and insurance information for all the involved parties with each of the other involved parties and to each party's respective insurance agents; and, information shall be provided without cost.

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 out of 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, 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: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2915) passed with its title.

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

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, 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: Maroney—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. 2915) takes effect July 1, 2021.

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

Following a point of inquiry to the President, with resultant response thereto,

The Senate resumed consideration of its third reading calendar.

Eng. Com. Sub. for House Bill 2982, Relating to the Second Chances at Life Act of 2021.

On third reading, coming up out regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, April 9, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Trump, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

ARTICLE 2I. WOMEN'S RIGHT TO KNOW ACT.

§16-2I-1. Definitions.

For the purposes of this article, the words or phrases defined in this section have these meanings ascribed to them.

~~(a) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead embryo or fetus.~~

means the same as that term is defined in §16-2F-2 of this code.

~~(b) "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in West Virginia in violation of this article.~~ means the same as that term is defined in §16-2M-2 of this code.

"Chemical abortion" means the use or prescription of an abortion-inducing drug dispensed with the intent to cause an abortion.

"Licensed medical professional" means the same as that term is defined in §16-2P-1 of this code.

~~(c) "Medical emergency" means any condition which, on the basis of a physician's good faith clinical judgment in the reasonable medical judgment of the patient's physician, so complicates the medical condition of a pregnant female as to necessitate the immediate termination of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the female will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.~~

~~(d) "Physician" means any medical or osteopathic doctor licensed to practice medicine in this state.~~ means the same as that term is defined in §16-2M-2 of this code.

(e) “Probable gestational age of the embryo or fetus” means what, in the judgment of the physician, will with reasonable probability be the gestational age of the embryo or fetus at the time the abortion is planned to be performed.

“Reasonable medical judgement” means the same as that term is defined in §16-2M-2 of this code.

(f) “Stable Internet website” means a website that, to the extent reasonably practicable, is safeguarded from having its content altered ~~either~~ by another other than by the Department of Health and Human Resources.

§16-2I-2. Informed consent.

~~No~~ An abortion may not be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if, and only if:

(a) The female is told the following, by telephone or in person, by the physician or the licensed ~~health care~~ medical professional to whom the responsibility has been delegated by the physician who is to perform the abortion at least 24 hours before the abortion:

(1) The particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;

(2) The probable gestational age of the embryo or fetus at the time the abortion is to be performed; ~~and~~

(3) The medical risks associated with carrying her child to term; and

(4) If a chemical abortion involving the two-drug process of mifepristone is initiated and then a prostaglandin such as misoprostol is planned to be used at a later time, the female shall be informed that:

(A) Some suggest that it may be possible to counteract the intended effects of a mifepristone chemical abortion by taking progesterone if the female changes her mind, before taking the second drug, but this process has not been approved by the Food and Drug Administration.

(B) After the first drug involved in the two-drug process is dispensed in a mifepristone chemical abortion, the physician or agent of the physician shall provide written medical discharge instructions to the pregnant female which shall include the statement:

“If you change your mind and decide to try to counteract the intended effects of a mifepristone chemical abortion, if the second pill has not been taken, please consult with your physician.

(i) You might experience a complete abortion without ever taking misoprostol;

(ii) You might experience a missed abortion, which means the fetus is no longer viable, but the fetus did not leave your body; or

(iii) It is possible that your pregnancy may continue; and

(iv) You should consult with your physician.”

(C) The female shall certify, as part of the informed consent process for any medical procedure, that she has been informed about the above possibilities regarding a chemical abortion.

(D) Notwithstanding any law to the contrary, a physician acting in conformity with the informed consent provisions of this section relating to the possibility of counteracting the intended effects of a chemical abortion, or a physician prescribing a non-Food and Drug Administration approved drug therapy to counteract a chemical abortion is not liable for any loss, damage, physical injury, or death arising from any information provided by the physician related to counteracting the intended effects of a chemical abortion or arising from prescribing a non-Food and Drug Administration approved drug therapy to counteract a chemical abortion.

The information required by this subsection may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied by the female to the physician or other licensed health care professional to whom the responsibility has been delegated by the physician and whatever other relevant information is reasonably available to the physician or other licensed health care professional to whom the responsibility has been delegated by the physician. It may not be provided by a tape recording, but must be provided during a consultation in which the physician or licensed health care professional to whom the responsibility has been delegated by the physician is able to ask questions of the female and the female is able to ask questions of the physician or the licensed health care professional to whom the responsibility has been delegated by the physician.

If a physical examination, tests or the availability of other information to the physician or other licensed health care professional to whom the responsibility has been delegated by the physician subsequently indicate, in the medical judgment of the physician or the licensed health care professional to whom the responsibility has been delegated by the physician, a revision of the information previously supplied to the patient, that revised information may be communicated to the patient at any time before the performance of the abortion procedure.

Nothing in this section may be construed to preclude provision of required information in a language understood by the patient through a translator.

(b) The female is informed, by telephone or in person, by the physician who is to perform the abortion, or by an agent of the physician, at least 24 hours before the abortion procedure:

(1) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care through governmental or private entities;

(2) That the father, if his identity can be determined, is liable to assist in the support of her child based upon his ability to pay even in instances in which the father has offered to pay for the abortion;

(3) That she has the right to review the printed materials described in §16-2I-3 of this code, that these materials are available on a state-sponsored website and the website address; and

(4) That the female will be presented with a form which she will be required to execute prior to the abortion procedure that is available pursuant to §16-2I-3 of this code, and that the form to

be presented will inform her of the opportunity to view the ultrasound image and her right to view or decline to view the ultrasound image, if an ultrasound is performed.

The physician or an agent of the physician shall orally inform the female that the materials have been provided by the State of West Virginia and that they describe the embryo or fetus and list agencies and entities which offer alternatives to abortion.

If the female chooses to view the materials other than on the website, then they shall either be provided to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by first class mail in an unmarked envelope.

The information required by this subsection may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to have the printed materials given or mailed to her.

(c) The form required pursuant to subdivision (b)(4) of this section shall include the following information:

(1) It is a female's decision whether or not to undergo any ultrasound imaging procedure in consultation with her health care provider;

(2) If an ultrasound is performed in conjunction with the performance of an abortion procedure, the female has the right to view or to decline to view the image; and

(3) That the ~~woman~~ female has been previously informed of her opportunity to view the ultrasound image and her right to view or decline to view the ultrasound image. The ~~woman~~ female shall certify her choice on this form prior to the abortion procedure being performed.

The female shall certify in writing, before the abortion, that the information described in subsections (a) and (b) of this section has been provided to her and that she has been informed of her opportunity to review the information referred to in subdivision (b)(3) of this section.

Before performing the abortion procedure, the physician who is to perform the abortion or the physician's agent shall obtain a copy of the executed certification required by the provisions of subsections (b) and (c) of this section.

§16-2I-3. Printed information.

(a) Within 90 days of the effective date of this article, the Secretary of the Department of Health and Human Resources shall cause to be published, in English and in each language which is the primary language of ~~2%~~ two percent or more of the state's population, as determined by the most recent decennial census performed by the U.S. census bureau, and shall cause to be available on the website provided for in ~~section four of this article~~ §16-2I-4 of this code the following printed materials in such a way as to ensure that the information is easily comprehensible:

(1) Geographically indexed materials designed to inform the reader of public and private agencies and services available to assist a female through pregnancy, upon childbirth and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer and a description of the manner, including telephone numbers. At the option of the Secretary of Health and Human Resources, a

24-hour-a-day telephone number may be established with the number being published in such a way as to maximize public awareness of its existence which may be called to obtain a list and description of agencies in the locality of the caller and of the services they offer; and

(2) Materials designed to inform the female of the probable anatomical and physiological characteristics of the embryo or fetus at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the embryo or fetus's survival and pictures or drawings representing the development of an embryo or fetus at two-week gestational increments: *Provided*, That any such pictures or drawings must contain the dimensions of the embryo or fetus and must be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the embryo or fetus at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a child to term; and

(3) Materials designed to inform the female of the range of possibilities regarding the effects and risks of a mifepristone chemical abortion or an attempt to counteract it and information on and assistance with the resources that may be available.

(b) The materials referred to in subsection (a) of this section shall be printed in a typeface large enough to be clearly legible. The website provided for in section four of this article shall be maintained at a minimum resolution of seventy dots per inch. All pictures appearing on the website shall be a minimum of 200 x 300 pixels. All letters on the website shall be a minimum of 11-point font. All information and pictures shall be accessible with an industry standard browser requiring no additional plug-ins.

(c) The materials required under this section shall be available at no cost from the Department of Health and Human Resources upon request and in appropriate numbers to any person, facility, or hospital.

Following discussion,

Senator Woelfel moved the previous question, which motion prevailed.

Without objection, Senator Woelfel withdrew his motion for the previous question.

Senator Weld then moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2982), as just amended, was then read a third time and put upon its passage.

Pending discussion,

(Senator Tarr in the Chair.)

Pending discussion,

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

The question being “Shall Engrossed Committee Substitute for House Bill 2982 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Beach, Caputo, Ihlenfeld, Lindsay, Romano, and Stollings—6.

Absent: Maroney—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. 2982) 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 2982—A Bill to amend and reenact §16-21-1, §16-21-2, and §16-21-3 of the Code of West Virginia, 1931, as amended, all relating to the informed consent; requiring that information about the process of chemical abortion be provided to a woman when a chemical abortion process is initiated and second drug is contemplated to be used at a later time; defining terms; specifying that the female be informed of the range of possibilities regarding the effects of a mifepristone chemical abortion; specifying that the female shall certify, as part of informed consent, that she has been informed about the possibilities regarding a chemical abortion; providing for liability protection for a physician acting in conformity with the informed consent provisions of this section; providing liability protection to a physician prescribing a non-Food and Drug Administration approved drug therapy to counteract a chemical abortion; and dictating minimum standards for printed materials.

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

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the consideration of

Eng. Com. Sub. for House Joint Resolution 3, Property Tax Modernization Amendment.

On third reading, coming up out of regular order, with the unreported committee amendments pending, and with the right having been granted on Thursday, April 8, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the resolution was withdrawn.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the resolution was withdrawn.

There being no further amendments offered,

Having been engrossed, the resolution (Eng. Com. Sub. for H. J. R. 3) was then read a third time and put upon its adoption.

On the adoption of the resolution, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Caputo, Ihlenfeld, Romano, Stollings, and Stover—5.

Absent: None.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the resolution was withdrawn.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the resolution was withdrawn.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. Com. Sub. for H. J. R. 3) adopted with its title, as follows:

Eng. Com. Sub. for House Joint Resolution 3—Proposing an amendment to the Constitution of the State of West Virginia amending section one, article X thereof, relating to authorizing the Legislature to exempt tangible machinery and equipment personal property directly used in business activity and tangible inventory personal property directly used in business activity from ad valorem property taxation by general law; providing that the question of ratification or rejection of the amendment be submitted to the voters of the state at the next general election to be held in the year 2022; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in 2022, which proposed amendment is that Section 1 article X thereof be amended to read as follows:

ARTICLE X.

§1. Taxation and finance.

Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including

livestock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants, one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other property situated within municipalities, two dollars; and the Legislature shall further provide by general law for increasing the maximum rates, authorized to be fixed, by the different levying bodies upon all classes of property, by submitting the question to the voters of the taxing units affected, but no increase shall be effective unless at least sixty percent of the qualified voters shall favor such increase, and such increase shall not continue for a longer period than three years at any one time, and shall never exceed by more than fifty percent the maximum rate herein provided and prescribed by law; and the revenue derived from this source shall be apportioned by the Legislature among the levying units of the state in proportion to the levy laid in said units upon real and other personal property; but property used for educational, literary, scientific, religious or charitable purposes, all cemeteries, public property, tangible machinery and equipment personal property directly used in business activity, tangible inventory personal property directly used in business activity, personal property tax on motor vehicles, the personal property, including livestock, employed exclusively in agriculture as above defined and the products of agriculture as so defined while owned by the producers may by law be exempted from taxation; household goods to the value of two hundred dollars shall be exempted from taxation. The Legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the amount thereof and to exempt from taxation incomes below a minimum to be fixed from time to time, and such revenues as may be derived from such tax may be appropriated as the Legislature may provide. After the year nineteen hundred thirty-three, the rate of the state tax upon property shall not exceed one cent upon the hundred dollars valuation, except to pay the principal and interest of bonded indebtedness of the state now existing.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Property Tax Modernization Amendment" and the purpose of the proposed amendment is summarized as follows: "To amend the State Constitution by providing the Legislature with authority to exempt tangible machinery and equipment personal property directly used in business activity and tangible inventory personal property directly used in business activity and personal property tax on motor vehicles from ad valorem property taxation by general law."

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

On motion of Senator Takubo, at 9:24 p.m., the Senate recessed until 9:45 p.m. tonight.

The Senate reconvened at 10:04 p.m. and resumed consideration of its third reading calendar.

Eng. House Bill 3107, Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders.

On third reading, coming up out of regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 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 Health and Human Resources was reported by the Clerk:

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

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-1f. Certain psychiatric injuries and diseases not compensable; definitions; legislative findings; terms; report required.

~~For~~ (a) Except as provided by this section, for the purposes of this chapter, no alleged injury or disease ~~shall~~ may be recognized as a compensable injury or disease which was solely caused by nonphysical means and which did not result in any physical injury or disease to the person claiming benefits. ~~It~~ Except as otherwise provided in this section, it is the purpose of this section to clarify that so-called mental-mental claims are not compensable under this chapter.

(b) For the purposes of this section:

(1) "First responder" means a law enforcement officer, firefighter, emergency medical technician, paramedic, and emergency dispatcher;

(2) "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder specified by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, or a later edition as adopted by rule of the insurance commissioner; and

(3) "Licensed mental health provider" means a psychiatrist, psychologist, licensed professional counselor, licensed marriage and family therapist, or licensed social worker who is qualified to treat post-traumatic stress disorder.

(4) "Employer" means any entity that controls, consistent with the provisions of West Virginia law relating to an employment relationship, the paid or volunteer employment of a first responder eligible for benefits under this section.

(c) The Legislature finds that post-traumatic stress disorder is a unique medical condition. Although it may manifest itself as a psychiatric condition that would be otherwise precluded from workers' compensation coverage, post-traumatic stress disorder is an occupational hazard for first responders, similar to members of the military serving in combat. The Legislature further finds that because first responders are required to expose themselves to traumatic events during the course of their employment and thus are at a recognized higher risk of developing post-traumatic stress disorder, and because of the severe nature and debilitating effects of post-traumatic stress disorder, it is the moral obligation of the state to permit coverage to this class of individuals for their work-related disease.

(d)(1) Post-traumatic stress disorder suffered by a first responder may be recognized as a compensable occupational disease under §23-4-1(f) of this code when:

(A) The Employer has elected to provide coverage for post-traumatic stress disorder as an occupational disease; and

(B) A diagnosis has been made by a licensed psychiatrist that the first responder suffered from post-traumatic stress disorder due to exposure to an event or events that occurred in the course of and resulting from the first responder's paid or volunteer covered employment: Provided, That the provisions of this section shall apply only to a post-traumatic stress disorder diagnosis made on or after July 1, 2021, or the first day of the employer's next workers' compensation insurance policy or self-insurance program term for which post-traumatic stress disorder coverage has been purchased or elected, whichever is later.

(2) While the diagnosis must be made by a licensed psychiatrist, mental health treatment consistent for a post-traumatic stress disorder diagnosis may be offered by a licensed mental health provider other than the diagnosing psychiatrist.

(3) A diagnosis of post-traumatic stress disorder under this section shall not include consideration of any layoff, termination, disciplinary action, or any similar personnel-related action taken in good faith by an employer.

(4) Benefits for a post-traumatic stress disorder diagnosis made under this section are contingent upon the employer electing to provide coverage for post-traumatic stress disorder from its workers' compensation insurance carrier or to provide for it through its self-insurance program, whichever is applicable.

(5) The receipt of benefits is contingent on a claim being made within three years from and after a licensed psychiatrist has made the claimant aware of a post-traumatic stress disorder diagnosis in accordance with this section.

(e) Any employer that elects to offer coverage to first responders for post-traumatic stress disorder under this section shall report post-traumatic stress disorder claims data to the Offices of the Insurance Commissioner directly or via the employer's private workers' compensation insurance carrier, whichever is applicable, beginning July 1, 2021, or from the first day of the employer's next workers' compensation insurance policy or self-insurance program term, which provides such elective coverage, whichever is later.

(f) The Offices of the Insurance Commissioner shall report annually on claims data related to post-traumatic stress disorder claims for first responders to the Joint Committee on Volunteer Fire Department and Emergency Medical Services beginning January 1, 2022.

On motion of Senator Maroney, the following amendment to the Health and Human Resources committee amendment to the bill (Eng. H. B. 3107) was reported by the Clerk and adopted:

On page two, section one-f, after subsection (f), by inserting a new subsection, designated subsection (g), to read as follows:

(g) The amendments made to this section during the 2021 regular session of the Legislature to recognize post-traumatic stress disorder as a compensable injury subject to the provisions of this section shall expire on July 1, 2026, unless extended by the Legislature.

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. H. B. 3107), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3107 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. 3107) passed.

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

Eng. House Bill 3107—A Bill to amend and reenact §23-4-1f of the Code of West Virginia, 1931, as amended, relating to workers’ compensation benefits; defining terms; recognizing post-traumatic disorder as an occupational disease when specified circumstances are satisfied; noting that treatment can be conducted by other licensed mental health professionals once the initial diagnosis has been made by a psychiatrist; providing a diagnosis of post-traumatic stress disorder shall not include consideration of any layoff, termination, disciplinary action, or any similar personnel-related action taken in good faith; providing receipt of benefits is contingent on a claim being made within three years from and after a licensed psychiatrist has made the claimant aware of a post-traumatic stress disorder diagnosis; requiring reporting; and providing for a sunset date for the amendments made to this section.

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. 3107) takes effect from passage.

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 2667, To create a cost saving program for state buildings regarding energy efficiency.

On third reading, coming up out of 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. 2667) 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 2688, Allow county political parties to have building funds in a similar manner that state parties are allowed.

On third reading, coming up out of 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. 2688) 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 2688—A Bill to amend and reenact §3-8-2c of the Code of West Virginia, 1931, as amended, relating to party headquarters committees; defining terms; authorizing a county executive committee of a political party to establish a party headquarters committee for a certain exclusive purpose relating to county executive committee headquarters; and imposing \$1 million cap on receipt of contributions or making expenditures for a certain purpose relating to county executive committee headquarters.

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 3072, Sunset the Board of Forestry.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

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

On third reading, coming up out of regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on 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 referred to the Committee on Rules.

At the further request of Senator Takubo, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

At the request of Senator Stollings, unanimous consent being granted, Senators Stollings, Takubo, Phillips, Plymale, Woelfel, and Roberts offered the following resolution from the floor:

Senate Concurrent Resolution 81—Urging the Governor of West Virginia to form task force to develop a plan which will identify and facilitate new and diverse economic opportunities such as the extraction of rare earth elements and other value-added products in areas that were formerly very dependent on the coal industry, identify and facilitate the redevelopment and revitalization of former coal mining areas.

Whereas, Since employing 63,000 workers in 1978, employment in West Virginia's coal industry has declined. In 2018, only 12,000 workers were employed at West Virginia coal mines; and

Whereas, Some regions have been devastated by the down turn of the coal industry. This has resulted in a lower tax base, and reduction in basic services and out migration of the population; and

Whereas, Coordinated leadership within West Virginia's state government is essential to align and deliver assistance to these impacted communities and workers; and

Whereas, A strong and comprehensive policy is also needed to invest new financial resources in communities affected by the decline of the coal economy that are seeking to diversify and grow their local and regional economies in a manner that is both sustainable and equitable; and

Whereas, West Virginia will thrive when all of its regions, counties, and communities offer diverse employment opportunities with family-supporting wages and benefits; therefore, be it

Resolved by the Legislature of West Virginia:

That the Senate hereby urges the Governor of West Virginia to form task force to develop a plan which will identify and facilitate new and diverse economic opportunities such as the extraction of rare earth elements and other value-added products in areas that were formerly very dependent on the coal industry, identify and facilitate the redevelopment and revitalization of former coal mining areas; and, be it

Further Resolved, That the Governor of West Virginia consider the following persons for selection on this task force: The Commissioner of the Division of Labor, the Director of the Office

of Economic Development, the Director of the Department of Commerce, members of the Senate and House of Delegates who represent impacted communities, representatives of the labor unions, representatives with experience in professional economic development or workforce retraining, representatives of the coal industry, and representatives of the utility industry; and, be it

Further Resolved, That the task force shall identify and consider the short-term and long-term costs and benefits of each plan component and whether each component can be implemented under existing law or whether new legislation needs to be considered; and, be it

Further Resolved, That the task force shall, as a component of the plan, identify and compile a list of available local, state, federal, and other sources of funding available and recommend the best method to coordinate these resources to support impacted communities and workers; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Governor of West Virginia and the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

At the request of Senator Stollings, 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, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, 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, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Sypolt—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 81) adopted.

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Stollings, Swope, and Phillips regarding the adoption of Senate Concurrent Resolution 81 were ordered printed in the Appendix to the Journal.

Without objection, the Senate returned 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 amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, to take effect May 10, 2021, and requested the

concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

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.

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

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

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3ss. County option election on forbidding nonintoxicating beer, wine, or alcoholic liquors to be sold, given, or dispensed after ~~40:00~~ 6:00 a.m. on Sundays.

~~Beginning July 1, 2019, the~~ The county commission of any county may conduct a county option election on the question of whether the sale or dispensing of nonintoxicating beer, wine, or alcoholic liquors in or on a licensed premises shall be allowed in the county beginning 1:00 p.m. on any Sunday, as provided in §11-16-18, ~~of this code, §60-7-12, of this code, and §60-8-34 of this code,~~ upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of ~~§60-59-3~~ §59-3-1 et seq. of this code, and the publication area for publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the 14 consecutive days next preceding the election. On the local option election ballot shall be printed the following: "Shall the beginning hour at which nonintoxicating beer, wine, and alcoholic liquor be sold or dispensed for licensed on-premises ~~only~~ in _____ County on Sundays be changed from ~~40:00~~ 6:00 a.m. to 1:00 p.m."

If approved by the voters this would forbid private clubs and restaurants licensed to sell and dispense nonintoxicating beer, wine, and alcoholic liquor; licensed private wine restaurants, private wine spas, and private wine bed and breakfasts to sell and dispense wine; and licensed Class A retail dealers to sell and dispense nonintoxicating beer for on-premises consumption until 1:00 p.m.

Yes No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, in the event a majority of the votes are marked "Yes", all applicable licensees shall be forbidden to sell and dispense beer, wine, or alcoholic liquors until 1:00 p.m. on Sundays. In

the event a majority of the votes are marked "No", all applicable licensees will continue to be required to comply with existing law.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program. The annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is \$200 per third party entity, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code, and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) Sale Requirements. -

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) "Prepared food or a meal" shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee may not have a pecuniary interest in a Class A retail dealer, as set forth in this article, therefore a third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third party delivery licensee to the person purchasing may not be greater than five dollars per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.

(e) Delivery Requirements. -

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third party delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class A retail dealer or third party delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;

(3) The Class A retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit;

(4) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county or contiguous counties where the Class A retail dealer is located;

(5) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class A retail dealer or third party delivery licensee shall pay and account for all sales and municipal taxes;

(6) A Class A retail dealer or third party delivery licensee may not deliver prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

(7) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not for resale; and

(8) A Class A retail dealer or third party delivery licensee shall not deliver and leave prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) Telephone, mobile ordering application, or web-based software requirements. -

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification and, as applicable, a stored scanned image of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information;

(4) All records are subject to inspection by the commissioner. A Class A retail dealer or third party delivery licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be issued a retail transportation permit per §11-16-6d(g) of this code.

(g) Retail Transportation Permit. -

(1) A Class A retail dealer or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class A retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the Class A retail dealer or third party delivery licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) Enforcement. -

(1) A Class A retail dealer or third party delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class A retail dealers or licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class A retail dealer or third party delivery licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-6e. License required for sale and shipment of nonintoxicating beer or nonintoxicating craft beer by a brewer or resident brewer; shipment of limited quantities of nonintoxicating beer or nonintoxicating craft beer; requirements; license fee; and penalties.

(a) Authorization. - Notwithstanding the provisions of this article or any other law to the contrary, any person that is currently licensed and in good standing in its domicile state as a brewer, resident brewer, other nonintoxicating beer or nonintoxicating craft beer manufacturer, and who also obtains a nonintoxicating beer or nonintoxicating craft beer direct shipper's license from the commissioner, as provided in this article, may sell and ship nonintoxicating beer or nonintoxicating craft beer brewed by the brewer, resident brewer, other nonintoxicating beer or nonintoxicating craft beer manufacturer by mail to a purchasing person who is 21 years of age or older, for personal use, and not for resale. A nonintoxicating beer or nonintoxicating craft beer direct shipper may ship nonintoxicating beer or nonintoxicating craft beer by mail to a purchasing person who is 21 years of age or older who purchases nonintoxicating beer or nonintoxicating craft beer, subject to the requirements of this article, in and throughout West Virginia. A nonintoxicating beer or nonintoxicating craft beer direct shipper may sell and ship nonintoxicating beer or nonintoxicating craft beer out of this state by mail to a purchasing person who is 21 years of age or older subject to the recipient state's or country's requirements, laws, and international laws.

(b) License requirements. - Before sending any shipment of nonintoxicating beer or nonintoxicating craft beer to a purchasing person who is 21 years of age or older, the nonintoxicating beer or nonintoxicating craft beer direct shipper must first:

(1) File a license application with the commissioner with the appropriate background check information, using forms required by the commissioner. Criminal background checks will not be required of applicants licensed in their state of domicile who can provide a certificate of good standing from their state of domicile;

(2) Pay to the commissioner the \$250 non-prorated and nonrefundable annual license fee to ship and sell only nonintoxicating beer or nonintoxicating craft beer;

(3) Obtain a business registration number from the Tax Commissioner;

(4) Register with the office of the Secretary of State;

(5) Provide the commissioner a true copy of its current active license issued in the state of domicile, proving that the nonintoxicating beer or nonintoxicating craft beer direct shipper is licensed in its state of domicile as a brewer, resident brewer, or other nonintoxicating beer or nonintoxicating craft beer manufacturer;

(6) Obtain from the commissioner a nonintoxicating beer or nonintoxicating craft beer direct shipper's license;

(7) Submit to the commissioner a list of all brands and labels of nonintoxicating beer or nonintoxicating craft beer to be shipped to West Virginia and attest that all nonintoxicating beer or nonintoxicating craft beer brands and labels are manufactured by the brewer, resident brewer or other nonintoxicating beer or nonintoxicating craft beer manufacturer seeking licensure and are not counterfeit or adulterated nonintoxicating beer or nonintoxicating craft beer;

(8) Attest that the brewer, resident, brewer or other nonintoxicating beer or nonintoxicating craft beer manufacturer brews less than 25,000 barrels of beer per calendar year and provide documentary evidence along with the attestation.

(9) Meet all other licensing requirements of this chapter and provide any other information that the commissioner may reasonably require.

(c) Shipping Requirements. - All nonintoxicating beer or nonintoxicating craft beer direct shipper licensees shall:

(1) Not ship more than a maximum of two, 24 bottle or can, cases of nonintoxicating beer or nonintoxicating craft beer based on a 12-fluid ounce bottle or can, however no combination of bottles or cans may exceed a total for the two cases of 576 fluid ounces of nonintoxicating beer residing in West Virginia, for such person's personal use and consumption, and not for resale.

(2) Not ship to any licensed brewers, resident brewers, retailers, retail liquor outlets, any type of private club, private caterers, private wine restaurants, private wine spas, private wine bed and breakfasts, wine retailers, wine specialty shops, taverns, or other licensees licensed under this article or chapter 60 of this code;

(3) Ensure that all containers of nonintoxicating beer or nonintoxicating craft beer shipped directly to a purchasing person who is 21 years of age or older are clearly and conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY";

(4) Not ship nonintoxicating beer or nonintoxicating craft beer that has not been registered with the commissioner, register and pay any registration fees, and prove by documentation that the direct shipper has the rights from the manufacturer to ship the nonintoxicating beer or nonintoxicating craft beer;

(6) Not ship or deliver to:

(A) Any person under the age of 21;

(B) To an intoxicated person; or

(C) To a person physically incapacitated due to the consumption of nonintoxicating beer or nonintoxicating craft beer, wine, or liquor, or the use of drugs;

(7) Obtain a written or electronic signature upon delivery to a person who the nonintoxicating beer or nonintoxicating craft beer direct shipper's carrier verifies in-person is at least 21 years of age or older, and if the carrier is not able to verify the age of the person and obtain that person's

signature, then the carrier may not complete the delivery of the nonintoxicating beer or nonintoxicating craft beer shipment;

(8) Utilize a licensed and bonded shipping carrier who has obtained a transportation permit as specified in §60-6-12 of the code;

(9) First deliver any nonintoxicating beer or nonintoxicating craft beer shipment being shipped in and throughout West Virginia to the nonintoxicating beer or nonintoxicating craft beer brand's nearest appointed distributor who has the nonintoxicating beer or nonintoxicating craft beer brand's franchise territory located in the purchasing person's county of residence in West Virginia: *Provided*, That, if no distributor has been appointed for the nonintoxicating beer or nonintoxicating craft beer brand, then the brewer of the brand shall appoint a franchise distributor in the franchise territory where the purchasing person of the nonintoxicating beer or nonintoxicating craft beer resides;

(10) Have the appointed distributor complete any nonintoxicating beer or nonintoxicating craft beer shipment order with an in-person pickup, at the location of appointed distributor's distributorship, to the purchasing person subject to age and identity verification by the appointed distributor; *Provided*, That, the appointed distributor is not a retailer, and therefore cannot charge an additional fee for the in-person pickup for the nonintoxicating beer or nonintoxicating craft beer shipment as this would be considered a part of the service provided under the appointed distributor's franchise agreement.

(d) *Payment of Fees and Taxes.*

(1) Any nonintoxicating beer or nonintoxicating craft beer direct shipper licensee must meet the markup requirements for retail sales set forth in §47-11A-6 of the code.

(2) Further, the nonintoxicating beer or nonintoxicating craft beer direct shipper licensee shall collect and remit all beer barrel tax, state sales tax, and local sales tax on the sale of nonintoxicating beer or nonintoxicating craft beer to the Tax Commissioner at the close of each month and file a monthly return, on a form provided by the Tax Commissioner, reflecting the taxes paid for all sales and shipments to persons residing in West Virginia. No nonintoxicating beer or nonintoxicating craft beer direct shipper shall pay any beer barrel or sales tax more than once.

(3) File monthly returns to the commissioner showing the total of nonintoxicating beer or nonintoxicating craft beer, by type, brand, sold, and shipped into West Virginia for the preceding month;

(4) Permit the Tax Commissioner or commissioner or their designees to perform an audit of the nonintoxicating beer or nonintoxicating craft beer direct shipper's records upon request;

(5) The payment of fees to the commissioner and taxes to the Tax Commissioner may be in addition to fees and taxes levied by the nonintoxicating beer or nonintoxicating craft beer direct shipper's domicile state.

(6) No nonintoxicating beer or nonintoxicating craft beer direct shipper will be required to pay any fees to the commissioner or taxes to the Tax Commissioner more than once.

(e) *Jurisdiction.* - By obtaining a nonintoxicating beer or nonintoxicating craft beer direct shipper licensee the licensee shall be considered to have agreed and consented to the jurisdiction

of the commissioner, which is Charleston, West Virginia and the Kanawha County circuit court, concerning enforcement of this chapter and any other related laws or rules.

(f) *Records and reports.* –

(1) Licensed nonintoxicating beer or nonintoxicating craft beer direct shippers must maintain accurate records of all shipments sent to West Virginia.

(2) Provide proof or records to the commissioner, upon request, that all direct shipments of liquor were purchased and delivered to a purchasing person who is 21 years of age or older.

(g) The nonintoxicating beer or nonintoxicating craft beer direct shipper may annually renew its license with the commissioner by application, paying the nonintoxicating beer or nonintoxicating craft beer direct shipper license fee and providing the commissioner with a true copy of a current brewer, resident brewer, or other nonintoxicating beer or nonintoxicating craft beer manufacturer's license from the nonintoxicating beer or nonintoxicating craft beer direct shipper's domicile state.

(h) The commissioner may promulgate rules to effectuate the purposes of this law.

(i) *Penalties.* –

(1) The commissioner may enforce the requirements of this chapter by administrative proceedings as set forth in §11-16-23 and §11-16-24 of this code to suspend or revoke a nonintoxicating beer or nonintoxicating craft beer direct shipper's license, and the commissioner may accept payment of a penalties as set forth in §11-16-23 and §11-16-24 of this code or an offer in compromise in lieu of suspension, at the commissioner's discretion. Hearings and appeals on such notices may be had in the same manner as in the case of revocations of licenses set forth in §11-16-23 and §11-16-24a of this code.

(2) If any licensee violates the provisions of this article, the commissioner may determine to suspend the privileges of the brewer, resident brewer, or other nonintoxicating beer or nonintoxicating craft beer manufacturer to sell, ship, or deliver nonintoxicating beer or nonintoxicating craft beer to a purchasing person who is 21 years of age or older or to the commissioner, or otherwise engage in the liquor business in this state for a period of one year from the date a notice is mailed to such person by the commissioner of the fact that such person has violated the provisions of this article. During such one-year period, it shall be unlawful for any person within this state to knowingly buy or receive nonintoxicating beer or nonintoxicating craft beer from such licensee or to have any dealings with such licensee with respect thereto.

(k) *Criminal Penalties.* – A shipment of nonintoxicating beer or nonintoxicating craft beer directly to citizens in West Virginia from persons who do not possess a valid nonintoxicating beer or nonintoxicating craft beer direct shipper's license is prohibited. Any person who knowingly makes, participates in, transports, imports, or receives such an unlicensed and unauthorized direct shipment of nonintoxicating beer or nonintoxicating craft beer is guilty of a felony and, shall, upon conviction thereof, be fined in an amount not to exceed \$10,000 per violation. Without limitation on any punishment or remedy, criminal or civil, any person who knowingly makes, participates in, transports, imports, or receives such a direct shipment constitutes an act that is an unfair trade practice.

§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class B retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a telephone, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through a telephone order, a mobile ordering application, or web-based software program. The nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is \$200 per third party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) Sale Requirements. -

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and nonintoxicating beer or nonintoxicating craft beer by the licensee or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed nonintoxicating beer or nonintoxicating craft beer bottles, cans, or growlers shall not be in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third party delivery licensee to the purchasing person may not be greater than five dollars per delivery order. For any third party licensee also licensed for wine delivery as set forth in §60-8-6f of this code the total convenience fee for any order, sale, and delivery of sealed wine may not exceed five dollars.

(e) Delivery Requirements. -

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. A Class B retail dealer and a third party licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class B retail dealer and a third party licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and submit the certification of the training to the commissioner;

(3) The Class B retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of the licensure;

(4) A Class B retail dealer and a third party licensee may deliver food and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail dealer is located;

(5) A Class B retail dealer and a third party licensee may only deliver food and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class B retail dealer and a third party licensee shall pay and account for all sales and municipal taxes;

(6) A Class B retail dealer and a third party licensee may not deliver food and nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

(7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are only for personal use, and not for resale; and

(8) A Class B retail dealer and a third party licensee shall not deliver and leave food and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) Telephone, mobile ordering application, or web-based software requirements. -

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the food and nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age verification upon delivery with the delivery person's visual review and age verification and, as applicable, requires a stored scanned image of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used must create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information;

(4) All records are subject to inspection by the commissioner. A Class B retail dealer and a third party licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and (5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

(g) Retail Transportation Permit. -

(1) A Class B retail dealer and a third party licensee shall obtain and maintain a retail transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class B retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, required by the commissioner. Upon any change in vehicles or drivers, Class B retail dealer and a third party licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) Enforcement. -

(1) The Class B retail dealer and a third party licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class B retail dealers or third party licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class B retail dealer or third party licensee, their employees, or independent contractors.

(3) It is a violation for any Class B retail dealer or third party licensee, their employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

(a) All retail dealers, distributors, brewpubs, brewers, and resident brewers of nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active license as required by this article. The license period begins on July 1 of each year and ends on June 30 of the following year. If the license is granted for a shorter period, then the license fee shall be computed semiannually in proportion to the remainder of the fiscal year: *Provided*, That if a

licensee fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, ~~after initial application~~, then an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or refunded, prior to the processing of any renewal application and applicable full year annual license fee; and furthermore a licensee who continues to operate ~~upon~~ after the expiration of its license is subject to all fines, penalties, and sanctions available in §11-16-23 of this code, all as determined by the commissioner.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes: Class A and Class B.

(A) For a Class A retail dealer, the license fee is \$150 for each place of business; the license fee for social, fraternal, or private clubs not operating for profit, and ~~having which have~~ been in continuous operation for two years or more immediately preceding the date of application, is \$150: *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of \$10 for each dining, club, or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club, or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licenses authorize the licensee to licensees may sell nonintoxicating beer or nonintoxicating craft beer at retail, as licensed, for consumption on the licensed premises or off the licensed premises. Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer for consumption off the licensed premises when it is in a sealed original container and sold for personal use, and not for resale. Class A licensees shall provide prepared food or meals along with sealed nonintoxicating beer or nonintoxicating craft beer in the original container or in a sealed growler as set forth for sales and service in §11-16-6d of this code, to a purchasing person who is in-person or in-vehicle picking up prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly or noticeably intoxicated, and as otherwise specified in this article.

(B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans, or other sealed containers only, and only for consumption off the licensed premises. A Class B retailer may sell to a ~~patron~~ purchasing person, for personal use, and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption.

The Commissioner may only issue a A Class B license may be issued only to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises. Caterers or party supply stores are required to shall purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(C) A Class A retail dealer may contract, purchase, or develop a mobile ordering application or web-based software program to permit the ordering and purchase of nonintoxicating beer or nonintoxicating craft beer, as authorized by the licensee's license. The nonintoxicating beer or

nonintoxicating craft beer shall be in a sealed original container or a sealed growler and meet the requirements of §11-16-6d of this code.

(2) For a distributor, the license fee is \$1,000 for each place of business.

(3) For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$500 for each place of manufacture;

(B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture;

(C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,500 for each place of manufacture.

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections (c), (d), and (e) of this section: *Provided*, That a brewer whose principal place of business or manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be subject to the variable license fees of subdivision (3), subsection (b) of this section and the requirements set out in subsections (c), (d), and (e) of this section subject to investigation and approval by the commissioner as to brewer requirements.

(5) For a brewpub, the license fee is \$500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of nonintoxicating beer or nonintoxicating craft beer barrels and gallons it ~~will~~ may produce during the year based upon the production capacity of the brewer's or resident brewer's manufacturing facilities and the prior year's production and sales volume of nonintoxicating beer or nonintoxicating craft beer.

(d) On or before July 15 of each year, every brewer, or resident brewer who is granted a license shall file a final report, on a form provided by the commissioner, that is dated as of June 30 of ~~each~~ that year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in barrels and gallons produced at its principal place of business and manufacture during the prior year.

(e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with the application or renewal application for a brewer's or resident brewer's license for that period, then the brewer or resident brewer shall include a remittance for the balance of the license fee pursuant to this section that would be required for the final, higher level of production.

(f) Any brewer or resident brewer failing to file the reports required in subsections (c) and (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

(g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a nonintoxicating beer floor plan extension is ~~\$50~~ \$100, and the fee may not be prorated or refunded, ~~and must be accompanied with a license~~ A licensee shall submit an application, certification that the event meets certain requirements in the this code and rules, and such any other information as required by the commissioner may reasonably require, at least 15 days prior to the event, all as determined by the commissioner.

(h) Notwithstanding subsections (a) and (b) of this section, a Class A retail dealer, in good standing with the commissioner, may apply, on a form provided by the commissioner, to sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer for on-premises consumption in an outdoor dining area or outdoor street dining area, as authorized by any municipal government or county commission in the which the licensee operates. The Class A retail dealer shall submit to the municipal government or county commission, for approval, a revised floorplan and a request to sell and serve nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved outdoor area. For private outdoor street dining, or private outdoor dining, the approved and bounded outdoor area need not be adjacent to the licensee's licensed premises, but in close proximity and under the licensee's control with right of ingress and egress. For purposes of this section, "close proximity" means an available area within 150 feet of the Class A retail dealer's licensed premises. A Class A retail dealer may operate a nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining in conjunction with a temporary private outdoor dining or temporary private outdoor street dining area set forth in §60-7-8d of this code and temporary private wine outdoor dining or temporary private wine outdoor street dining set forth in §60-8-32a of this code.

(i) For purposes of this article, "nonintoxicating beer or nonintoxicating craft beer outdoor dining and nonintoxicating beer or nonintoxicating craft beer outdoor street dining" includes dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any area where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

§11-16-11c. Unlicensed brewer or unlicensed home brewer temporary license; fees; requirements.

(a) An unlicensed brewer or home brewer may obtain a temporary special license, upon meeting the requirements set forth in this section, to offer its nonintoxicating beer or nonintoxicating craft beer for sampling and sales at a fair and festival licensed under §11-16-11 and §11-16-11b of this code, when granted approval by the fair and festival licensee. The unlicensed brewer or home brewer is exempt from the requirements of registering the brand and using a distributor and a franchise agreement due to the limited nature of this temporary license.

(b) An unlicensed brewer or home brewer is subject to the limits, taxes, fees, requirements, restrictions, and penalties set forth in this article: *Provided*, That the commissioner may, by rule or order, provide for certain waivers or exceptions with respect to the provisions, laws, rules, or

orders as required by the circumstances of each festival or fair. The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing, notwithstanding the provisions §11-16-23 and §11-16-24 of this code: *Provided, however,* That under no circumstances shall the provisions of §11-16-8(a)(1), §11-16-8(a)(2), and §11-16-8(a)(3) of this code, be waived nor shall any exception be granted with respect to those provisions.

(c) A brewer or home brewer, regardless of its designation in its domicile state, that is duly licensed and in good standing in its domicile state, but unlicensed in this state, or an unlicensed brewer or home brewer that is a resident of West Virginia, shall pay a \$150 nonrefundable and non-prorated fee and submit an application for a temporary license on a one-day basis. The temporary special license allows the unlicensed brewer or home brewer to sell nonintoxicating beer or nonintoxicating craft beer to a licensed fair or festival for the sampling and sale of the nonintoxicating beer or nonintoxicating craft beer for on-premises consumption at the licensed fair or festival. The brewer or home brewer shall pay all taxes due and the appropriate markup on the nonintoxicating beer or nonintoxicating craft beer.

(2) The unlicensed brewer or home brewer temporary license application shall include, but is not limited to, the person or entity's name, address, taxpayer identification number, and location; if the unlicensed brewer or home brewer is from out of state, a copy of its licensure in its domicile state; a signed and notarized verification that it produces 25,000 barrels or less of nonintoxicating beer or nonintoxicating craft beer per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal certificate of label approvals and a certified lab alcohol analysis for the nonintoxicating beer or nonintoxicating craft beer it plans to sell to a fair or festival licensed under §11-16-11 and §11-16-11b of this code; and any other information required by the commissioner.

(3) The applicant shall include in its application a list of all nonintoxicating beers or nonintoxicating craft beers it proposes to provide, in sealed containers, to a licensed fair or festival for sampling or sale so that the commissioner may review them in the interest of public health and safety. Once approved, the submitted nonintoxicating beer or nonintoxicating craft beer list creates a temporary nonintoxicating beer or nonintoxicating craft beer brand registration for up to two days at any event licensed under §11-16-11 and §11-16-11b of this code, for no additional fee.

(4) An applicant that receives this temporary license for any event licensed under §11-16-11 and §11-16-11b of this code shall provide a signed and notarized agreement acknowledging that it is the applicant's duty to pay all municipal, local, and sales taxes applicable to the sale of nonintoxicating beer or nonintoxicating craft beer in West Virginia.

(5) The unlicensed brewer or home brewer shall submit an application for each temporary special license sought for an event licensed under §11-16-11 and §11-16-11b of this code, at which the applicant proposes to provide nonintoxicating beer or nonintoxicating craft beer for sampling or sale. The license fee covers up to two separate one-day licenses for the event before an additional fee is required. Any applicant desiring to attend more than four events per year or otherwise operate in West Virginia shall seek appropriate licensure as a brewery or resident brewery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, brand registration, franchise requirements, payment of beer barrel tax, and the appointment of a distributor franchise network, this temporary special license for an event licensed under §11-16-11 and §11-16-11b of this code, once granted, permits the licensee to operate in this limited

capacity only at the approved specific, events licensed under §11-16-11 and §11-16-11b of this code, subject to the limitations noted in this section.

(7) The applicant shall also apply for and receive a nonintoxicating beer or nonintoxicating craft beer transportation permit in order to legally transport nonintoxicating beer or nonintoxicating craft beer in the state as required by §11-16-10(f) of this code: *Provided*, That the commissioner may not charge or collect an additional fee for a nonintoxicating beer or nonintoxicating craft beer transportation permit to an applicant seeking a temporary special license under this section.

(8) The licensee is subject to all applicable violations and/or penalties under this article and related legislative rules that are not otherwise excepted by this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions of this code, rules, or orders required by the circumstances of each festival or fair. The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions of §11-16-23 and §11-16-24 of this code: *Provided, however*, That under no circumstances shall the provisions of §11-16-8(a)(1), §11-16-8(a)(2), and §11-16-8(a)(3) of this code, be waived nor shall any exception be granted with respect to those provisions.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It is unlawful:

(1) Except as provided for in §7-1-3ss and this chapter of this code, for any licensee, his, her, its, or their servants, agents, or employees to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected thereto, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 6:00 a.m., or between the hours of 2:00 a.m. and 10:00 a.m., or a Class A retail dealer to sell nonintoxicating beer for on-premises consumption only between the hours of 2:00 a.m. and 4:00 p.m. 6:00 a.m.; in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday, except in private clubs licensed under the provisions of §60-7-1 et seq. of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than 21 years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section prohibits a licensee from crediting to a purchasing person the actual price charged for packages or containers returned by the original purchasing person as a credit on any sale, or from refunding to any purchasing person the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be

borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to \$25.00 per stock keeping unit, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas: *Provided, however*, That, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sale of draught line services may be negotiated at no less than ~~direct~~ actual cost: *Provided further*, That a distributor may furnish, rent, or sell equipment, fixtures, signs, services, or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail under the conditions and within the limitations as prescribed ~~herein~~ in this section. Nothing contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events.

(6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless the event is specifically authorized by the commissioner;

(7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance with rules promulgated by the commissioner, and where written records of all cleanings are not maintained and available for inspection;

(8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;

(9) For any licensee, except the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code or a holder of a license or a private wine restaurant issued under the provisions of §60-8-1 *et seq.* of this code to possess a federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided*, That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of §60-7-1 *et seq.* of this code, or the premises of a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code;

(11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: *Provided*, That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code, nor shall the prohibition be applicable to a private wine restaurant licensed under the

provisions of §60-8-1 *et seq.* of this code insofar as the private wine restaurant is authorized to serve wine;

(12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

(13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: *Provided*, That a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

(14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

(16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

(17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than 18 years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of 18 years is in or upon the premises in the immediate company of ~~his or her parent or parents~~ a parent or legal guardian, or where and while a person under the age of 18 years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises;

(19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: *Provided*, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

(20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter 29A of this code.

(b) Any person who violates any provision of this article, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than 30 days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer or nonintoxicating craft beer is sold, furnished, or given away by the use of the transaction device ~~may not be~~ is not subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer or nonintoxicating craft beer to an individual who is less than 21 years of age by one of his or her employees, servants, or agents. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away; (B) that it has communicated this policy to each employee, servant, or agent; and (C) that it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) "Transaction scan" means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and "transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(d) Nothing in this article nor any rule of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in the licensee's lawful employ, including the sale or ~~delivery~~ distribution of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than 18 years of age, but at least 16 years of age: *Provided*, That the

person's duties may ~~not~~ include the sale or ~~delivery~~ of nonintoxicating beer or alcoholic liquors only when directly supervised by a person 21 years of age or older: *Provided, however,* That the authorization to employ persons under the age of 18 years shall be clearly indicated on the licensee's license.

CHAPTER 19. AGRICULTURE.

ARTICLE 2. MARKETING AGRICULTURAL PRODUCTS.

§19-2-12. Agriculture Development Fund; administration; purpose; funding.

(a) There is hereby created in the State Treasury a special revenue account to be known as the Agriculture Development Fund. The fund shall be administered by the Department of Agriculture. The fund shall consist of all moneys deposited into the fund pursuant to §60-8A-3 of this code; any moneys that may be designated for deposit in this fund by an act of the Legislature; any moneys appropriated and designated for the fund by the Legislature; any moneys able to be transferred into the fund by authority of the commissioner from other funds; and gifts, donations, and interest or other returns earned from investment of the fund.

(b) Expenditures from the fund shall be for the purpose of fostering and supporting the development of agricultural sectors, such as hard cider, within the state, and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund, but shall remain in the fund and be expended as provided by this section.

§19-2-13. Hard cider development program; purpose; funding.

The commissioner shall establish a program to foster the development and growth of the hard cider industry in the state. The purpose of the program shall be to assist in the development of fruit inputs necessary for the production of hard cider in the state. The program shall be funded using moneys deposited within the Agriculture Development Fund created pursuant to §19-2-12 of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5a. Farm wineries defined.

(a) For the purpose of this chapter "Farm winery" means an establishment where in any year 50,000 gallons or less of wine, which includes hard cider, and nonfortified dessert wine are manufactured exclusively by natural fermentation from grapes, apples, pears, peaches, other fruits or honey, or other agricultural products containing sugar and where port, sherry, and Madeira wine may also be manufactured, with 25 percent of such raw products being produced by the owner of ~~such~~ the farm winery on the premises of that establishment and no more than 25 percent of such produce originating from any source outside this state. Any port, sherry, or Madeira wine manufactured by a winery or a farm winery ~~must~~ shall not exceed an alcoholic content of 22 percent alcohol by volume and shall be matured in wooden barrels or casks.

(b) Notwithstanding the provisions of subsection (a) of this section, a farm winery may include one off-farm location. The owner of a farm winery may provide to the commissioner evidence, accompanied by written findings by the West Virginia Agriculture Commissioner in support thereof, that the owner has planted on the premises of the farm winery young nonbearing fruit plants. The commissioner may grant permission for one off-farm location when the location produces in an amount equal to that reasonably expected to be produced when the nonbearing fruit plants planted on the farm winery come into full production. The length of time of the permission to use an off-farm location shall be determined by the commissioner after consultation with the Agriculture Commissioner.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-3b. Private liquor delivery license for a retail liquor outlet or a third party; requirements; limitations; third party license fee; private liquor bottle delivery permit; requirements, and curbside in-person and in-vehicle delivery by a retail liquor outlet.

(a) A retail liquor outlet that is licensed to sell liquor for off-premises consumption may apply for a private liquor delivery license permitting the order, sale, and delivery of sealed liquor bottles or cans in the original container. The order, sale, and delivery of sealed liquor bottles or cans in the original container is permitted for off-premises consumption when completed by the licensee to a person purchasing the sealed liquor bottles or cans through a telephone, a mobile ordering application, or a web-based software program, authorized by the licensee's license. There is no additional fee for a licensed retail liquor outlet to obtain a private liquor delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private liquor delivery license for the privilege of ordering and delivery of sealed liquor bottles or cans, from a licensed retail liquor outlet. The order and delivery of sealed liquor bottles or cans permitted for off-premises consumption by a third party licensee when a retail liquor outlet sells to a person purchasing the sealed liquor bottles or cans through telephone orders, a mobile ordering application, or a web-based software program. The private liquor delivery license non-prorated, nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private liquor delivery license application shall comply with licensure requirements in this article and shall provide any information required by the commissioner.

(d) Sale Requirements. -

(1) The purchase of sealed liquor bottles or cans in the original container may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed liquor bottles or cans in the original container by the licensee or third party licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and in §11-16-1 *et seq.* of the code, for nonintoxicating beer or nonintoxicating craft beer.

(3) "Food", for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of up to five 750 milliliter sealed liquor bottles for each order; *Provided*, That the entire delivery order may not contain any combination of sealed liquor bottles or cans in the original container, where the combination is more than 128 fluid ounces of liquor total; and

(5) A third party delivery licensee shall not have a pecuniary interest in a retail liquor outlet, as set forth in this article. A third party private liquor delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private liquor delivery licensee may not collect a percentage of the liquor delivery order, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third-party private liquor delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where a sealed liquor bottle or can in the original container is ordered by the purchasing person. For any third party licensee also licensed for other nonintoxicating beer or nonintoxicating craft beer delivery pursuant to §11-16-1 *et seq.* of this code, wine delivery pursuant to §60-8-1 *et seq.* of this code, or a sealed craft cocktail growler delivery pursuant to §60-7-1 *et seq.* of this code, the total convenience fee of any order, sale, and delivery of sealed alcoholic liquor or nonintoxicating beer, or nonintoxicating craft beer shall not exceed five dollars.

(e) *Private Liquor Delivery Requirements.* -

(1) Delivery persons employed for the delivery of a sealed liquor bottles or cans in the original container shall be 21 years of age or older and a retail liquor outlet and a third-party private liquor delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A retail liquor outlet and a third-party private liquor delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. A retail liquor outlet and a third-party private liquor delivery licensee shall submit certification of the training to the commissioner;

(3) The retail liquor outlet or third party private liquor delivery licensee shall hold a private liquor bottle delivery permit for each vehicle delivering a sealed liquor bottle or can in the original container pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) A retail liquor outlet or third party private liquor delivery licensee shall deliver food and a sealed liquor bottle or can order in the original container in the market zone or contiguous market zone where the licensed retail liquor outlet is located;

(5) A retail liquor outlet or third party private liquor delivery licensee may only deliver food and a sealed liquor bottle or can in the original container to addresses located in West Virginia. The retail liquor outlet or third party private liquor delivery licensee shall pay and account for all sales and municipal taxes;

(6) A retail liquor outlet or third party private liquor delivery licensee may not deliver food and a sealed liquor bottle or can in the original container to any licensee licensed under §11-16-1 *et seq.* of this code, and under this chapter;

(7) Deliveries of food and a sealed liquor bottle or can in the original container are only for personal use, and not for resale; and

(8) A retail liquor outlet or third party private liquor delivery licensee shall not deliver and leave food and a sealed liquor bottle or can in the original container at any address without verifying a person's age and identification as required by this section.

(f) Telephone, mobile ordering application, or web-based software requirements. -

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering applicant, or web-based software to accept the food and a sealed liquor bottle or can in the original container for delivery which is subject to verification upon delivery with the delivery person's visual review and verification and, as applicable, a stored scanned image of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(4) All records are subject to inspection by the commissioner. A retail liquor outlet or third party private liquor delivery licensee shall retain records for three years, and shall not unreasonably withhold the records from the commissioner's inspection; and

(5) The retail liquor outlet or third party delivery licensee shall hold a valid private liquor bottle delivery permit required by subsection (g) of this section for each vehicle that may offer delivery.

(g) Private Liquor Bottle Delivery Permit. -

(1) A retail liquor outlet or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of and a sealed liquor bottle or can in the original container.

(2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) Subject to the requirement of §60-6-12 of this code, a private liquor bottle delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) Enforcement. -

(1) The retail liquor outlet or the licensed third party are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a sealed liquor bottle. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this chapter.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

(i) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and curbside in-person or in-vehicle pick-up of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and delivery through a drive up or drive through structure, approved by the commissioner, of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-3A-25. Certain acts of retail licensees prohibited; criminal penalties.

(a) It is unlawful for any retail licensee, or agent or employee thereof, on ~~such~~ the retail licensee's premises to:

- (1) Sell or offer for sale any liquor other than from the original package or container;
- (2) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person under 21 years of age;
- (3) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person visibly intoxicated;
- (4) Sell or offer for sale any liquor other than during the hours permitted for the sale of liquor by retail licensees as provided under this article;
- (5) Permit the consumption by any person of any liquor;
- (6) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any liquor;
- (7) Permit any person under 18 years of age to sell, furnish, or give liquor to any other person, except as provided in subsection (c) of this section;
- (8) Purchase or otherwise obtain liquor in any manner or from any source other than that specifically authorized in this article; or
- (9) Permit any person to break the seal on any package, can or bottle of liquor.

(b) Any person who violates any provision of this article, except section 24 of this article, including, but not limited to, any provision of this section, or any rule promulgated by the board or the commissioner, or who makes any false statement concerning any material fact, or who omits any material fact with intent to deceive, in submitting an application for a retail license or for a renewal of a retail license or in any hearing concerning the suspension or revocation thereof, or who commits any of the acts declared in this article to be unlawful, is guilty of a misdemeanor and, shall, upon conviction thereof, for each offense be fined not less than \$100 or more than \$5,000, or imprisoned in the county jail for not less than 30 days nor more than one year, or both fined and imprisoned. Magistrates have concurrent jurisdiction with the circuit courts for offenses under this article.

(c) Nothing in this article, or any rule of the board or commissioner, prevents or prohibits any retail licensee from employing any person who is at least 18 years of age to serve in any retail licensee's lawful employment at any retail outlet operated by ~~such~~ the retail licensee, or from having ~~such~~ the person sell or deliver liquor or transport liquor on behalf of a manufacturer under the provisions of this article. With the prior approval of the commissioner, a retail licensee may employ persons at any retail outlet operated by ~~such~~ a retail licensee who are less than 18 years of age but at least 16 years of age, ~~but such~~ the persons' duties ~~shall not~~ may include the sale or delivery of liquor only when directly supervised by a person 21 years of age or older: Provided, That the authorization to employ such the persons under the age of 18 years shall be clearly indicated on the retail licensee's license issued to any such retail licensee. Provided, however, That nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least 21 years of age for the ordering and delivery of liquor when licensed for liquor ordering and delivery under the provisions of this chapter.

ARTICLE 4. LICENSES.

§60-4-3a. Distillery and mini-distillery license to manufacture and sell.

(a) *Sales of liquor.* — An operator of a distillery, mini-distillery, or micro-distillery may offer liquor for retail sale to customers from the distillery, mini-distillery, or micro-distillery for consumption off premises only. Except for complimentary samples offered pursuant to §60-6-1 of this code, customers are ~~prohibited from consuming~~ may not consume any liquor on the premises of the distillery, mini-distillery, or micro-distillery and except for a distillery, mini-distillery, or micro-distillery that obtains a private manufacturer club license set forth in §60-7-1 et seq. of this code, and a Class A retail dealer license set forth in §11-16-1 et seq. of the code: Provided, That a licensed distillery, mini-distillery, or micro-distillery may offer complimentary samples of alcoholic liquors as authorized per by this subsection of when alcoholic liquors are manufactured by that licensed distillery, mini-distillery, or micro-distillery for consumption on the licensed premises, ~~only, on Sundays beginning at 10:00 a.m. in any county in which the same has been approved as provided for in §7-1-3pp of this code.~~ Notwithstanding any other provision of law to the contrary, a licensed distillery, mini-distillery, or micro-distillery may sell, furnish, and serve alcoholic liquors when licensed accordingly beginning at 6:00 a.m. unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) *Retail off-premises consumption sales.* — Every licensed distillery, mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code, and the provisions of §60-3-1 et seq. and §60-4-1 et seq., of this code, applicable to liquor retailers and distillers.

(c) *Payment of taxes and fees.* — The distillery, mini-distillery, or micro-distillery shall pay all taxes and fees required of licensed retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner, except for payments of the wholesale markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises consumption ~~shall be~~ is subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to the commissioner: *Provided, however*, That ~~no~~ liquor sold by the distillery, mini-distillery, or micro-distillery shall not be priced less than the price set by the commissioner pursuant §60-3A-17 of this code.

(d) *Payments to market zone retailers.* — Each distillery, mini-distillery, or micro-distillery shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for the value of all sales at the distillery, mini-distillery, or micro-distillery each month. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone retailer's annual gross prior years pretax value sales. The maximum amount of market zone payments that a distillery, mini-distillery, or micro-distillery shall ~~be required to~~ submit to the commissioner is \$15,000 per annum.

(e) *Limitations on licensees.* — ~~No~~ A distillery, mini-distillery, or micro-distillery may not sell more than 3,000 gallons of product at the distillery, mini-distillery, or micro-distillery location during the initial two years 24 month period of licensure. The distillery, mini-distillery, or micro-distillery may increase sales at the distillery, mini-distillery, micro-distillery location by 2,000 gallons following the initial 24 month period of licensure and may increase sales at the distillery, mini-distillery, or micro-distillery location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year of total sales at the distillery, mini-distillery, or micro-distillery location. No licensed mini-distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location. ~~No~~ A licensed micro-distillery may not produce more than 10,000 gallons per calendar year at the micro-distillery location. ~~No~~ The commissioner may issue more than one distillery or mini-distillery license ~~may be issued~~ to a single person or entity and ~~no~~ a person may ~~not~~ hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery, or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as otherwise specified in the code.

(f) Building code and tax classification- Notwithstanding any provision of this code to the contrary, the mere addition of a distillery, mini-distillery, or micro-distillery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

§60-4-3b. Winery and farm winery license to manufacture and sell.

(a) An operator of a winery or farm winery may offer wine produced by the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, for retail sale to customers from the winery or farm winery for consumption off the premises only. Customers may consume wine on the premises when an operator of a winery or farm winery offers ~~Except for free complimentary samples offered pursuant to §60-6-1 of this code,~~ the winery or farm winery is licensed as a private wine restaurant, or the winery or farm winery is licensed as a private manufacturer club. customers ~~Customers are prohibited from consuming~~ may not consume any wine on the licensed premises of the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, unless ~~such~~ the winery, farm winery, or farm entity has obtained a multi-capacity winery or farm winery license: *Provided*, That under this subsection, a licensed winery or farm winery may offer complimentary

~~samples per this subsection~~ of wine manufactured by that licensed winery or farm winery for consumption on the premises only on Sundays beginning at ~~10:00~~ 6:00 a.m. in any county in which the same has been approved as provided in §7-1-3ss of this code. Notwithstanding any other provision of law to the contrary, a licensed winery or farm winery may sell, serve, and furnish wine, for on-premises consumption when licensed accordingly, beginning at 6:00 a.m., and for off-premises consumption beginning at 6:00 a.m. on any day of the week, unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) Complimentary samples allowed by the provisions of this section may not exceed two fluid ounces and no more than three ~~such~~ samples may be given to a patron in any one day.

(c) Complimentary samples may be provided only for on-premises consumption.

(d) A winery, farm winery, or farm entity pursuant to §60-1-5c of this code may offer for retail sale from their licensed premises sealed original container bottles of wine for off-premises consumption only.

(e) A winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code, holding a multicapacity license and a private wine restaurant license may offer wine by the drink or glass in a private wine restaurant located on the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

(f) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers, wineries, and suppliers when properly licensed in such capacities.

(g) (1) The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rules promulgated by the commissioner.

(2) Each winery or farm winery acting as its own supplier shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in §60-8-1 *et seq.* of this code.

(3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code, or pursuant to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original sealed package for the purpose of resale in the original sealed package, if the final purchase of ~~such~~ the wine is subject to the excise tax or if the purchase is delivered outside this state.

(4) No liter tax shall be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of ~~such~~ the wine is subject to the liter tax.

(5) This section shall not be interpreted to authorize a purchase for resale exemption in contravention of §11-15-9a of this code.

(h) A winery or farm winery may advertise a particular brand or brands of wine produced by it. ~~and the~~ The price of the wine is subject to federal requirements or restrictions.

(i) A winery or farm winery ~~must~~ shall maintain a separate winery or farm winery supplier, retailer, and direct shipper licenses when acting in one or more of those capacities and ~~must~~ shall

pay all associated license fees, unless such the winery or farm winery holds a license issued pursuant to the provisions of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate licenses or a multi-capacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code; private wine restaurant; and direct shipper for wine produced by the winery or farm winery. A winery or farm winery that has applied, paid all fees, and met all requirements may obtain a private manufacturer club license subject to the requirements of §60-7-1 et seq. of this code, and a Class A retail dealer license subject to the requirements of §11-16-1 et seq. of the code. All wineries must use a distributor to distribute and sell their wine in the state, except for farm wineries. ~~No more than one winery or farm winery license may be issued to a single person or entity and no person may hold both a winery and a farm winery license.~~ Wineries or farm wineries may enter into alternating wine proprietorship agreements pursuant to §60-1-5c of this code.

(j) The owners of a licensed winery or farm winery may operate a distillery, mini-distillery, or micro-distillery, brewery, or as a resident brewer, as otherwise specified in the code.

~~(j)~~ (k) For purposes of this section, terms will have the same meaning as provided in §8-13-7 of this code.

(l) Building code and tax classification- Notwithstanding any provision of this code to the contrary, the mere addition of a winery or farm winery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

§60-4-3c. License required for sale and shipment of liquor by a distillery, mini-distillery or micro-distillery; shipment of limited quantities of liquor permitted by a private direct shipper; requirements; license fee, and penalties.

(a) Authorization. - Except for the commissioner, no person may offer for sale liquor, sell liquor, or offer liquor for shipment in this state, except for a licensed private direct shipper. A distillery, mini-distillery, or micro-distillery, whose licensed premises is located in this state or whose licensed premises is located and licensed out of this state, who desires to engage in the sale and shipment of liquor produced by the distillery, mini-distillery, or micro-distillery on its licensed premises, shall ship directly from the licensee's primary place of distilling by mail, using a mail shipping carrier to a purchasing person who is 21 years of age or older, for personal use, and not for resale under this article. The distillery, mini-distillery, or micro distillery shall obtain a private direct shipper license. Shipments to a purchasing person shall only be to a retail liquor outlet in the market zone in which the purchasing person resides. A private direct shipper may ship liquor subject to the requirements in this chapter in and throughout West Virginia, except for those local option areas designated as "dry" areas under §60-5-1 et seq. of this code. A private direct shipper may also sell, and ship liquor out of this state directly from its primary place of distilling by mail, using a mail shipping carrier to a purchasing person who is 21 years of age or older subject to the recipient state's or country's requirements, laws, and international laws.

(b) License requirements. – Before sending any shipment of liquor to a purchasing person who is 21 years of age or older, the private direct shipper must first:

(1) File a license application with the commissioner with the appropriate background check information, using forms required by the commissioner. Criminal background checks will not be required of applicants licensed in their state of domicile who can provide a certificate of good standing from their state of domicile;

(2) Pay to the commissioner the \$250 non-prorated and nonrefundable annual license fee to ship and sell only liquor;

(3) Obtain a business registration number from the Tax Commissioner;

(4) Register with the office of the Secretary of State;

(5) Provide the commissioner a true copy of its current active license issued in the state of domicile, proving that the private direct shipper is licensed in its state of domicile as a distillery, is authorized by such state to ship liquor;

(6) Obtain from the commissioner a private direct shipper's license;

(7) Submit to the commissioner a list of all brands of liquor to be shipped to West Virginia and attest that all liquor brands are manufactured by the distillery on its licensed premises seeking licensure and are not counterfeit or adulterated liquor;

(8) Attest that the distillery, mini-distillery, or micro-distillery distills less than 50,000 gallons of liquor each calendar year and provide documentary evidence along with the attestation; and

(9) Meet all other licensing requirements of this chapter and provide any other information that the commissioner may reasonably require.

(c) *Shipping Requirements.* - All private direct shipper licensees shall:

(1) Not ship more than two bottles of liquor per month to a retail liquor outlet for pickup by a purchasing person who is 21 years of age or older for his or her personal use and consumption, and not for resale. The combined fluid volume of both bottles shall not exceed three liters;

(2) Not ship to any address in an area identified by the commissioner as a "dry" or local option area where it is unlawful to sell liquor under §60-5-1 *et seq.* of this code;

(3) Not ship to any licensed suppliers, brokers, distributors, retailers, private clubs, or other licensees licensed under this chapter or §11-16-1 *et seq.* of this code;

(4) Not ship liquor from overseas or internationally;

(5) Ensure that all containers of liquor shipped to a retail liquor outlet for pickup by a purchasing person who is 21 years of age or older, are clearly and conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY";

(6) Require a retail liquor outlet to obtain a written or electronic signature upon delivery to a purchasing person who is 21 years of age or older when picking up a sealed liquor delivery order; and

(7) Utilize a licensed and bonded shipping carrier who has obtained a transportation permit as specified in §60-6-12 of the code.

(d) *Payment of Fees and Taxes.*

(1) Any private direct shipper licensee on all sales of liquor must collect and remit the entire wholesale markup percentage and any handling fees, in full, as set forth in §60-3A-17 of the code and by rule of the commissioner to the commissioner at the close of each month and file a monthly report, on a form provided by the commissioner.

(2) Further, the private direct shipper licensee on all sales of liquor shall collect and remit all state sales tax, municipal tax, and local sales tax to the Tax Commissioner at the close of each month and file a monthly return, on a form provided by the Tax Commissioner, reflecting the taxes paid for all sales and shipments.

(3) The payment of fees to the commissioner and taxes to the Tax Commissioner may be in addition to fees and taxes levied by the private direct shipper's domicile state.

(4) No private direct shipper will be required to pay any fees to the commissioner or taxes to the Tax Commissioner more than once.

(5) A retail liquor outlet which has entered a written agreement with a private direct shipper to accept a liquor shipment under this section may charge an additional fee not less than ten percent fee based on the total price of the liquor shipment, excluding the shipping charges, to a lawful purchaser.

(e) Jurisdiction. - By obtaining a private direct shipper licensee be deemed to have agreed and consented to the jurisdiction of the commissioner, which is Charleston, West Virginia and the Kanawha County circuit court, concerning enforcement of this chapter and any other related laws or rules.

(f) Records and reports. -

(1) Licensed private direct shippers and retail liquor outlets must maintain accurate records of all shipments sent to West Virginia.

(2) Provide proof or records to the commissioner, upon request, that all direct shipments of liquor were purchased and delivered to a purchasing person who is 21 years of age or older.

(g) The private direct shipper may annually renew its license with the commissioner by application, paying the private direct shipper license fee and providing the commissioner with a true copy of a current distillery license from the private direct shipper's domicile state.

(h) The commissioner may promulgate legislative rules to effectuate the purposes of this law.

(i) Penalties. -

(1) The commissioner may enforce the requirements of this chapter by administrative proceedings as set forth in §60-7-13 and §60-7-13a of this code to suspend or revoke a private direct shipper's license or retail liquor outlet's license, and the commissioner may accept payment of a penalties as set forth in §60-7-13 and §60-7-13a of this code or an offer in compromise in lieu of suspension, at the commissioner's discretion. Hearings and appeals on such notices may be had in the same manner as in the case of revocations of licenses set forth in §60-7-13 and §60-7-13a of this code.

(2) If any such distillery violates the provisions of this chapter, the commissioner may determine to suspend the privileges of the distillery to sell, ship, or deliver liquor to a purchasing person who is 21 years of age or older or to the commissioner, or otherwise engage in the liquor business in this state for a period of one year from the date a notice is mailed to such person by the commissioner of the fact that such person has violated the provisions of this article. During such one-year period, it shall be unlawful for any person within this state to buy or receive liquor from such person or to have any dealings with such person with respect thereto.

(k) *Criminal Penalties.* – A shipment of liquor directly to citizens in West Virginia from persons who do not possess a valid private direct shipper’s license is prohibited. Any person who knowingly makes, participates in, transports, imports, or receives such an unlicensed and unauthorized direct shipment is guilty of a felony and, shall, upon conviction thereof, be fined in an amount not to exceed \$10,000 per violation. Without limitation on any punishment or remedy, criminal or civil, any person who knowingly makes, participates in, transports, imports, or receives such a direct shipment constitutes an act that is an unfair trade practice.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-8. Unlawful sale or possession by licensee.

A licensed person shall not:

(1) Sell, furnish, tender, or serve alcoholic liquors of a kind other than that which ~~such~~ the license or this chapter authorizes him or her to sell;

(2) Sell, furnish, tender, or serve beer to which wine, spirits, or alcohol has been added;

(3) Sell, furnish, tender, or serve wine to which other alcoholic spirits have been added, otherwise than as required in the manufacture ~~thereof~~ of the wine under ~~regulations~~ rules of the commission;

(4) Sell, furnish, tender, or serve alcoholic liquors to a person specified in §60-3-22 of this code;

(5) Sell, furnish, tender, or serve alcoholic liquors except as authorized by ~~his or her~~ its license;

(6) Sell, furnish, tender, or serve alcoholic liquors other than by the drink, poured from the alcoholic liquors’ original container: *Provided*, That under certain requirements exceptions to liquor by the drink are as follows:

(A) A private club licensed under §60-7-1 *et seq.* of this code, that is in good standing with the commissioner and has paid a \$1000 on-premises only bottle service fee to the commissioner, may sell or serve liquor by the bottle to two or more persons for consumption on the licensed premises only, and any liquor bottle sold by ~~such a~~ the private club shall be sold at retail for personal use, and not for resale, to a person for not less than 300 percent of the private club’s cost, and ~~no such~~ the liquor bottle shall ~~not~~ be removed from the licensed premises by any person or the licensee; and

(B) A Class A licensee licensed under §60-8-1 *et seq.* of this code may sell or serve wine by the bottle to two or more persons for consumption on the licensed premises only, unless ~~such~~ the licensee has obtained a license or privilege authorizing other activity;

(7) Sell, furnish, tender, or serve pre-mixed alcoholic liquor that is not in the original container: Provided, That a licensee may sell, furnish, tender, and serve up to 15 recipes of pre-mixed beverages consisting of alcoholic liquors, and nonalcoholic mixer, and ice if in a manner approved by the commissioner and in accord with public health and safety standards:

(A) The licensee shall use approved dispensing and storage equipment which shall be cleaned at the end of the day. Failure to clean the dispensing and storage equipment shall result in the immediate suspension or revocation of the permit;

(B) The licensee shall sanitize and clean the pre-mixing beverage storage equipment after each use or after each batch of the pre-mixed beverage is made;

~~(A) The frozen drink mixing beverage machine is emptied and sanitized daily; and~~

~~(B) That~~ (C) That The licensee shall maintain a written record reflecting the cleaning and sanitizing of the storage and dispensing equipment ~~frozen drink machine is maintained~~ for inspection by the commissioner and health inspectors;

(D) A violation or violations this subdivision may result in the suspension or revocation of the permit and may result in additional sanctions under this chapter or §11-16-1 et seq. of this code;

(8) Sell, furnish, tender, or serve any alcoholic liquor when forbidden by the provisions of this chapter;

(9) Sell, possess, possess for sale, tender, serve, furnish, or provide any powdered alcohol;

(10) Keep on the premises covered by his or her license alcoholic liquor other than that which he or she is authorized to sell, furnish, tender, or serve by such license or by this chapter.

A person who violates any provision of this section ~~shall be~~ 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 less than 30 days nor more than one year, or both ~~such fine~~ fined and confined ~~confinement~~ for the first offense. Upon conviction of a second or subsequent offense, the court may ~~in its discretion~~ impose a penalty of ~~confinement~~ imprisonment in a state correctional facility for a period not to exceed three years. A person who violates any provision of this section for the second or any subsequent offense under this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a period not to exceed three years.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses. ~~power to lease building for establishment of private club.~~

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

(a) "Applicant" means a private club applying for a license under the provisions of this article.

(b) "Code" means the official Code of West Virginia, 1931, as amended.

(c) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

(d) "Licensee" means the holder of a license to operate a private club granted under this article, which ~~license shall remain~~ remains unexpired, unsuspended, and unrevoked.

(e) "Private club" means any corporation or unincorporated association which either: (1) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; ~~or~~ (2) is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; ~~or~~ (3) is organized and operated for legitimate purposes which has at least 100 duly elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or (4) is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park or at any airport, in which building or premises a club has been established, to which club are admitted only duly elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(f) "Private caterer" means a licensed private club restaurant authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer, or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

(1) Have at least 10 members and guests attending the catering event;

(2) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

(3) Operate a private club restaurant on a daily operating basis;

(4) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors who have received certified training in verifying the legal identification, the age of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

(5) Provide to the commissioner, at least 7 days before the event is to take place:

(A) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

(B) The name of the owner or operator of the unlicensed private venue;

(C) A copy of the contract or contracts between the private caterer, the person contracting with the caterer, and the unlicensed private venue;

(D) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises; *Provided*, That the unlicensed private venue shall: (i) Be inside a building or structure, (ii) have other facilities to prepare and serve food and alcohol, (iii) have adequate restrooms, and sufficient building facilities for the number of members and guests expected to attend the private catering event, and (iv) otherwise be in compliance with health, fire, safety, and zoning requirements;

(6) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

(7) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

(8) Meet and be subject to all other private club requirements; and

(9) Use an age verification system approved by the commissioner.

(g) "Private club bar" means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when licensed for such sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operates a bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) kitchen utensils and other food consumption apparatus, as determined by the

commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, \$500 of food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(5) Meets and is subject to all other private club requirements.

(h) "Private club restaurant" means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled with the restaurant, seating requirements for members and guests must be met by the restaurant area. The applicant for a private club restaurant license shall meet the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operate a restaurant and full kitchen with at least: (A) Ovens and four-burner ranges; (B) refrigerators or freezers, or some combination of refrigerators and freezers, greater than 50 cubic feet, or a walk-in refrigerator or freezer; (C) other kitchen utensils and apparatus, as determined by the commissioner; and (D) freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant;

(5) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to \$10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative rules, for carrying unconsumed wine off the licensed premises;

(6) Must have at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written waiver supplied to commissioner of the requirement from the historic association or district with jurisdiction over a historic building: *Provided, further* That in no event shall a private club restaurant have less than one restroom; and

(7) Shall meet and be subject to all other private club requirements.

(i) "Private manufacturer club" means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufacturers liquor, wine, nonintoxicating beer, or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which meets the criteria set forth in this subsection and which:

(1) Has at least 100 members;

(2) Offers tours, may offer complimentary samples, and may offer space as a conference center or for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Maintains, at any one time, \$500 of fresh food inventory capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least one acre which is contiguous bounded or fenced real property that would be listed on the licensee's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer club's licensed premises, and as noted on the private manufacturer club's floorplan;

(7) Identifies a person, persons, an entity, or entities who or which has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(8) Uses an age verification system approved by the commissioner; and

(9) Meets and is subject to all other private club requirements.

~~(f)~~(j) "Private fair and festival" means an applicant for a private club or a licensed private club meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or appointed officers) of either the municipality or of the county ~~wherein~~ in which the festival, fair, or other event is to be conducted;

(3) ~~Shall prepare, provide, or engage~~ Prepares, provides, or engages a food ~~caterer~~ vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any documentation or agreements of such to the commissioner prior to approval;

(4) ~~Shall~~ Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors (~~liquor and wine~~), nonintoxicating beer, or nonintoxicating craft beer;

(5) ~~Shall provide~~ Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(6) ~~Shall provide~~ Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event; ~~and~~

(7) ~~Utilizes~~ Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(g)~~(k) "Private hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 2,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 20 hours per week;

(4) Maintains, at any one time, \$2,500 of fresh food inventory capable of being prepared in the private hotel's full kitchen, and in calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(6) Lists in the application referenced in subdivision (5) of this subsection the entire property and all adjoining buildings and structures~~ Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private hotel's licensed premises and as noted on the private hotel's floorplan;

(7) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises; ~~and~~

(8) ~~Utilizes~~ Uses an age verification system approved by the commissioner; ~~and~~

(9) Meets and is subject to all other private club requirements.

~~(H)~~(I) "Private resort hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 5,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 50 separate bedrooms;

(3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 25 hours per week;

(4) Maintains, at any one time, \$5,000 of fresh food inventory capable of being prepared in the private resort hotel's full kitchen, and in calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for destination, resort, and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private resort hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises and as noted on the private resort hotel's floorplan;

(7) Has an identified person, ~~or~~ persons, or entity that has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(8) ~~Utilizes~~ Uses an age verification system approved by the commissioner; ~~and~~

(9) Meets and is subject to all other private club requirements; and

~~(9)~~(10) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery.

~~(i)~~(m) "Private golf club" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf club's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private golf club's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private golf club's licensed premises and as noted on the private golf club's floorplan;

(6) Has an identified person, or persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises; ~~and~~

(7) ~~Utilizes~~ Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(j)~~(n) "Private nine-hole golf course" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 50 members;

(2) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private nine-hole golf course's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private nine-hole golf course's licensed premises and as noted on the private nine-hole golf course's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises; ~~and~~

(7) ~~Utilizes~~ Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

(o) "Private tennis club" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

(3) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private tennis club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private tennis club's licensed premises and as noted on the private tennis club's floorplan;

(6) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meets and is subject to all other private club requirements; and

(8) Uses an age verification system approved by the commissioner.

(p) "Private professional sports stadium" means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when such events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may not sell alcoholic liquors when conducting or hosting non-professional sporting events, and further the applicant shall:

(1) Have at least 1000 members;

(2) Maintain an open air or closed air stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions, conferences, meetings, or other events where parties must reserve the stadium venue in advance of the event;

(3) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

(4) Own or lease, control, operate, and use acreage amounting to at least 3 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(5) List the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private professional sports stadium's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private professional sports stadium's licensed premises and as noted on the private professional sports stadium's floorplan;

(6) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meet and be subject to all other private club requirements; and

(8) Use an age verification system approved by the commissioner.

(q) "Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, retailers who sell West Virginia made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant, and all business that are members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(1) Have at least 100 members;

(2) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer (or some combination of the two), and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(3) Have one or more members operating who maintain, at any one time, \$1,000 of fresh food inventory capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

(5) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

(6) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(7) Have at least two separate and unrelated vendors applying for the license and certifying that all vendors in the association have agreed to the liability, responsibility associated with a private farmers market license;

(8) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

(10) Provide a copy of a written agreement between all the vendors of the association that is executed by all vendors stating that each vendor is jointly and severally liable for any violations of this chapter committed during the event;

(11) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members, patrons, and guests ages, whether a member, patron, or guest is intoxicated and to provide for the public health and safety of members, patrons, and guests;

(12) Use an age verification system approved by the commissioner; and

(13) Meet and be subject to all other private club requirements.

(r) "Private wedding venue or barn" means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

(1) Has at least 25 members;

(2) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties must reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food, or may engage a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that, the property is less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private wedding venue or barn's licensed premises and as noted on the private wedding venue or barn's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meets and is subject to all other private club requirements; and

(8) Uses an age verification system approved by the commissioner.

(s) "Private multi-sport complex" means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(1) Has at least 100 members;

(2) Maintains an open air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties must reserve the parts of the sports complex in advance of the sporting or other event;

(3) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

(4) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private multi-sport complex's floorplan and could be used for contracted for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private multi-sport complex's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private multi-sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

(7) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(8) Meets and is subject to all other private club requirements; and

(9) Uses an age verification system approved by the commissioner.

The Department of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation, or public authority operating any park or airport may lease, as lessor, a building or portion thereof or other limited premises in any such park or airport to any corporation or unincorporated association

for the establishment of a private club pursuant to this article.

§60-7-6. Annual license fee; partial fee; and reactivation fee.

(a) The annual license fee for a license issued under the provisions of this article to a fraternal or veterans' organization or a nonprofit social club ~~shall be~~ is \$750.

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section ~~shall be~~ is \$1,000 if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club restaurant to be licensed as a private caterer as defined in §60-7-2 of this code; \$1,500 if the private club is a private wedding venue or barn; \$2,000 if the private club is a private nine-hole golf course, private farmers market, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; \$2,500 if the private club bar or private club restaurant has 1,000 or more members; \$4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, ~~said~~ the private resort hotel may designate areas within the licensed premises for the lawful sale, service, and consumption of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas ~~shall be~~ is

\$7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas ~~shall be~~ is \$12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas shall be \$17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas ~~shall be~~ is \$22,500. ~~Provided, That a~~ A private resort hotel ~~having that~~ obtained the license and paid the \$22,500 annual license fee may, upon application to and approval of the commissioner, designate additional areas for a period not to exceed seven days for an additional fee of \$150 per day, per designated area.

(c) The fee for any ~~such~~ license issued following January 1 of any year ~~and to expire that expires~~ on June 30 of ~~such that~~ year ~~shall be~~ is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional \$150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee ~~must~~ shall be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

(e) ~~All such fees shall be paid by the~~ The commissioner shall pay the fees to the State Treasurer and credited to the General Revenue Fund of the state.

(f) The Legislature finds that the hospitality industry has been particularly damaged by the COVID-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article. Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows;

(1) License fees for the license period beginning July 1, 2021, shall be reduced to one-third of the rate set forth in subsections (a) and (b) of this section;

(2) License fees for the license period beginning July 1, 2022, shall be two-thirds of the rate set forth in subsections (a) and (b) of this section; and

(3) License fees for the license period beginning July 1, 2023 and beyond, shall be as set forth in subsections (a) and (b) of this section.

§60-7-8b. One-day charitable rare, antique, or vintage liquor auction; licensee fee and application; license subject to provisions of article; exceptions.

(a) The commissioner may issue a special one-day, license to a licensed private club in partnership with one or more duly organized, federally approved nonprofit corporations, associations, organizations, or entities allowing the nonprofit to conduct a charitable auction of certain sealed bottles of rare, antique, or vintage liquor, as determined by the commissioner, on the private club licensee's licensed premises for off-premises consumption only, when raising money for athletic, charitable, educational, scientific, or religious purposes. A licensed private club may not receive more than 12 licenses under this section per year.

(b) "Auction or auctioning", for the purposes of this section, means any silent, physical act, or verbal bid auction, where the auction requires in-person bidding at a licensed private club or online internet-based auction bidding, with bidders present at the licensed private club during the nonprofit auction, through a secure internet-based application or website.

(c) Requirements.-

(1) The licensed private club and nonprofit shall jointly complete an application, at least 15 days prior to the event. The application may require, but is not limited to, information relating to the date, time, place, floorplan of the charitable event, and any other information as the commissioner may require. The applicants shall include with the application a written signed and notarized statement that at least 80 percent of the net proceeds from the charitable event will be donated directly to the nonprofit. The commissioner may audit the licensed private club and nonprofit to verify the 80 percent requirement has been met.

(2) The licensed private club and nonprofit must be in good standing with the commissioner, and the applicants must receive the commissioner's approval prior to the charitable event.

(3) The licensed private club and nonprofit shall submit, and the commissioner shall review, the applicants' list of rare, antique, or vintage liquor, and the applicants shall submit documentation showing that the liquor was purchased from a licensed retail outlet in accordance with §60-3A-1 *et seq.* of this code with all taxes and fees paid. Any rare, antique, or vintage liquor with no documentation or that was not purchased in accordance with §60-3A-1 *et seq.* of this code, may be approved for auction, if all taxes and fees are paid to the commissioner in accordance with §60-3A-1 *et seq.* of this code. Any undocumented rare, antique, or vintage liquor approved for charitable auction by the commissioner must be labeled in the interest of public health and safety: "Purchase and consume at your own risk, as the authenticity or source of manufacture of this bottle has not been verified".

(4) The private club and nonprofit may not deliver, mail, or ship sealed or unsealed rare, antique, or vintage liquor bottles.

(5) The winning bidder of the auctioned rare, antique, or vintage liquor shall pay and receive the sealed rare, antique, or vintage liquor bottle before the conclusion of the event.

(6) The applicants shall pay a \$150 nonrefundable and nonprorated fee for the license.

(d) Exceptions. –

(1) A nonprofit's charitable auctioning of sealed rare, antique, or vintage liquor bottles, as determined by the commissioner, is permitted on the private club's licensed premises, notwithstanding the bingo, raffle, and lottery provisions of §47-20-10, §47-21-11, and §61-10-1 *et seq.* of this code, but in compliance with the auction requirements of §19-2c-1 *et seq.* of this code;

(2) The nonprofit, upon licensure by this section, is permitted a limited, one-time exception of the requirement to be a licensed retail outlet and hold a retail license issued pursuant to §60-3A-1 *et seq.* of this code to sell liquor; and

(3) The private club, upon licensure by this section, is provided a limited, one-time exception from §60-7-12(a)(1) and §60-6-8(6) of this code, to permit the licensed nonprofit to sell at auction the sealed rare, antique, or vintage liquor bottles for off-premises consumption, to permit the

carrying onto, the sale of, and the carrying off of the licensed premises the approved sealed liquor bottles. Any private club or nonprofit licensed pursuant to this code section are subject to all penalties for violations committed under §60-3A-1 et seq. of this code and §60-7-1 et seq. of this code.

§60-7-8c. Special license for a multi-vendor private fair and festival; license fee and application; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S3 private multivendor fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption at an event where multiple vendors shall share liability and responsibility, and apply for this license. Each vendor may temporarily purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) To be eligible for the license authorized by subsection (a) of this section, the private multivendor fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private multivendor fair and festival or other event is located;

(2) Jointly apply to the commissioner for the special license at least 15 days prior to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of \$500 per event that may be divided among all the vendors attending the event;

(4) Be approved by the commissioner to operate the private multivendor fair, festival, or other event;

(5) Be limited to no more than 15 consecutive days;

(6) Have at least two separate and unrelated vendors applying for the license and certifying that at least 100 members will be in attendance;

(7) Freshly prepare and provide food or meals, or engage a food vendor to prepare and provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and provide any written documentation or agreements of the food caterer to the commissioner prior to approval of the license;

(8) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private multi-vendor festival, fair, or other event;

(10) Provide an executed agreement between the vendors and/or food caterers stating that each vendor is jointly and severally liable for any improper acts or conduct committed during the multi-vendor festival or fair event;

(11) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members', patrons', and guests' ages, and whether a member, patron, or guest is intoxicated, to provide for the public health and safety of members, patrons, and guests;

(12) Provide a floorplan for the proposed premises with one defined and bounded indoor and/or outdoor area to safely account for the ingress and egress of stated members, patrons, and guests who will be attending the festival, fair, or other event, and the floorplan that would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure, or outdoors while on the licensed premises and as noted on the floorplan;

(13) Meet and be subject to all other private club requirements; and

(14) Use an age verification system approved by the commissioner.

(c) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from the licensed distributor that services the area in which the private multi-vendor fair and festival will be held or from a resident brewer acting in a limited capacity as a distributor, in accordance with §11-16-1 et seq. of this code.

(d) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 et seq. of this code.

(e) Liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private multi-vendor fair or festival will be held, all in accordance with §60-3A-1 et seq. of this code.

(f) A licensee authorized by this section may use bona fide employees, independent contractors, or volunteers to sell, furnish, tender, or serve the liquor, wine, nonintoxicating beer, or nonintoxicating craft beer; *Provided*, That the licensee shall train all employees, independent contractors, or volunteers to verify legal identification and to verify signs of intoxication.

(g) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor brokers may attend a private multi-vendor festival or fair and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any liquor, wine, nonintoxicating beer, or nonintoxicating craft beer.

(h) A licensee licensed under this section is subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may, by rule or order, allow certain waivers or exceptions with respect to those provisions, rules, or orders as required by the circumstances of each private multi-vendor fair and festival. The commissioner may revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

§60-7-8d. Where private clubs may sell and serve alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer.

(a) With prior approval of the commissioner a private club licensee may sell, serve, and furnish alcoholic liquor and, if also licensed to sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may include a temporary private outdoor dining area or temporary private outdoor street dining area. A temporary private outdoor street dining area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The private club licensee shall submit to the commissioner: (1) the municipal or county approval of the private outdoor dining area or private outdoor street dining area; and, (2) a revised floorplan requesting to sell alcoholic liquors, and when licensed for nonintoxicating beer or nonintoxicating craft beer, then nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved and bounded outdoor area. The approved and bounded area need not be adjacent to the licensee's licensed premises, but in close proximity, for private outdoor street dining or private outdoor dining. For purposes of this subsection, "close proximity" means an available area within 150 feet of a licensee's licensed premises and under the licensee's control and with right of ingress and egress.

(c) This private outdoor dining or private outdoor street dining may be operated in conjunction with a private wine outdoor dining or private wine outdoor street dining area set forth in §60-8-32a of this code and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, private outdoor dining and private outdoor street dining include dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any area where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) A private club restaurant or a private manufacturer club licensed for craft cocktail growler sales must provide food or a meal along with sealed craft cocktail growler sales as set forth in this article to a patron who is in-person or in-vehicle while picking up food or a meal, and a sealed craft cocktail growler order-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-7-8e. Private club restaurant or private manufacturer club licensee's authority to sell craft cocktail growlers.

(a) Legislative findings. — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of liquor and its industry in this state to protect the public health,

welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed private club restaurant or private manufacturer club, to have certain abilities to promote the sale of liquor manufactured in this state for the benefit of the citizens of this state, the state's growing distilling industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) Sales of craft cocktail growlers. — A licensed private club restaurant or private manufacturer club is authorized under a current and valid license and meets the requirements of this section may offer a craft cocktail growler in the ratio of up to one fluid ounce of liquor to four fluid ounces of nonalcoholic beverages or mixers, not to exceed 128 fluid ounces for the entire beverage in the craft cocktail growler, for retail sale to patrons from their licensed premises in a sealed craft cocktail growler for personal consumption only off of the licensed premises. Prior to the sale, the licensee shall verify in-person, using proper identification, that any patron purchasing the craft cocktail growler is 21 years of age or older and that the patron is not visibly or noticeably intoxicated. There shall be a \$100 non-prorated, non-refundable annual fee to sell craft cocktail growlers.

(c) Retail sales. — Every licensee licensed under this section shall comply with all the provisions of this chapter as applicable to retail sale of liquor at retail liquor outlets, comply with markup specified in §60-3A-17(e)(2) of this code when conducting sealed craft cocktail growler sales, and shall be subject to all applicable requirements and penalties in this article.

(d) Payment of taxes. — Every licensee licensed under this section shall pay all sales taxes required of retail liquor outlets, in addition to any other taxes required, and meet any applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) Advertising. — Every licensee licensed under this section may only advertise a particular brand or brands of liquor manufactured by a distillery, mini-distillery, or micro-distillery upon written approval from the distillery, mini-distillery, micro-distillery, or an authorized and licensed broker to the licensee. Advertisements may not encourage intemperance or target minors.

(f) Craft cocktail growler defined. — For purposes of this chapter, "Craft Cocktail Growler" means a container or jug that is made of glass, ceramic, metal, plastic, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and must be capable of being securely sealed. The growler is utilized by an authorized licensee for purposes of off-premises sales only of liquor and a nonalcoholic mixer or beverage for personal consumption not on a licensed premise. Notwithstanding any other provision of this code to the contrary, a securely sealed craft cocktail growler is not an open container under state and local law. A craft cocktail growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. A craft cocktail growler is not an original container of liquor, but once sanitized, filled, properly sealed, and sold, all as set forth in this article, is a sealed container.

(h) Craft cocktail growler requirements. — A licensee licensed under this section must prevent patrons from accessing the secure area where the filling of the craft cocktail occurs or to fill a craft cocktail growler. A licensee licensed under this section must sanitize, fill, securely seal, and label any craft cocktail growler prior to its sale. A licensee licensed under this section may refill a craft cocktail growler subject to the requirements of this section. A licensee licensed under this section shall visually inspect any craft cocktail growler before filling or refilling it. A licensee licensed under this section may not fill or refill any craft cocktail growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container. For purposes of this article, a secure sealing means using a tamper-evident seal, such as: (1) A plastic heat shrink wrap band,

strip, or sleeve extending around the cap or lid of craft cocktail growler to form a seal that must be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the craft cocktail growler is opened.

(i) *Craft cocktail growler labeling.* — A licensee licensed under this section selling craft cocktail growlers shall affix a conspicuous label on all sold and securely sealed craft cocktail growlers listing the name of the licensee selling the craft cocktail growler, the brand of the liquor in the craft cocktail growler, the type of craft cocktail or name of the craft cocktail, the alcohol content by volume of the liquor in the craft cocktail growler, and the date the craft cocktail growler was filled or refilled, and, all labeling on the craft cocktail growler shall be consistent with all federal labeling and warning requirements.

(j) *Craft cocktail growler sanitation.* — A licensee licensed under this section shall clean and sanitize all craft cocktail growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensee licensed under this section shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill craft cocktail growlers. Failure to comply with this subsection may result in penalties under this article; *Provided That*, if the reuse or refilling of a craft cocktail growler would violate federal law such craft cocktail growler must only be used one-time, for one filling, and be discarded after the one-time use.

(k) *Pre-mixing of craft cocktail.* - A licensee licensed under this section may pre-mix the nonalcoholic beverages or mixers in the advance of a craft cocktail growler purchase and sealing, and add the liquor, as set forth in this section, upon a member or guest's purchase of a craft cocktail growler. A licensee licensed under this section must dispose of any expired premixed nonalcoholic beverages or mixers pursuant to Bureau for Public Health requirements when such premixed nonalcoholic beverages or mixers are no longer fit for human consumption. A licensee authorized under §60-6-8(7) may use a premixed beverage meeting the requirements therein and is also subject to the requirements of this section for a craft cocktail growler.

(l) *Limitations on licensees.* — A licensee licensed under this section shall not sell craft cocktail growlers to other licensees, but only to its members and guests. A licensee licensed under this section must provide food or a meal along with one sealed craft cocktail growler to a patron who is in-person or in-vehicle while picking up food or a meal, and a sealed craft cocktail growler order-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly or noticeably intoxicated, and as otherwise specified in this article. A licensee licensed under this section may only sell one sealed craft cocktail growler to a patron who has not been consuming alcoholic liquors or nonintoxicating beer on its licensed premises or one craft cocktail growler per food or meal in the order delivered per §60-7-8f of this code. A licensee licensed under this section shall be subject to the applicable penalties under this article for violations of this article.

(m) *Rules.* — The commissioner, in consultation with the Bureau for Public Health, may to propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement the purposes of this section.

§60-7-8f. Private delivery license for a licensed private club restaurant, private manufacturer club, or a third party; requirements; limitations; third party license fee; private cocktail delivery permit; and requirements.

(a) A licensed private club restaurant or private manufacturer club licensed to sell liquor for on-premises consumption may apply for a private delivery license permitting the order, sale, and delivery of liquor and a nonalcoholic mixer or beverage in a sealed craft cocktail growler, when

separately licensed for craft cocktail growler sales. The order, sale, and delivery of a sealed craft cocktail growler is permitted for off-premises consumption when completed by the licensee to a person purchasing the craft cocktail growler through a telephone, a mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a licensed private club restaurant or private manufacturer club to obtain a private delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted by a third party who obtains a license under this section when a private club restaurant or private manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone orders, a mobile ordering application, or a web-based software program. The private delivery license nonprorated, nonrefundable annual fee is \$200 for each third party entity, with no limit on the number of drivers and vehicles.

(c) The private delivery license application shall comply with licensure requirements in this article and shall require any information required by the commissioner; *Provided*, That the license application may not require a third party applicant to furnish information pursuant to §60-7-12 of this code.

(d) *Sale Requirements.* -

(1) The craft cocktail growler purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or a meal, and craft cocktail growler by the licensed private club restaurant, private manufacturer club, or third party private delivery licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for nonintoxicating beer or nonintoxicating craft beer.

(3) "Prepared food or a meal" for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for each order of food or meal; *Provided*, That the entire delivery order may not contain any combination of craft cocktail growlers of more than 128 fluid ounces total; and

(5) A third party private delivery licensee shall not have a pecuniary interest in a private club restaurant or private manufacturer club licensee, as set forth in this article. A third party private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third-party private delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where a craft cocktail growler is ordered by the purchasing person. For any third party licensee also licensed

for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.

(e) Craft Cocktail Growler Delivery Requirements. -

(1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21 years of age or older. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or the private club restaurant or private manufacturing club shall hold a private cocktail delivery permit for each vehicle delivering a craft cocktail growler pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third party private delivery licensee, a private club restaurant, or private manufacturer club may occur in the county or contiguous counties where the licensed private club restaurant or private manufacturer club is located;

(5) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to addresses located in West Virginia. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall account for and pay all sales and municipal taxes;

(6) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to any other licensee;

(7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for personal use, and not for resale; and

(8) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall not deliver and leave the prepared food or a meal, and a sealed craft cocktail growler at any address without verifying a person's age and identification as required by this section.

(f) Telephone, mobile ordering application, or web-based software requirements. -

(1) The delivery person may only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery, subject to age verification upon delivery with the delivery person's visual review and age verification and, as application, a stored scanned image of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(4) All records are subject to inspection by the commissioner. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall retain records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) The third party private delivery licensee or the private club restaurant or private manufacturing club shall hold a valid private cocktail delivery permit under subsection (g) of this section for each vehicle used for delivery: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(g) *Private Cocktail Delivery Permit.* -

(1) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and a sealed craft cocktail growler, subject to the requirements of this article.

(2) A third party private delivery licensee, a private club restaurant, or private manufacturer club licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement.* -

(1) The third party private delivery licensee, the private club restaurant, or the private manufacturers club licensed by this section are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee, or member thereof, on such licensee's premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in §60-6-8 of this code;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper entertainment, conduct, or practice, gambling or any slot machine, multiple coin console machine, multiple coin console slot machine, or device in the nature of a slot machine; however, various games, gaming, and wagering conducted by duly licensed persons of the West Virginia State Lottery Commission, charitable bingo games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-20-1 et seq. of this code, and charitable raffle games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-21-1 et seq. of this code, all of which are permissible on a licensee's licensed premises when operated in accordance with this code, ~~rules, and regulations. Provided, That a~~ and rules promulgated thereunder. A private resort hotel holding a license issued pursuant to §60-7-1 et seq. of this code, may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under §29-22A-1 et seq. and §29-22C-1 et seq., or §29-25-1 et seq. of this code, during hours of operation authorized by §29-22A-1 et seq. and §29-22C-1 et seq., or §29-25-1 et seq. of this code;

(3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine, or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors, for or to any person known to be ~~deemed~~ considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. and ~~7:00~~ 6:00 a.m. on weekdays, ~~or Saturdays, and Sundays, between the hours of 3:00 a.m. and 10:00 a.m. on any Sunday~~ or, between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of age;

(7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues-paying member in good standing of ~~said~~ the private club or a guest of ~~such~~ the member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption, except as authorized by the commissioner;

(10)(A) Employ any person who is less than ~~18~~ 16 years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;

(B) Employ any person who is between ~~the ages of 18~~ 16 years of age and younger than 21 years of age who is not directly supervised by a person aged 21 or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve or give nonintoxicating beer, wine, or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the commissioner.

(b) It is lawful for any licensee to advertise price and brand in any news media or other means, outside of the licensee's premises.

(c) Any person who violates any of the ~~foregoing~~ provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or imprisoned in jail for a period not to exceed one year, or both fined and imprisoned.

ARTICLE 8. SALE OF WINES.

§60-8-2. Definitions.

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

“Commissioner” or “commission” means the West Virginia Alcohol Beverage Control Commissioner.

“Distributor” means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute wine to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops and that sells or distributes nonfortified dessert wine, port, sherry and Madeira wines to wine specialty shops, private wine restaurants, private clubs, or retailers under authority of this article and maintains a warehouse in this state for the distribution of wine. For the purpose of a distributor only, the term “person” means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

“Fortified wine” means any wine to which brandy or other alcohol has been added where the alcohol content by volume does not exceed 24 percent, and ~~shall include~~ includes nonfortified dessert wines which are not fortified having an alcohol content by volume of at least fourteen and one-tenths percent and not exceeding sixteen percent where the alcohol content by volume is greater than 17 percent and does not exceed 24 percent.

“Grocery store” means any retail establishment, commonly known as a grocery store, supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of

wine) of not less than ~~\$500~~ ~~\$3,000~~. The term “grocery store” ~~shall also include and mean also includes and means~~ a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises with average monthly sales with respect to ~~such the~~ separate or segregated portion (exclusive of sales of wine) of not less than ~~\$3,000~~ ~~\$500~~ and an average monthly inventory (exclusive of inventory of wine) of not less than ~~\$3,000~~ ~~\$500~~.

“Hard Cider” means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey, or another fruit, or from apple, pear, peach, or another fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent and less than 12 and one half percent alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as wine, wine product, or as a substitute for wine.

“Hard Cider Distributor” means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute hard cider (but not other types of wine) to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops under authority of this code and maintains a warehouse in this state for the distribution of hard cider (but not other types of wine). For the purpose of a hard cider distributor, the term “person” means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee, or any other person or persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

“Licensee” means the holder of a license granted under the provisions of this article.

“Nonfortified dessert wine” means a wine that is a dessert wine to which brandy or other alcohol has not been added, and which has an alcohol content by volume of at least 14.1 percent and less than or equal to 17 percent.

“Person” means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

“Private wine bed and breakfast” means any business with the sole purpose of providing, in a residential or country setting, a hotel, motel, inn, or other such establishment properly zoned as to its municipality or local ordinances, lodging and meals to its customers in the course of their stay at the establishment, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when ~~such the~~ sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public.

“Private wine restaurant” means a restaurant which: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which has, as its principal purpose, the business of serving meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated

portion of its premises to serve wine to its members and their guests when ~~such~~ the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public. ~~Such~~ Private clubs that meet the private wine restaurant requirements numbered (1), (2), and (3) in this definition shall be considered private wine restaurants: Provided, That, a private wine restaurant shall have at least two restrooms: Provided, however, That the two restroom requirement may be waived by a written waiver provided from a local health department to the commissioner: Provided, further, That a private wine restaurant located in an historic building may also be relieved of the two restroom requirement if a historic association or district with jurisdiction over a historic building provides a written waiver of the requirement to the commissioner: And Provided, further, That in no event shall a private wine restaurant have less than one restroom.

Private wine spa” means any business with the sole purpose of providing commercial facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and relaxation, and may ~~be also~~ also be a licensed massage parlor or a salon with licensed beauticians or stylists, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve up to two glasses of wine to its members and their guests when ~~such~~ the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member, and does not admit the general public.

“Retailer” means any person licensed to sell wine at retail to the public at his or her established place of business for off-premises consumption and who is licensed to do so under authority of this article.

“Supplier” means any manufacturer, producer, processor, winery, farm winery, national distributor, or other supplier of wine who sells or offers to sell or solicits or negotiates the sale of wine to any licensed West Virginia distributor.

“Table wine” means a wine with an alcohol content by volume between 0.5 percent and 14 percent.

“Tax” includes within its meaning interest, additions to tax, and penalties.

“Taxpayer” means any person liable for any tax, interest, additions to tax, or penalty under the provisions of this article, and any person claiming a refund of tax.

“Varietal wine” means any wine labeled according to the grape variety from which ~~such~~ the wine is made.

“Vintage wine” or “vintage-dated wine” means wines from which the grapes used to produce ~~such~~ the wine are harvested during a particular year, or wines produced from the grapes of a particular harvest in a particular region of production.

“Wine” means any alcoholic beverage obtained by the natural fermentation of the natural content of grapes, other fruits, or honey or other agricultural products containing sugar ~~and~~ to which no alcohol has been added and ~~shall exclude fortified wine and shall also exclude any product defined as or embraced within the definition of nonintoxicating beer under the provisions~~

~~of article sixteen, chapter eleven of this code~~ includes table wine, hard cider, nonfortified dessert wine, wine coolers, and other similar wine-based beverages. Fortified wine and any product defined as or contained within the definition of nonintoxicating beer under the provisions of §11-16-1 et seq., of this code are excluded from this definition of wine.

“Wine specialty shop” means a retailer who ~~shall deal~~ deals principally in the sale of table wine, nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine and: (1) Who ~~shall maintain~~ maintains a representative number of such wines for sale in his or her inventory which are designated by label as varietal wine, vintage, generic, and/or according to region of production and the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle count; and (2) who, any other provisions of this code to the contrary notwithstanding, may maintain an inventory of port, sherry, and Madeira wines having an alcoholic content of not more than 22 percent alcohol by volume and which have been matured in wooden barrels or casks. All wine available for sale shall be for off-premises consumption except where wine tasting or wine sampling is separately authorized by this code.

§60-8-3. Licenses; fees; general restrictions.

(a) No person may engage in business in the capacity of a winery, farm winery, supplier, distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or wine specialty shop without first obtaining a license from the commissioner, nor shall a person continue to engage in any activity after his or her license has expired, been suspended, or revoked. No person may be licensed simultaneously as a distributor and a retailer. No person, except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No person may be licensed simultaneously as a supplier and a private wine bed and breakfast, private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a distributor and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a retailer and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. Any person who is licensed to engage in any business concerning the manufacture, sale, or distribution of wine may also engage in the manufacture, sale, or distribution of hard cider without obtaining a separate hard cider license.

(b) The commissioner shall collect an annual fee for licenses issued under this article as follows:

(1) One hundred fifty dollars per year for a supplier’s license;

(2) Two thousand five hundred dollars per year for a distributor’s license and each separate warehouse or other facility from which a distributor sells, transfers, or delivers wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$2,500 as provided in this subdivision;

(3) One hundred fifty dollars per year for a retailer’s license;

(4) Two hundred fifty dollars per year for a wine specialty shop license, in addition to any other licensing fees paid by a winery or retailer holding a license. Except for the amount of the license fee and the restriction to sales of winery or farm winery wines, a winery, or farm winery acting as a wine specialty shop retailer is subject to all other provisions of this article which are applicable to a wine specialty shop retailer as defined in §60-8-2 of this code;

(5) One hundred fifty dollars per year for a wine tasting license;

(6) One hundred fifty dollars per year for a private wine bed and breakfast license. Each separate bed and breakfast from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as provided in this subdivision;

(7) Two hundred fifty dollars per year for a private wine restaurant license. Each separate restaurant from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision;

(8) One hundred fifty dollars per year for a private wine spa license. Each separate private wine spa from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as provided in this subdivision;

(9) One hundred fifty dollars per year for a wine sampling license issued for a wine specialty shop under subsection (n) of this section;

(10) No fee ~~shall be charged~~ for a special one-day license under subsection (p) of this section or for a heritage fair and festival license under subsection (q) of this section;

(11) \$150 per year for a direct shipper's license for a licensee who sells and ships only wine and \$250 per year for a direct shipper's license who ships and sells wine, nonfortified dessert wine, port, sherry, or Madeira wines; ~~and~~

(12) Three hundred fifty dollars per year for a multi-capacity winery or farm winery license which enables the holder to operate as a retailer, wine specialty shop, supplier, and direct shipper without obtaining an individual license for each capacity; and

(13) Two hundred fifty dollars per year for a hard cider distributor's license. Each separate warehouse or other facility from which a distributor sells, transfers, or delivers hard cider shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision: *Provided*, That if a licensee is licensed as a nonintoxicating beer or nonintoxicating beer distributor then there is no additional license fee to distribute hard cider.

(c) The license period begins on July 1 of each year and ends on June 30 of the following year and if granted for a less period, the same shall be computed semiannually in proportion to the remainder of the fiscal year.

(d) No retailer may be licensed as a private club as provided by §60-7-1 *et seq.* of this code, except as provided by subsection (k) of this section.

(e) No retailer may be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code: *Provided*, That a delicatessen, a caterer, or party supply store which is a grocery store as defined in §60-8-2 of this code and which is licensed as a Class A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided, however*, That any delicatessen, caterer, or party supply store licensed in both capacities ~~must~~ shall maintain average monthly sales exclusive of sales of wine and nonintoxicating beer which exceed the average monthly sales of nonintoxicating beer.

(f) A wine specialty shop under this article may also hold a wine tasting license authorizing the retailer to serve complimentary samples of wine in moderate quantities for tasting. ~~Such~~ The wine specialty shop shall organize a wine taster's club, which has at least 50 duly elected or approved dues-paying members in good standing. ~~Such~~ The club shall meet on the wine specialty shop's premises not more than one time per week and shall either meet at a time when the premises are closed to the general public or shall meet in a separate segregated facility on the premises to which the general public is not admitted. Attendance at tastings shall be limited to duly elected or approved dues-paying members and their guests.

(g) A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

(h)(1) The commissioner may issue a license for the retail sale of wine at any festival or fair which is endorsed or sponsored by the governing body of a municipality or a county commission. ~~Such~~ The license shall be issued for a term of no longer than 10 consecutive days and the fee for the license shall be is \$250 regardless of the term of the license. The application for the license shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the festival or fair.

(2) Notwithstanding subdivision (1) of this subsection, if the applicant for the festival or fair license is the manufacturer of ~~said~~ the wine, a winery, or a farm winery as defined in §60-1-5a of this code, and the event is located on the premises of a winery or a farm winery, then the license fee is \$50 per festival or fair.

(3) A licensed winery or a farm winery, which has the festival or fair licensee's written authorization and approval from the commissioner, may, in addition to or in conjunction with the festival and fair licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed three, two-fluid ounce, tastings or samples per patron, for consumption on the premises during the operation of a festival or fair only; and may sell wine for off-premises consumption only: *Provided*, That for licensed wineries or farm wineries at a licensed festival or fair the tastings, samples and off-premises sales shall occur under the hours of operation as required in this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and ~~4:00~~ 6:00 a.m.

(4) A festival or fair license may be issued to a "wine club" as defined in this subdivision for a license fee of \$250. The festival or fair committee or the governing body shall designate a person to organize a club under a name which includes the name of the festival or fair and the words "wine club". The license shall be issued in the name of the wine club. A licensee ~~may not commence the sale of~~ sell wine as provided in this subdivision until the wine club has at least 50 dues-paying members who have been enrolled, and to whom membership cards have been issued. Thereafter, new members may be enrolled and issued membership cards at any time during the period for which the license is issued. A wine club licensed under the provisions of this subdivision may sell wine only to its members, and in portions not to exceed eight ounces per serving. The sales shall take place on premises or in an area cordoned or segregated so as to be closed to the general public, and the general public shall not be admitted to the premises or area. A wine club licensee under the provisions of this subdivision may serve complimentary samples of wine in moderate quantities for tasting. A wine club may not make wine purchases from a direct shipper where the wine may be consumed on the licensed premises of any Class A private wine retail license or private club. A wine club which violates the provisions of this subdivision is subject to the penalties in this article.

(5) A licensed winery or farm winery approved to participate in a festival or fair under the provisions of this section and the licensee holding the license, or the licensed winery or farm winery approved to attend a licensed festival or fair, is subject to all other provisions of this article and the rules and orders of the commissioner relating to the license: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders ~~as required by the circumstances of each festival or fair may require~~, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code, be waived nor shall any exception be granted with respect to those subsections.

(6) A license issued under the provisions of this section and the licensee holding the license are not subject to the provisions of subsection (g) of this section.

(7) An unlicensed winery temporarily licensed and meeting the requirements set forth in subsection (q) of this section may conduct the same sampling and sales set forth in subsection (q) of this section at a licensed fair and festival upon approval of the licensee holding the fair and festival license and temporary and limited licensure by the commissioner. An unlicensed winery ~~shall be is~~ subject to the same limits, fees, requirements, restrictions and penalties set forth in subsection (q) of this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders ~~as required by the circumstances of each festival or fair. may require, including, without limitation, the right to~~ The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted with respect to those subsections.

(i)(1) The commissioner may issue a special license for the retail sale of wine in a professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine, for consumption in a professional baseball stadium. For the purpose of this subsection, "professional baseball stadium" means a facility constructed primarily for the use of a major or minor league baseball franchisee affiliated with the National Association of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league baseball park. Any special license issued pursuant to this subsection shall be for a term beginning on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the professional baseball stadium. The special license may be issued in the name of the baseball franchisee or the name of the primary food and beverage vendor under contract with the baseball franchisee. These sales must take place within the confines of the professional baseball stadium. The exterior of the area where wine sales may occur ~~must~~ shall be surrounded by a fence or other barrier prohibiting entry except upon the franchisee's express permission, and under the conditions and restrictions established by the franchisee, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders ~~as required by~~ as required by the circumstances of each professional

baseball stadium ~~may require, including, without limitation, the right to~~ The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code; ~~and~~ *Provided, however,* That under no circumstances may §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted concerning those subsections.

(3) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this subsection.

(j) A license to sell wine granted to a private wine bed and breakfast, private wine restaurant, private wine spa, or a private club under the provisions of this article entitles the operator to sell and serve wine, for consumption on the premises of the licensee, when the sale accompanies the serving of food or a meal to its members and their guests in accordance with the provisions of this article: *Provided,* That a licensed private wine bed and breakfast, private wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to purchase wine, consume wine, and recork or reseal, using a tamper resistant cork or seal, up to two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its members and their guests in accordance with the provisions of this article and in accordance with rules promulgated by the commissioner for the purpose of consumption of ~~said the~~ wine off premises: *Provided, however,* ~~That for this article, food or a meal provided by the private licensee means that the total food purchase, excluding beverage purchases, taxes, gratuity, or other fees is at least \$15: *Provided further,*~~ That a licensed private wine restaurant or a private club may offer for sale, for consumption off the premises, sealed bottles of wine to its customers provided that no more than one bottle is sold per each person over 21 years of age, as verified by the private wine restaurant or private club, for consumption off the premises. ~~Such~~ The licensees ~~are authorized to~~ may keep and maintain on their premises a supply of wine in quantities appropriate for the conduct of operations thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this code. A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code.

(k) With respect to subsections (h), (i), (j), (o), and (p) of this section, the commissioner shall propose rules for promulgation in accordance with §29A-1-1 *et seq.* of this code, including, but not limited to, the form of the applications and the suitability of both the applicant and location of the licensed premises.

(l) The commissioner shall propose rules for promulgation in accordance with the provisions of §29A-1-1 *et seq.* of this code to allow restaurants to serve wine with meals and to sell wine by the bottle for off-premises consumption as provided in subsection (j) of this section. Each licensed restaurant shall be charged an additional \$100 per year fee.

(m) The commissioner shall establish guidelines to permit wines to be sold in all stores licensed for retail sales.

(n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this code.

(o) A wine specialty shop under this article may also hold a wine sampling license authorizing the wine specialty shop to conduct special wine sampling events at a licensed wine specialty shop location during regular hours of business. The wine specialty shop may serve up to three complimentary samples of wine, consisting of no more than two fluid ounces each, to any one consumer in one day. Persons serving the complimentary samples ~~must~~ shall be 21 years of age

or older and an authorized representative of the licensed wine specialty shop, winery, farm winery, or a representative of a distributor or registered supplier. Distributor and supplier representatives attending wine sampling events ~~must be registered~~ shall register with the commissioner. No licensee, employee, or representative may furnish, give, sell, or serve complimentary samples of wine to any person less than 21 years of age or to a person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and secure permission from the commissioner for all wine sampling events ~~one month~~ 30 days prior to the event. Wine sampling events may not exceed six hours per calendar day. Licensees ~~must~~ shall purchase all wines used during these events from a licensed farm winery or a licensed distributor.

(p) The commissioner may issue special one-day licenses to duly organized, nonprofit corporations and associations allowing the sale and serving of wine, and may, if applicable, also allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only, when raising money for athletic, charitable, educational, or religious purposes. "Auction or auctioning", for the purposes of this subsection, means any silent, physical act, or verbal bid auction, whether or not ~~such~~ the auction requires in-presence bidding or online Internet-based electronic bidding through a secure application or website, but shall not include any action in violation of §47-20-10, §47-20-11, or §61-10-1 *et seq.* of this code. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Accompanying the license application, the applicant shall submit a signed and notarized statement that at least 80 percent of the net proceeds from the charitable event will be donated directly to the nonprofit corporation or organization. Wines used during these events may be donated by, or purchased from, a licensed retailer, a distributor, winery, or a farm winery. A licensed winery or farm winery which is authorized in writing by a representative of the duly organized, nonprofit corporation ~~and~~ or association which has obtained the one-day license; is in good standing with the state; and obtains the commissioner's approval prior to the one-day license event may, in conjunction with the one-day licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed ~~of~~ three, two-fluid ounce tastings or samples per patron, for consumption on the premises during the operation of the one-day license event; and may sell certain sealed wine bottles manufactured by the licensed winery or farm winery for off-premises consumption: *Provided*, That for a licensed winery or farm winery at a licensed one-day event, the tastings, samples and off-premises sales shall occur under the hours of operation ~~as required in~~ permitted by this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and ~~4:00~~ 6:00 a.m., from the one-day licensee's submitted floor plan for the event subject to the requirements in the code and rules. Under no circumstances may the provisions of §60-8-20(c) or §60-8-20(f) of this code be waived nor may any exception be granted with respect to those subsections. ~~No more than six licenses may be issued to any single licensee during any calendar year.~~

(q)(1) In addition to the authorization granted to licensed wineries and farm wineries in subsections (h) and (p) of this section, an unlicensed winery, regardless of its designation in another state, but that is duly licensed in its domicile state, may pay a \$150 nonrefundable and nonprorated fee and submit an application for temporary licensure on a one-day basis for temporary sampling and sale of wine in sealed containers for off-premises consumption at a special one-day license nonprofit event.

(2) The application shall include, but is not limited to, the person or entity's name, address, taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal

certificate of label approvals and certified lab alcohol analysis for the wines it desires to temporarily provide samples and temporarily sell wine in sealed containers for off-premises consumption at a special one-day license for a nonprofit event issued under subsection (p) of this section; and ~~such~~ any other information as the commissioner may reasonably require.

(3) The applicant winery shall include a list of all wines proposed to be temporarily sampled and temporarily sold in sealed containers at a special one-day license for a nonprofit event so that the wines may be reviewed in the interest of public health and safety. Once approved, the submitted wine list ~~will create~~ creates a temporary wine brand registration for up to two special one-day ~~license~~ licenses for a nonprofit event for no additional fee.

(4) An applicant winery that receives this temporary special one-day license for a nonprofit event ~~will provide~~ shall provide the commissioner a signed and notarized written agreement ~~where the applicant winery agrees~~ acknowledging that the applicant winery understands its responsibility to pay all municipal, local, and sales taxes applicable to the sale of wine in West Virginia.

(5) An application must be submitted per special one-day license for a nonprofit event the applicant winery desires to attend, and the license fee shall cover up to two special one-day license for nonprofit events before an additional fee would be ~~paid~~ is required. In no circumstance would ~~such a~~ the winery be permitted to attend more than four special one-day ~~license for nonprofit events per year~~ licensed events. Any ~~such~~ applicant or unlicensed winery desiring to attend more than four special one-day license for nonprofit events per year or otherwise operate in West Virginia would need to seek appropriate licensure as a winery or a farm winery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, wine brand registration, payment of wine liter tax, and the winery's appointment of suppliers and distributors, this temporary special one-day license for a nonprofit event, once granted, permits ~~such~~ a winery to operate in this limited capacity only at the approved specific, special one-day license for a nonprofit event subject to the limitations ~~noted~~ contained in this section.

(7) The applicant winery ~~will need to further~~ shall also apply for and receive a transportation permit ~~in order~~ to legally transport wine in the state per §60-6-12 of this code.

(8) The applicant winery is subject to all applicable violations and/or penalties under this article and the legislative rules that ~~is~~ are not otherwise excepted by this subsection: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as required by the circumstances of each festival or fair. ~~may require, including, without limitation, the right to~~ The commissioner may revoke or suspend any license issued pursuant to this ~~section~~ article, prior to any notice or hearing.

(r) The commissioner may issue special licenses to heritage fairs and festivals allowing the sale, serving, and sampling of wine from a licensed farm winery. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during these events may be donated by or purchased from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this code be waived nor may any exception be granted with respect thereto. The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this subsection.

(s)(1) The commissioner may issue a special license for the retail sale of wine in a college stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine for consumption in a college stadium. For the purpose of this subsection, "college stadium" means a facility constructed primarily for the use of a Division I, II, or III college that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium. A special license issued pursuant to this subsection shall be for a term beginning on the date of its issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold. The special license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. ~~These~~ All sales must take place within the confines of the college stadium: *Provided*, That the exterior of the area where wine sales may occur ~~must~~ shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee are subject to the other requirements of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as required by the circumstances of each the college stadium. ~~may require, including, without limitation, the right to~~ The commissioner may revoke or immediately suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided, however*, That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any exception be granted concerning those subsections.

(3) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this subsection.

§60-8-4. Liter tax.

There is hereby levied and imposed on all wine sold after July 1, 2007, by suppliers to distributors, and including all wine sold and sent ~~to West Virginia adult residents~~ to persons 21 years of age or older who reside in West Virginia from direct shippers, except wine sold to the commissioner, a tax of twenty-six and four hundred six-thousandths cents per liter. Effective July 1, 2021, hard cider is excepted from this per liter tax and is taxed pursuant to §60-8A-3 of this code.

Before the 16th day of each month thereafter, every supplier, distributor and direct shipper shall make a written report under oath to the Tax Commissioner and the commissioner showing the identity of the ~~purchaser~~ purchasing person, the quantity, label and alcoholic content of wine sold by the supplier to West Virginia distributors or the direct shipper ~~to West Virginia adult residents~~ to persons 21 years of age or older who reside in West Virginia during the preceding month and at the same time shall pay the tax imposed by this article on the wine sold to the distributor or ~~the West Virginia adult residents~~ or to persons 21 years of age or older who reside in West Virginia during the preceding month to the Tax Commissioner.

The reports shall contain other information and be in the form required by the Tax Commissioner ~~may require~~. For purposes of this article, the reports required by this section shall

be considered tax returns covered by the provisions of §11-10-1 *et seq.* of this code. Failure to timely file the tax returns within five calendar days of the 16th day of each month ~~will also subject~~ also subjects a supplier, distributor, and direct shipper to penalties under §60-8-18 of this code.

No wine imported, sold, or distributed in this state or sold and shipped to this state by a direct shipper shall be subject to more than one liter tax.

§60-8-6c. Winery and Farm Winery license to sell wine growers and provide complimentary samples prior to purchasing a wine growler.

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of wine and its industry in this state to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed winery or farm winery with its principal place of business and manufacture located in this state to have certain abilities to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of wine.* — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may, when licensed under this section, offer only wine manufactured by the licensed winery or farm winery for retail sale to customers from the winery or farm winery's licensed premises for consumption off of the licensed premises only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal consumption, and not for resale. A licensed winery or farm winery may not sell, give, or furnish wine for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section or unless separately licensed as a private wine restaurant or a private manufacturer club.

(c) *Complimentary samples.* — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may offer complimentary samples of wine as set forth in §60-4-3b of this code.

(d) *Retail sales.* — Every licensed winery or farm winery under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting wine growler sales and is subject to all applicable requirements and penalties in this article.

(e) *Payment of taxes and fees.* — A winery or farm winery licensed under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and shall meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising.* — A winery or farm winery under this section may advertise a particular brand or brands of wine produced by the licensed winery or farm winery and the price of the wine subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(g) *Wine Growler defined.* — For purposes of this section and section §60-8-6d of the code, "wine growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-

premises sales only of wine for personal consumption, and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. For purpose of this article, a secure seal means using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of wine growler to form a seal that must be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

(h) *Wine Growler requirements.* — A winery or farm winery licensed under this section shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed winery or farm winery under this section may refill a wine growler subject to the requirements of this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(i) *Wine Growler labeling.* — A winery or farm winery licensed under this section selling wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning requirements.

(j) *Wine Growler sanitation.* — A licensed winery or farm winery authorized under this section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and county health requirements prior to its filling and sealing. In addition, the licensed winery or farm winery shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under this article.

(k) *Fee.* — There is no additional fee for a licensed winery or farm winery authorized under this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

(l) *Limitations on licensees.* — To be authorized under this section, a licensed winery or farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or farm winery's principal place of business and manufacture located in the State of West Virginia. A licensed winery or farm winery authorized under this section is subject to the applicable penalties under this article for violations of this section.

(m) *Rules.* — The commissioner, in consultation with the Bureau for Public Health, may propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8-6d. Wine retailer, wine specialty shop, private wine restaurant, private wine bed and breakfast, private wine spa, Class B retail dealer, private club restaurant, private manufacturer club, Class A retail licensee, and Class B retail licensee's authority to sell wine growlers.

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption,

transportation, and storage of wine and its industry in this state to protect the public health, welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed wine retailer, wine specialty shop, private wine restaurant, private wine bed and breakfast, private wine spa, private club restaurant, private manufacturer club, Class A retail licensee, or Class B retail licensee to have certain abilities in order to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) Sales of wine. — A licensed wine retailer, wine specialty shop, private wine restaurant, private wine bed and breakfast, private wine spa, private club restaurant, private manufacturer club, Class A retail licensee, or Class B retail licensee who pays the fee in subsection (h) of this section and meets the requirements of this section may offer wine for retail sale to patrons from the licensed premises in a sealed wine growler for personal consumption off of the licensed premises, and not for resale. Prior to the sale, the licensee shall verify, using proper identification, that any patron purchasing wine is 21 years of age or over and that the patron is not visibly intoxicated. The nonprorated, nonrefundable annual fee to sell wine growlers is \$100.

(c) Retail sales. — Every licensee authorized under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting sales of wine in a wine growler and is subject to all applicable requirements and penalties in this article.

(d) Payment of taxes and fees. — A licensee authorized under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) Advertising. — A licensee authorized under this section may advertise a particular brand or brands of wine and the price of the wine, subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(f) Wine Growler defined and requirements. — A licensee authorized under this section shall use the wine growler definition and requirements in §60-8-6c(g) and §60-8-6c(h) of this code.

(g) Wine Growler labeling and sanitation. — A licensee authorized under this section shall label and sanitize wine growlers as set forth in §60-8-6c(i) and §60-8-6c(j) of this code.

(h) Complimentary samples. — A licensee authorized under this section may provide complimentary wine growler samples to a person intending to purchase a wine growler which may be no greater than two fluid ounces per wine growler sample and a wine growler sampling shall not exceed three complimentary two fluid ounce samples per patron per day. A licensee authorized under this section providing complimentary wine samples shall, prior to providing any samples, verify that the patron sampling wine is 21 years of age or older and that the patron is not visibly or noticeably intoxicated.

(i) Limitations on licensees. — A licensee under this section may only sell wine growlers during the hours of operation set forth in this article. Any licensee licensed under this section shall maintain a secure area for the sale and filling of wine in a wine growler. The secure area shall only be accessible by the licensee. Any licensee licensed under this section is subject to the applicable penalties under this article for violations.

(j) *Non-applicability of certain statutes.* — Notwithstanding any other provision of this article to the contrary, licensees under this section are permitted to break the seal of the original container for the limited purpose of filling a wine growler or providing complimentary wine samples as provided in this section. Any unauthorized sale of wine or any consumption not permitted on the licensee’s licensed premises is subject to penalties under this article.

(k) *Rules.* — The commissioner may propose legislative rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8-6e. Private wine delivery license for a licensed Class A wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class A wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee’s employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program, authorized by the licensee’s license. There is no additional fee for a Class A wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted by a third party licensee when sold by a Class A wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program for off-premises consumption. The private wine delivery license non-prorated, nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements.* -

(1) The wine purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of prepared food or a meal, and sealed wine by the licensee or third-party licensee.

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) “Prepared food or a meal” for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of no more than 384 fluid ounces of wine per delivery order; and

(5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine as provided in this section. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to prepared food or a meal. The convenience fee charged by the third-party private wine delivery licensee to the purchasing person may be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party private wine delivery licensee also licensed for nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.

(e) Private Wine Delivery Requirements. -

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class A wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or the Class A wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The third-party private wine delivery licensee shall submit certification of the training to the commissioner;

(3) The third party private wine delivery licensee or Class A wine licensee shall hold a retail transportation permit for each vehicle delivering sealed wine per subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) Delivery of food or a meal, and sealed wine orders by a third-party private wine delivery licensee or Class A wine licensee may occur in the county or contiguous counties where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class A wine licensee may only deliver prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party private wine delivery licensee or Class A wine licensee shall account for and pay all sales and municipal taxes;

(6) The third-party private wine delivery licensee or Class A wine licensee may not deliver prepared food or a meal, and sealed wine to any other wine licensees;

(7) Deliveries of food or a meal, and sealed wine are only for personal use, and not for resale; and

(8) The third-party private wine delivery licensee or Class A wine licensee shall not deliver and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a person's age and identification as required by this section.

(f) Telephone, mobile ordering application, or web-based software requirements. -

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal, and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification and, as applicable, a stored scanned image of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(4) All records are subject to inspection by the commissioner, and the third-party private wine delivery licensee and Class A wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class A wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit per subsection (g) of this section.

(g) Private Wine Retail Transportation Permit. -

(1) A Class A wine licensee or a third-party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and sealed wine.

(2) A Class A wine licensee or a third-party private wine delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) Enforcement. -

(1) The licensee or the third-party private wine delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-8-6f. Private wine delivery license for a licensed Class B wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class B wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles, cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone order, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for a Class B wine licensee to obtain a private wine delivery license. The order, sale, and delivery process shall meet the requirements of this section, and subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of the ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption by a third party licensee when sold by a Class B wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program. The private wine delivery license non-prorated, nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements.* -

(1) The wine purchase may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed wine by the licensee or third-party private wine delivery licensee.

(2) Any purchasing person must be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer:

(4) An order, sale, or delivery consisting of food and any combination of sealed wine bottles, cans, or growlers shall not be in excess of 384 fluid ounces of wine; and

(5) A third-party private wine delivery licensee shall not have a pecuniary interest in a Class B wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to food only. The convenience fee charged by the third-party private wine delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed five dollars.

(e) Private Wine Delivery Requirements. -

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class B wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or Class B wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and certification. The third-party private wine delivery licensee or Class B wine licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or Class B wine licensee must hold a retail transportation permit for each vehicle delivering sealed wine as required by subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine orders by a third-party private wine delivery licensee or Class B wine licensee in the county where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine to addresses located in West Virginia with all sales and municipal taxes accounted for and paid;

(6) A third-party private wine delivery licensee or Class B wine licensee may not deliver food and sealed wine to any other wine licensees;

(7) Deliveries of food and sealed wine are only for personal use, and not for resale; and

(8) A third-party private wine delivery licensee or Class B wine licensee shall not deliver and leave food and sealed wine at any address without verifying a person's age and identification as required by this section.

(f) Telephone, mobile ordering application, or web-based software requirements. -

(1) The delivery person shall only permit the person who placed the order through a telephone, a mobile ordering application, or web-based software to accept the food and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification and, as applicable, a stored scanned image of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and must include the delivery driver's name and vehicle information;

(4) All records are subject to inspection by the commissioner. The third-party private wine delivery licensee or Class B wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class B wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit under subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit.* -

(1) A Class B wine licensee or third party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of food and wine.

(2) A Class B wine licensee or third party private wine delivery licensee shall provide vehicle and driver information requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement.* -

(1) The licensee or third-party private wine delivery licensee are each responsible for any violations committed by their employees or agents under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-8-18. Revocation, suspension, and other sanctions which may be imposed by the commissioner upon the licensee; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions, or denies the issuance or renewal of any license issued under this article.

(a) The commissioner may on his or her own motion, or shall on the sworn complaint of any person, conduct an investigation to determine if any provisions of this article or any rule promulgated or any order issued by the commissioner has been violated by any licensee. After investigation, the commissioner may impose penalties and sanctions as set forth ~~below~~ in this section.

(1) If the commissioner finds that the licensee has violated any provision of this article or any rule promulgated or order issued by the commissioner, or if the commissioner finds the existence of any ground on which a license could have been refused, if the licensee were then applying for a license, the commissioner may:

(A) Revoke the licensee's license;

(B) Suspend the licensee's license for a period determined by the commissioner not to exceed 12 months; ~~or~~

(C) Place the licensee on probation for a period not to exceed 12 months; ~~and or~~

(D) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(2) If the commissioner finds that a licensee has willfully violated any provision of this article or any rule promulgated or any order issued by the commissioner, the commissioner shall revoke the licensee's license.

~~(b) If a supplier or distributor fails or refuses to keep in effect the bond required by §60-8-20 of this article, the commissioner shall automatically suspend the supplier or distributor's license until the bond required by §60-8-20 of this article is furnished to the commissioner, at which time the commissioner shall vacate the suspension~~

~~(e)~~(b) Whenever the commissioner refuses to issue a license, or suspends or revokes a license, places a licensee on probation, or imposes a monetary penalty, he or she shall enter an order to that effect and cause a copy of the order to be served in person or by certified mail, return receipt requested, on the licensee or applicant.

~~(d)~~(c) An applicant or licensee, as the case may be, adversely affected by the order has a right to a hearing before the commissioner if a written demand for hearing is served upon the commissioner within 10 days following the receipt of the commissioner's order by the applicant or licensee. Timely service of a demand for a hearing upon the commissioner operates to suspend the execution of the order with respect to which a hearing has been demanded, except an order suspending a license under the provisions of §60-8-29 of this code. The person demanding a hearing shall give security for the cost of the hearing in a form and amount as required by the commissioner ~~may reasonably require~~. If the person demanding the hearing does not substantially prevail in the hearing or upon judicial review thereof as provided in subsections ~~(g)~~(f) and ~~(h)~~(g) of this section, then the costs of the hearing shall be assessed against him or her by the commissioner and may be collected by an action at law or other proper remedy.

~~(e)~~(d) Upon receipt of a timely served written demand for a hearing, the commissioner shall immediately set a date for the hearing and notify the person demanding the hearing of the date, time, and place of the hearing, which shall be held within 30 days after receipt of the demand. At the hearing, the commissioner shall hear evidence and thereafter enter an order supporting by findings of facts, affirming, modifying, or vacating the order. Any such order is final unless vacated or modified upon judicial review.

~~(f)~~(e) The hearing and the administrative procedure prior to, during, and following the hearing shall be governed by and in accordance with the provisions of §29A-5-1 *et seq.* of this code.

~~(g)~~(f) Notwithstanding the provisions of §29A-5-4(b) of this code, an applicant or licensee adversely affected by a final order entered following a hearing has the right of ~~of~~ to judicial review of the order code in the Circuit Court of Kanawha County or the circuit court in the county where the proposed or licensed premises is located and will or does conduct sales: *Provided*, That in all other respects, ~~such~~ the review shall be conducted in the manner provided in chapter 29A of this code. The applicant or licensee shall file the petition for the review ~~must be filed~~ with the circuit court within 30 days following entry of the final order issued by the commissioner. An applicant or licensee obtaining judicial review is required to pay the costs and fees incident to transcribing, certifying, and transmitting the records pertaining to the matter to circuit court.

~~(h)~~(g) The judgment of the circuit court reviewing the order of the commissioner is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of §29A-6-1 of this code.

~~(i)~~(h) Legal counsel and services for the commissioner in all proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the Attorney General or his or her assistants and in any proceedings in any circuit court by the prosecuting attorney of that county as well, all without additional compensation.

§60-8-20. Unlawful acts generally.

It ~~shall be~~ is unlawful:

(a) For a supplier or distributor to sell or deliver wine purchased or acquired from any source other than a person registered under the provisions of §60-8-6 of this code or for a retailer to sell or deliver wine purchased or acquired from any source other than a licensed distributor or a farm winery as defined in §60-1-5a of this code;

(b) Unless otherwise specifically provided by the provisions of this article, for a licensee under this article to acquire, transport, possess for sale, or sell wine other than in the original package;

(c) For a licensee, his or her servants, agents or employees to sell, furnish or give wine to any person less than 21 years of age, or to a ~~mental~~ mentally incompetent person or person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs: *Provided*, That the provisions of section §60-3A-25a of this code shall apply to sales of wine;

(d) For a licensee to permit a person who is less than 18 years of age to sell, furnish or give wine to any person, except as provided for in subsection (g) of this section;

(e) For a supplier or a distributor to sell or deliver any brand of wine purchased or acquired from any source other than the primary source of supply of the wine which granted the distributor

the right to sell the brand at wholesale. For the purposes of this article, "primary source of supply" means the vintner of the wine, the importer of a foreign wine who imports the wine into the United States, the owner of a wine at the time it becomes a marketable product, the bottler of a wine or an agent specifically authorized by any of the above-enumerated persons to make a sale of the wine to a West Virginia distributor: *Provided*, That no retailer shall sell or deliver wine purchased or acquired from any source other than a distributor or farm winery licensed in this state: *Provided, however*, That nothing herein is considered to prohibit sales of convenience between distributors licensed in this state wherein one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale, of which brand or brands the other distributor has been authorized by a licensed supplier to distribute. The commissioner shall promulgate legislative rules necessary to carry out the provision of this subsection;

(f) For a person to violate any ~~reasonable~~ rule promulgated by the commissioner under this article;

(g) Nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in any licensee's lawful employment, including the sale ~~or delivery~~ of wine or distribution of wine on behalf of a winery, farm winery, farm entity, supplier, or distributor under the provisions of this article. With the prior approval of the commissioner, a licensee ~~whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores,~~ may employ persons who are less than 18 years of age but at least 16 years of age: *Provided*, That the person's duties may ~~not~~ include the sale ~~or delivery~~ of nonintoxicating beer or wine alcoholic liquors only when directly supervised by a person 21 years of age or older: *Provided, however*, That the authorization to employ persons ~~under the age of 18 years of age~~ shall be clearly indicated on the licensee's license: *Provided, further*, That nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least 21 years of age for the ordering and delivery of wine when licensed for the ordering and delivery of wine under the provisions of this article.

§60-8-29. Bond Affidavit of compliance required of distributors and suppliers.

Each applicant for a distributor's license or a supplier's license shall furnish at the time of application ~~a bond with a corporate surety authorized to transact business in this State, payable to the State, and conditioned on the payment of all taxes and fees herein prescribed and on the faithful performance of and compliance with the provisions of this article.~~ an affidavit of compliance with federal and state laws regarding tied house laws, trade practice requirements, and furnishing things of value requirements set forth in the code and the rules. The commissioner shall suspend the licenses of licensed distributors and suppliers upon 10 days written notice by the commissioner, for failing to pay their taxes to the Tax Commissioner or who are not otherwise in good standing with the commissioner and other state agencies. If the licensed distributors and suppliers fail to pay their taxes or otherwise fail to take corrective actions to put the licensed distributors and suppliers in good standing within 30 days from the date of suspension of the licensee's license, then the commissioner shall revoke the licensee's license pursuant to the requirements of this article.

~~The penal sum of the bond for distributors shall be ten thousand dollars and the penal sum of the bond for suppliers shall be \$10,000. Each distributor shall be required to furnish separate bond for each location or separate place of business from which wine is distributed, sold or~~

~~delivered. Revocation or forfeiture of the bond furnished for any such location may, in the discretion of the commissioner, cause the revocation or forfeiture of all such bonds furnished by the distributor suffering such revocation or forfeiture.~~

§60-8-32a. Where wine may be sold and consumed for on-premises consumption.

(a) With prior approval of the commissioner, a Class A wine licensee may sell, serve, and furnish wine for on premises consumption in a legally demarcated area which may include a temporary private wine outdoor dining area or a temporary private wine outdoor street dining area. A temporary private wine outdoor street area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The Class A wine licensee shall submit to a municipality or county commission for the approval of the private wine outdoor dining area or private wine outdoor street dining area and submit to the municipality or county commission a revised floorplan requesting to sell wine, subject to the commissioner's requirements, in an approved and bounded outdoor area. For private wine outdoor street dining or private wine outdoor dining the approved and bounded outdoor area need not be adjacent to the licensee's licensed premises, but in close proximity and under the licensee's control and with right of ingress and egress. For purposes of this section, "close proximity," means an available area within 150 feet of the licensee's licensed premises.

(c) This private wine outdoor dining or private wine outdoor street dining may be operated in conjunction with a private outdoor dining or private outdoor street dining area set forth in §60-7-8d of this code, and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, "private wine outdoor dining and private wine outdoor street dining" include dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any areas where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) Class A licensees licensed for on-premises sales shall provide food or a meal along with sealed wine in the original container or a sealed wine growler sales and service as set forth in this section and in §60-8-3 of this code, to a patron who is in-person or in-vehicle while picking up food and sealed wine in the original containers or sealed wine growlers ordered-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-8-34. When retail sales prohibited.

~~It shall be is~~ unlawful for a retailer, farm winery, wine specialty shop retailer, private wine bed and breakfast, private wine restaurant, or private wine spa licensee, his or her servants, agents,

or employees to sell or deliver wine between the hours of 2:00 a.m. and ~~4:00~~ 6:00 a.m. or, it ~~shall be~~ is unlawful for a winery, farm winery, private wine bed and breakfast, private wine restaurant, or private wine spa, his or her servants, agents, or employees to sell wine between the hours of 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, ~~on Sundays,~~ or between the hours of 2:00 a.m. and ~~7:00~~ 6:00 a.m. on weekdays, ~~and Saturdays, and Sundays.~~

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.

§60-8A-1. Definition of Hard Cider.

“Hard Cider” means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey, or other fruit, or from apple, pear, peach, or other fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent and less than 12 and one half percent alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as a wine, wine product, or as a substitute for wine.

§60-8A-2. Applicability of other laws and licenses.

(a) Except as stated in this article, all wine licenses and other wine requirements set forth in §60-8-1 et seq., §60-4-3b, and §60-6-2, of this code, shall apply to the manufacture, distribution, or sale of hard cider. Any person or licensee legally authorized to manufacture, distribute, or sell wine may manufacture, distribute, or sell hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license or legal right authorizes him or her to manufacture, distribute, or sell wine. No additional wine license fees shall be charged for the privilege of manufacturing, distributing, or selling hard cider.

(b) Except as stated in this article, all hard cider distributors are bound by all wine distribution requirements set forth in §60-8-1 et seq., §60-4-3b, and §60-6-2, of this code which shall apply to distribution of hard cider. Any person or licensee legally authorized to distribute hard cider may distribute hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as a license or legal right would authorize him or her to distribute wine. An additional hard cider license fee shall not be charged for the privilege of distributing hard cider.

§60-8A-3. Taxation; reporting; deposits into Agriculture Development Fund; penalties for failure to file returns; application of state tax law; rulemaking authority.

(a) There is hereby levied and imposed on all hard cider sold on and after July 1, 2021, by wineries, farm wineries, and suppliers to distributors, and including all hard cider sold and sent to persons 21 years of age or older who reside in West Virginia from direct shippers, a tax of 22.6 cents per gallon, in like ratio for any partial gallon or other unit of measure: *Provided*, That wineries, farm wineries, and suppliers eligible for federal tax credits in 26 U.S.C. 5041(c)(1) on hard cider are eligible for the credits in this state against the tax on hard cider. In the case of a person who produces not more than 250,000 wine gallons of hard cider during the calendar year, there shall be allowed as a credit against any tax imposed by this section of 5.6 cents per wine gallon on the first 100,000 wine gallons of hard cider which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States. That credit shall be reduced by one percent for each 1,000 wine gallons of hard cider produced in excess of 150,000 wine gallons of hard cider during the calendar year. For the purposes of this section, the term “wine gallon” means a United States gallon of liquid measure equivalent to the

volume of 231 cubic inches. On lesser quantities, the tax shall be paid proportionately (fractions of less than one-tenth gallon being converted to the nearest one-tenth gallon, and five-hundredths gallon being converted to the next full one-tenth gallon). Hard cider is exempt from the liter tax established under §60-8-4 of this code.

(b) The Tax Commissioner shall deposit, at least quarterly, after deducting the amount of any refunds lawfully paid and any administrative fees authorized by this code, the taxes for the hard cider, pursuant to this section, in the Agriculture Development Fund established by §19-2-12 of this code.

(c) Before the 16th day of each month thereafter, every winery, farm winery, supplier, distributor, and direct shipper shall make a written report under oath to the Tax Commissioner and the commissioner showing the identity of the purchasing person, the quantity, label, and alcoholic content of hard cider sold by the winery, farm winery, and supplier to West Virginia distributors or the direct shipper to persons 21 years of age or older who reside in West Virginia during the preceding month and at the same time shall pay the tax imposed by this article on the hard cider sold to the distributor or to persons 21 years of age or older who reside in West Virginia during the preceding month to the Tax Commissioner.

The reports shall contain other information and be in the form required by the Tax Commissioner. For purposes of this article, the reports required by this section shall be considered tax returns covered by the provisions of §11-10-1 *et seq.* of this code. Failure to timely file the tax returns within five calendar days of the 16th day of each month subjects a winery, farm winery, supplier, distributor, and direct shipper to penalties under §60-8-18 of this code.

(d) No hard cider imported, sold, or distributed in this state or sold and shipped to this state by a direct shipper shall be subject to more than one per-gallon tax on hard cider.

(e) *Administrative procedures.* — Each and every provision of the West Virginia Tax Procedure and Administration Act set forth in § 11-10-1 *et seq.* of this code, applies to the taxes imposed pursuant to this section, except as otherwise expressly provided in this article, with like effect as if that act were applicable only to the taxes imposed by this section and were set forth in extenso in this article.

(f) *Criminal penalties.* — Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in § 11-9-1 *et seq.* of this code applies to the taxes imposed pursuant to this section with like effect as if that act were applicable only to the taxes imposed pursuant to this article and were set forth in extenso in this article.

(g) The Tax Commissioner may propose legislative rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8A-4. Fruit sources; phase in; applications.

(a) On and after July 1, 2021, pursuant to §60-3-25 of this code, any farm winery attempting to manufacture hard cider may apply to the Agriculture Commissioner with a copy to the commissioner showing its inability to obtain 75 percent of the apples, pears, peaches, honey, or other fruits necessary to produce its hard cider from within this state. The Agriculture Commissioner may issue a permit to the applicant to import such fruit, honey, or fruit juice concentrate in an amount determined necessary by the Agriculture Commissioner to allow the farm winery to produce hard cider within the percentage established by §60-1-5a of this code.

(b) The burden of proof is on the applicant to show that apples, pears, peaches, honey, or other fruits, of the type normally used by the licensee are not available from any other source within the State of West Virginia. The commissioner shall not consider an application for a permit under this section unless it is accompanied by written findings by the Agriculture Commissioner in support of the application.

(c) Notwithstanding any provision in §60-3-25 of this code, to the contrary, any permit issued under this section is effective for a period of up to three years: *Provided*, That the applicant files an annual statement of necessity, supported by written findings from the Agriculture Commissioner, with the commissioner. After the five-year permit issued pursuant to this section has expired, the applicant shall submit any subsequent application for a permit pursuant to §60-3-25 of this code.

§60-8A-5. Winery or farm winery licensee's authority to manufacture, sell, and provide complimentary samples; growler sales; advertisements; taxes; fees; rulemaking.

(a) *Sales of hard cider.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer hard cider manufactured by the licensed winery or farm winery for retail sale to customers from the winery's or farm winery's licensed premises for consumption off of the licensed premises only in approved and registered hard cider kegs, bottles, or cans, or also sealed wine growlers for personal consumption and not for resale. A licensed winery or farm winery may not sell, give, or furnish hard cider for consumption on the premises of the principal place of business or manufacturing facility located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (b) of this section. "Wine Growler" has the meaning set forth in §60-8-6c(g) of this code.

(b) *Complimentary samples.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer complimentary samples of hard cider manufactured at the winery's or farm winery's principal place of business or manufacturing facility located in the State of West Virginia. The complimentary samples may be no greater than two fluid ounces per sample per patron, and a sampling shall not exceed six complimentary two-fluid ounce samples per patron per day. A licensed winery or farm winery providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or older and that the patron is not noticeably or visibly intoxicated.

(c) *Retail sales.* — Every licensed winery or farm winery under this section shall comply with all the provisions applicable to wine retailers when conducting sales of hard cider and is subject to all applicable requirements and penalties.

(d) *Payment of taxes and fees.* — A licensed winery or farm winery under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by law and by rule of the commissioner.

(e) *Advertising.* — A licensed winery or farm winery may advertise a particular brand or brands of hard cider produced by the licensed winery or farm winery and the price of the hard cider subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(f) Growler requirements. — A licensed winery or farm winery, if offering wine growler filling services, shall meet the filling, labeling, sanitation, and all other wine growler requirements in §60-8-6c of this code.

(g) Fee. — There is no additional fee for a licensed winery or farm winery authorized under §60-8-6c of this code, to sell wine growlers, if a winery or farm winery only desires to sell hard cider in the wine growler, and no other wine, then the annual nonprorated and nonrefundable license fee is \$50.

§60-8A-6. Rule-making authorization.

The West Virginia Alcoholic Beverage Control Commissioner may propose legislative rules for legislative approval, pursuant to §29A-3-1 et seq. of this code, to implement this article.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

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

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private nine-hole golf course, private resort hotel, and private golf club private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 et seq. of this code and in compliance with §60-7-2(f)(11), §60-7-2(g)(8), §60-7-2(h)(74), §60-7-2(i)(78), and §60-7-2(j)(7), §60-7-2(k)(8), §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(7), §60-7-2(o)(8), §60-7-2(p)(8), §60-7-2(q)(12), §60-7-2 (r)(8), §60-7-2(s)(9), §60-7-8c(b)(14), §60-7-8d, and §60-8-32a, of this code; or (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner; and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan; or (c) a private fair and festival that is in compliance with §60-7-2(f)(7) of this code, by utilizing using a mandatory carding or identification program whereby by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and must required to provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.;

And,

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

Eng. Com. Sub. for House Bill 2025—A Bill to amend and reenact §7-1-3ss of the Code of West Virginia, 1931, as amended, to amend and reenact §11-16-9 and §11-16-18 of said code;

to amend said code by adding thereto four new sections, designated §11-16-6d, §11-16-6e, §11-16-6f and §11-16-11c; to amend said code by adding thereto two new sections, designated §19-2-12 and §19-2-13; to amend and reenact §60-1-5a of said code; to amend said code by adding thereto a new section, designated §60-3A-3b; to amend and reenact §60-3A-25 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend said code by adding thereto a new section, designated §60-4-3c; to amend and reenact §60-6-8 of said code; to amend and reenact §60-7-2, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto five new sections, designated §60-7-8b, §60-7-8c, §60-7-8d, §60-7-8e, and §60-7-8f; to amend and reenact §60-8-2, §60-8-3, §60-8-4, §60-8-18, §60-8-20, §60-8-29 and §60-8-34 of said code; to amend said code by adding thereto five new sections, designated §60-8-6c, §60-8-6d, §60-8-6e, §60-8-6f and §60-8-32a; to amend said code by adding thereto a new article, designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, and §60-8A-6; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, nonintoxicating craft beer, liquor, wine, and hard cider sales in this state; providing for changing the time for nonintoxicating beer, nonintoxicating craft beer, liquor, and wine sales to begin at 6:00 a.m. on all days of the week for on and off premises licensees; authorizing Class A and Class B licensed retailers and third parties to obtain a license to deliver nonintoxicating beer and nonintoxicating craft beer; allowing the sale, ordering, and delivery of nonintoxicating beer and nonintoxicating craft beer by a telephone, mobile ordering application or web-based software program; setting forth sale, delivery and telephone, mobile ordering application or web-based software program requirements; providing for enforcement; exempting Class A and Class B licensees from an additional licensing fee, and establishing a license fee for third parties, and requiring a nonintoxicating beer retail transportation permit for delivery vehicles; establishing a nonintoxicating beer and nonintoxicating craft beer direct shippers license to allow shipping in state and out of state; providing license requirements, shipping requirements, limitations, and fees; requiring the payment of fees and taxes, the maintenance of records and the preparation of reports; providing for penalties, criminal penalties, and jurisdiction for direct shipping licensees; authorizing Class A and Class B licensees to sell and deliver sealed nonintoxicating beer and nonintoxicating craft beer for consumption off the premises if certain conditions are met; providing certain licensees with the authority to sell, serve, and furnish nonintoxicating beer and nonintoxicating craft beer in approved outdoor dining areas, and outdoor street dining areas if certain requirements are met; defining terms; authorizing in-person or in-vehicle pick up of purchased food or meals and nonintoxicating beer or nonintoxicating craft beer orders-to-go; creating an unlicensed brewer or home brewer temporary special license for providing samples at licensed fairs and festivals, specifying requirements, setting a license fee and requiring a nonintoxicating beer or nonintoxicating craft beer transportation permit; reducing the fee for a nonintoxicating beer or nonintoxicating craft beer floorplan extension; permitting licensees to employ persons 16 years of age in sale and service of liquor, beer, and wine when supervised by an employee who is 21 years of age or older; establishing the Agriculture Development Fund to fund the hard cider development program created to foster the development and growth of the hard cider industry in this state; creating a private liquor delivery license for retail liquor outlets and third parties with sale and delivery requirements; establishing a private liquor bottle delivery permit; authorizing retail liquor outlets to sell sealed bottles of liquor through a window in a drive-up or drive-through; creating a private manufacturer club license for distilleries, mini-distilleries, micro-distilleries, wineries, and farm wineries, setting forth requirements, and providing for a license fee; authorizing distilleries, mini-distilleries, and micro-distilleries to also operate wineries, farm wineries, brewers, or resident brewers; authorizing wineries and farm wineries to operate and be licensed as distilleries, mini-distilleries, micro-distilleries, to operate and be licensed as wineries, farm wineries, brewery, or as resident brewers; removing prohibition against a single person having more than one winery or farm winery license or both a winery and farm winery license; declaring that agricultural use designation is unchanged for building code and property tax classification upon opening any type

of distillery or winery; establishing a private direct shippers license to allow distilleries, mini-distilleries and micro-distilleries to ship liquor in state and out of state; providing license requirements, shipping requirements, limitations, and fees; requiring direct shipping licensees shipping liquor in this state pay all taxes and fees and maintain certain records; authorizing the ability to pre-mix alcoholic liquors, establishing certain requirements, and creating a permit; creating a private direct shipper license, setting forth requirements and providing for a license fee; creating private caterer license, a private club bar license, a private club restaurant license, a private manufacturer club license, a private farmers market license, a private multi-sport complex license, a private tennis club license, a private professional sports stadium license, a private wedding venue or barn license, a one-day charitable rare, antique, or vintage liquor auction license for charitable purposes, and a private multi-vendor fair and festival license and setting forth requirements and providing for license fees; reducing license fees for two years due to COVID-19 pandemic; creating temporary private outdoor dining and temporary private outdoor street dining areas as legally demarcated areas that are not a public place where a private club licensee may sell and furnish alcoholic liquors; authorizing and creating craft cocktail growlers and setting forth requirements and limitations, and exempting certain licenses from a license fee; creating a private cocktail delivery license for licensed private club restaurants, private manufacturer clubs and third parties, setting forth requirements, including specific requirements for craft cocktail growlers, specifying limitations, and requiring a private craft cocktail delivery permit for delivery vehicles; authorizing in-person or in-vehicle pick up of purchased food or a meal and craft cocktail growler orders-to-go; providing for wine definitions to clarify various aspects of wine, including the alcohol by volume percentage for table wine, wine, and fortified wine; removing restriction on number of one-day licenses which may be issued in a single year to a nonprofit to sell and serve wine for charitable purposes; requiring at least 80 percent of the net proceeds from a one day charitable auction be donated to the nonprofit; clarifying penalties for failure to meet wine licensure requirements; replacing wine bond requirements that secure the payment of taxes by distributors, suppliers, certain wineries, and certain farm wineries, who are acting as either suppliers or distributors in a limited capacity, with an affidavit of compliance; providing penalties for failure to pay taxes and maintain good standing with the state; authorizing wineries and farm wineries to sell wine growlers and provide samples and establishing requirements and limitations; authorizing certain Class A and Class B licensees to sell sealed wine and wine growlers, and setting forth requirements and limitations; authorizing legislative rules; creating a private wine delivery license for Class A and Class B wine licensees and third parties, setting forth requirements and limitations, providing fees for certain licensees; creating a private wine retail transportation permit, setting forth requirements, and requiring no additional fee; creating private wine outdoor dining and private wine outdoor street dining areas as legally demarcated areas that are not a public place where wine may be sold and furnished; authorizing in-person or in-vehicle pick up of purchased food or a meal and wine orders-to-go; defining the term "hard cider"; providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor's license and its fee and permitting other current and valid licensees to distribute hard cider without an additional license fee; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for the application of West Virginia Tax Procedures and Administration Act and West Virginia Tax Crimes and Penalties Act to the hard cider gallon tax; providing for an internal effective date; providing for a tax credit against the hard cider tax; providing for applicability of other laws; requiring the filing of regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption on the licensed premises; providing for complimentary samples to be offered; establishing requirements for complimentary samples; permitting the sale of wine growlers; setting forth wine growler requirements, and providing a

license fee; and providing additional exceptions to the criminal penalty for the unlawful admission of children to dance house for certain private clubs with approved age verifications systems.

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

Engrossed Committee Substitute for House Bill 2025, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Martin, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Azinger, Grady, Karnes, Maynard, Roberts, and Smith—6.

Absent: Sypolt—1.

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. 2025) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect May 10, 2021.

On this question, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Martin, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Azinger, Grady, Karnes, Maynard, Roberts, and Smith—6.

Absent: Sypolt—1.

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. 2025) takes effect May 10, 2021.

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 amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

Eng. Com. Sub. for House Bill 2694, Create the 2nd Amendment Preservation Act.

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

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

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

Eng. Com. Sub. for House Bill 2694—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-7B-1, §61-7B-2, §61-7B-3, §61-7B-4, §61-7B-5, §61-7B-6, §61-7B-7, §61-7B-8, §61-7B-9, and §61-7B-10 all relating to creating the “West Virginia Second Amendment Preservation Act and Anti-Federal Commandeering Act”; providing a short title; stating legislative findings and intent; defining terms; prohibiting Federal commandeering of any agency of the state or political subdivisions of the state, including West Virginia law-enforcement for purposes of enforcement of federal firearms laws or presidential executive orders; establishing prohibitions on police activities; establishing prohibitions on court action; identifying permitted law-enforcement activities; authorizing the Attorney General to challenge unconstitutional federal actions relating to firearms; requiring the Attorney General to publish model policies; and establishing immunity for law-enforcement.

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

Engrossed Committee Substitute for House Bill 2694, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, 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)—30.

The nays were: Beach, Caputo, Ihlenfeld, and Lindsay—4.

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. 2694) passed with its House of Delegates amended title.

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

The Senate again proceeded to the eighth order of business.

The end of today’s third reading calendar having been reached, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 2933, Anti-Discrimination Against Israel Act.

On third reading, coming up in deferred order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Friday, April 9, 2021, for further amendments to be received on third reading, was again reported by the Clerk.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the bill was withdrawn.

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

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

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION

ARTICLE 3. PURCHASING DIVISION.

§5A-3-63. Prohibition on contracting with companies that boycott Israel.

(a) The Legislature finds that:

(1) The State of Israel is one of the United States' closest allies and international trading partners; and

(2) In recent years, the State of Israel and Israeli-owned businesses have been the target of boycotts that attempt to isolate Israel within the international community have served as a vehicle for spreading anti-Semitism and advocating for the elimination of the Jewish State of Israel.

(3) The State of West Virginia has an economic and a humanitarian obligation to denounce and reject the Boycott, Divestment, and Sanctions Movement against Israel, and to prevent the state or any of its instrumentalities from contracting with companies that engage in the movement;

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

(1) "Boycott of Israel" means engaging in actions that are intended to penalize, inflict economic harm on, or otherwise limit commercial relations with the State of Israel or companies based in the State of Israel or in territories controlled by the State of Israel.

(2) "Company" means a corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, organization, association, or any other business entity that has 10 or more employees and operates to earn a profit: Provided, That the term does not include a sole proprietorship.

(3) "Public entity" means the state of West Virginia, or any political subdivision thereof, and all spending units of state government including those otherwise excluded from applicability under §5A-3-1 of this code.

(c) Effective July 1, 2022, a public entity may not enter into a contract with a company for goods or services valued at \$100,000 or more unless the contract includes a written certification that the company is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel.

(d) Any contract that violates the requirements of this section shall be void as against public policy.

(e) The Director of the Purchasing Division is authorized to promulgate legislative rules, including emergency rules, to implement the provisions of this section.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2933), 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. 2933) passed.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 2933—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-62, relating to prohibiting the state from contracting with companies that boycott Israel; establishing findings of the Legislature; defining terms; forbidding the state of West Virginia, any political subdivision thereof and spending units of state government from entering into contracts with companies that boycott Israel; setting an effective date; providing that contracts that violate new requirements will be void; and providing for rulemaking.

Senator Takubo moved that the bill take effect July 1, 2022.

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. 2933) takes effect July 1, 2022.

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

Action as to Engrossed Committee Substitute for House Bill 2933 having been concluded, without objection, the Senate returned 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 amendments to, and the passage as amended with its Senate amended title, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

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.

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

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

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, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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. 2997) takes effect from passage.

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

On motion of Senator Takubo, at 11 p.m., the Senate recessed until 11:10 p.m. tonight.

The Senate reconvened at 11:52 p.m. and resumed business under the third order.

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 113—Extending the regular session of the Legislature, 2021.

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

Senator Weld moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of the resolution, and on this question, Senator Martin demanded the yeas and nays.

The roll being taken, the yeas were: None.

The nays were: Azinger, Baldwin, 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, Woodrum, and Blair (Mr. President)—31.

Absent: Beach, Boley, and Woelfel—3.

So, a majority of those present and voting not having voted in the affirmative, the President declared the resolution (H. C. R. 113) rejected.

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 that that body had refused to concur in the Senate amendments to, and requested the concurrence of the Senate in the House of Delegates amendment, as to

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

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

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

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

Eng. Com. Sub. for House Bill 2363—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto five new sections, designated §48-1-239a, §48-1-239b, §48-1-241a, §48-1-241b, and §48-9-105; to amend and reenact §48-1-220, §48-1-239, §48-9-102, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-209, §48-9-301, §48-9-403, §48-9-601, §48-9-603 of said code, all relating to domestic relations and child custody allocation; providing definitions; amending definitions; clarifying the authority of parents to make emergency and non-elective healthcare decisions; requiring the court to consider parenting functions in determining best interests of the child; adding meaningful contact between a child and his or her siblings, including half-siblings, as an objective of the best interests of the child; providing for venue of custody actions outside of divorce proceedings; requiring the court to consider parenting functions in temporary parenting plans and allocation of custody; adding a preference time allocated to the parent resulting in the child being under the care of that parent is preferred to the parent resulting in time allocated to the parent resulting in the child being under the care of a third party as an objective in allocation determinations; adding an objective for reasonable access to the child by telephone or other electronic contact as an objective in allocation determinations; requiring that, in the absence of agreement of the parents, a final allocation determination must be made pursuant to hearing which cannot be conducted exclusively by presentation of evidence by proffer; adding neglect and abandonment as criteria that may overcome presumption that joint decision-making responsibility is in the best interests of the child; clarifying criteria of interference with the other parent’s relationship with the child; providing notice requirements during a court-ordered investigation; requires that a hearing cannot take place until after the investigation report is provided to the parties and completion of any requested discovery; allowing for continuance of a hearing following an investigation; providing a mechanism for the adjudication of requests for relocation of a parent with a child; providing circumstances for which relocation of a parent constitutes a substantial change in the circumstances of the child; requiring the relocating parent to file a verified petition for the court for modification of the parenting plan; identifying consequences of failure to comply with the requirements of this section; requiring a copy of the petition to be served on the other parent and all other persons allocated custodial time with the child; establishing requirements for the petition for modification of the parenting plan; requiring a hearing to be held on the petition at least 30 days in advance of the proposed date of relocation; providing for an expedited hearing; authorizing the court to revise the parenting plan; authorizing the court to allocate costs between the parties; establishing the burden of proof for the relocating parent; defines when a relocation is for a legitimate purpose; establishing a move with a legitimate purpose is unreasonable unless the relocating parent proves that the purpose is not substantially achievable without moving and that moving to a location that is substantially less disruptive of the

other parent's relationship to the child is not feasible; requiring the court to consider the best interests of the child when modifying the parenting plan; requiring the court to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements; setting forth the opportunity for parties to file a modified parenting plan signed by all parties; conditionally requiring an initial permanent parenting plan to be established before a relocation is considered; requiring interviewing or questioning of the child to be conducted in accordance with Rule 17 of the Rules of Practice and Procedure for Family Court; providing for parental access to a child's vital records; requiring notice to the other party if the child is a victim of a crime unless the other party is the perpetrator; providing an effective date; and providing that existing orders remain in effect unless modified by a court of competent jurisdiction.

Senator Takubo moved that the Senate concur in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Senator Weld then moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendment to the Senate amendments to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2363, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—29.

The nays were: Karnes and Martin—2.

Absent: Beach, Boley, and Woelfel—3.

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. 2363) passed with its House of Delegates amended title.

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

Without objection, the Senate returned 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 amendments to the House of Delegates amendments to, and the passage as amended with its Senate amended title, of

Eng. Com. Sub. for Senate Bill 334, Relating to credit for qualified rehabilitated buildings investment.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 470, Limiting release of certain personal information maintained by state agencies.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, of

Eng. Com. Sub. for Com. Sub. for Senate Bill 542, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants.

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

Eng. Com. Sub. for Senate Bill 562, Relating to juvenile competency proceedings.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, of

Eng. Com. Sub. for Senate Bill 636, Requiring certain history and civics courses be taught in schools.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendment to, and the passage as amended by deletion, of

Eng. Senate Joint Resolution 4, Incorporation of Churches or Religious Denominations Amendment.

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 with its Senate amended title, to take effect May 27, 2021, of

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

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 2195, Relating to motor vehicle crash reports.

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, to take effect from passage, of

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

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 with its Senate amended title, to take effect from passage, of

Eng. Com. Sub. for House Bill 2368, Mylissa Smith's Law, creating patient visitation privileges.

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 with its Senate amended title, to take effect from passage, of

Eng. Com. Sub. for House Bill 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool.

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

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

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 with its Senate amended title, to take effect from passage, of

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.

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 2671, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults.

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 2688, Allow county political parties to have building funds in a similar manner that state parties are allowed.

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 with its Senate amended title, to take effect January 1, 2022, of

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

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 2747, Transferring the Parole Board to the Office of Administrative Hearings.

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 with its Senate amended title, of

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

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 2891, Creating minimum statutory standards for law-enforcement officers.

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 with its Senate amended title, to take effect July 1, 2022, of

Eng. Com. Sub. for House Bill 2933, Anti-Discrimination Against Israel Act.

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 2982, Relating to the Second Chances at Life Act of 2021.

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 with its Senate amended title, of

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

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 3106, To change the hearing requirement for misdemeanors to 10 days.

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 with its Senate amended title, to take effect from passage, of

Eng. House Bill 3107, Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders.

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 3299, Authorizing Higher Education Rules.

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 with its Senate amended title, of

Eng. House Bill 3301, Relating generally to property tax increment financing districts.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill:

Senate Bill 347: Senator Grady.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

Senate Concurrent Resolution 76: Senators Stollings, Baldwin, and Unger;

Senate Concurrent Resolution 77: Senator Baldwin;

Senate Resolution 47: Senators Stollings, Caputo, and Unger;

And,

Senate Resolution 48: Senator Stollings.

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

At the request of Senator Takubo, and by unanimous consent, Senator Takubo offered the following pre-adjourning resolution from the floor:

Senate Resolution 49—Raising a committee to notify the House of Delegates the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

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

Senator Blair (Mr. President), under the provisions of the foregoing resolution, appointed the following committee to notify the House of Delegates of impending Senate adjournment:

Senators Weld, Smith, and Baldwin.

At the request of Senator Takubo, and by unanimous consent, Senator Takubo then offered the following resolution from the floor:

Senate Resolution 50—Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to join with a similar committee of the House of Delegates to notify His Excellency, the Governor, that the Legislature has completed its labors and is ready to adjourn *sine die*.

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

Under the provisions of the foregoing resolution, Senator Blair (Mr. President) appointed the following committee to notify His Excellency, the Governor, that the Senate is ready to adjourn:

Senators Nelson, Azinger, and Ihlenfeld.

Thereafter, Senators Nelson, Azinger, and Ihlenfeld, comprising the Senate committee, proceeded to the executive offices to notify His Excellency, the Governor, of imminent legislative adjournment, and receive any message he might desire to transmit to the members of the Senate.

On motion of Senator Maynard, the Joint Committee on Enrolled Bills was directed after it has examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of the regular sixty-day session of the Legislature, to file its reports with the Clerk of bills so enrolled, showing the date such bills were presented to the Governor; said reports to be included in the final Journal, together with Governor's action on said bills.

In accordance with the foregoing motion, the following reports of the Joint Committee on Enrolled Bills were filed as follows:

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 13th 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:

(Com. Sub. for Com. Sub. for S. B. 335), Relating to WV Invests Grant Program for students at accredited community and technical college.

(Com. Sub. for S. B. 375), Relating to county boards of education policies for open enrollment.

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

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

(Com. Sub. for S. B. 439), Allowing use or nonuse of safety belt as admissible evidence in civil actions.

(Com. Sub. for S. B. 460), Relating to Deputy Sheriff Retirement System Act.

(Com. Sub. for S. B. 466), Relating generally to appraisal management companies.

(Com. Sub. for S. B. 479), Relating to WV veterans service decoration and WV Service Cross.

(Com. Sub. for S. B. 483), Allowing oaths be taken before any person authorized to administer oaths.

(S. B. 486), Relating to powers and duties of Chief Technology Officer.

(S. B. 488), Relating to distributing hotel occupancy tax to convention and visitor's bureaus.

(S. B. 494), Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

(S. B. 496), Relating to punishment for second or third degree felony.

(S. B. 521), Extending licensure renewal term of certain private investigators, security guards, and associated firms.

(S. B. 529), Correcting improper citation relating to DMV registration.

(S. B. 577), Exempting certain fire departments from licensure requirements for providing rapid response services.

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

(Com. Sub. for S. B. 634), Requiring training of certain officers for persons with autism spectrum disorder.

(S. B. 651), Allowing county boards of education to publish financial statements on website.

(Com. Sub. for S. B. 668), Creating Psychology Interjurisdictional Compact.

(Com. Sub. for S. B. 673), Relating to venue for bringing civil action or arbitration proceedings under construction contracts.

(S. B. 680), Allowing State Superintendent of Schools define classroom teachers certified in special education.

(S. B. 713), Relating generally to inmate good time.

And,

(S. B. 717), Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account.

Respectfully submitted,

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

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 14th 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:

(Com. Sub. for Com. Sub. for S. B. 294), Relating generally to savings and investment programs offered by state.

(Com. Sub. for S. B. 297), Relating generally to modernizing Board of Treasury Investments.

(S. B. 307), Relating generally to in-state tuition rates for certain persons.

(Com. Sub. for S. B. 343), Authorizing DMV to process online driver's license or identification card change of address.

(Com. Sub. for S. B. 361), Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor.

(S. B. 376), Removing obsolete provisions regarding DOH standards for studded tires and chains.

(S. B. 397), Relating to health care provider tax.

(Com. Sub. for S. B. 401), Relating to WV Consumer Credit and Protection Act.

(Com. Sub. for S. B. 434), Requiring training for law-enforcement officers responsible for investigating crimes of sexual assault.

(Com. Sub. for H. B. 2022), Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

(H. B. 2028), Exempting veterinarians from the requirements of controlled substance monitoring.

(Com. Sub. for H. B. 2093), Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes.

(H. B. 2366), Requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note.

(H. B. 2500), Create an act for Statewide Uniformity for Auxiliary Container Regulations.

(Com. Sub. for H. B. 2529), Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing.

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

(Com. Sub. for H. B. 2758), Requiring the Insurance Commissioner to regulate professional bondsmen.

(H. B. 2768), Supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways.

(Com. Sub. for H. B. 2769), Supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles.

(Com. Sub. for H. B. 2785), Relating to public school enrollment for students from out of state.

(H. B. 2790), Supplementing, amending, decreasing, and increasing items of existing appropriation to Division of Highways.

(H. B. 2791), Relating to enrollment and costs of homeschooled or private school students at vocational schools.

(Com. Sub. for H. B. 2823), Exempting buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code.

(H. B. 2829), Providing for the amortization of annual funding deficiencies for municipal police or firefighter pension and relief funds.

(H. B. 2830), Relating generally to sex trafficking.

(Com. Sub. for H. B. 2877), Expand direct health care agreements beyond primary care to include more medical care services.

(H. B. 2888), Relating to when contentions can be revived based on forensic scientific evidence that was not available at time of conviction.

(H. B. 2895), Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance.

(H. B. 2900), Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund.

(H. B. 2906), Relating to the School Building Authority's allocation of money.

(H. B. 2918), Relating to Family Drug Treatment Court.

(H. B. 2957), Relating to the repeal of outdated code sections.

(H. B. 2969), To clarify the procedures for the sale and operation of a municipally owned toll bridge by a private toll transportation facility.

(H. B. 3175), Relating to removing certain felonies than can prohibit vehicle salespersons from receiving a license.

(H. B. 3191), Requiring employers to send certain notifications when retirants are hired as temporary, part-time employees.

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

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

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

(H. B. 3288), Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR.

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

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

(H. B. 3294), Relating to unemployment insurance.

(Com. Sub. for H. B. 3295), Making a supplemental appropriation to Division of Human Services and Division of Health Central Office.

(Com. Sub. for H. B. 3297), Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home.

(H. B. 3298), Making a supplemental appropriation to Dept. of Commerce, Dept. of Education, Senior Services and Civil Contingent Fund.

(H. B. 3313) Making supplemental appropriation to the Division of Motor Vehicles.

(H. B. 3314), Making supplemental appropriation to West Virginia State Police.

(H. B. 3315), Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund.

And,

(H. B. 3316), Supplemental appropriation to the Department of Education, State Board of Education.

Respectfully submitted,

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

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 15th 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:

(Com. Sub. for S. B. 334), Establishing license application process for needle exchange programs.

Respectfully submitted,

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

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 16th 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:

(Com. Sub. for S. B. 34), Creating exemption to state sales and use tax for rental and leasing of equipment.

(Com. Sub. for S. B. 263), Permitting online raffles to benefit charitable and public service organizations.

(Com. Sub. for Com. Sub. for S. B. 318), Relating generally to public notice of unclaimed property held by State Treasurer.

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

(S. B. 359), Informing landowners when fencing that may contain livestock is damaged due to accident.

(Com. Sub. for S. B. 368), Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program.

(Com. Sub. for S. B. 398), Limiting eligibility of certain employers to participate in PEIA plans.

(Com. Sub. for S. B. 419), Redefining "firearm" to match federal code.

(Com. Sub. for S. B. 458), Relating to possession of firearms by individuals during state of emergency.

(Com. Sub. for Com. Sub. for S. B. 464), Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law.

(Com. Sub. for Com. Sub. for S. B. 470), Limiting release of certain personal information maintained by state agencies.

(Com. Sub. for S. B. 478), Permitting use of established federal marketplace programs to purchase supplies.

(Com. Sub. for S. B. 492), Establishing program for bonding to reclaim abandoned wind and solar generation facilities.

(Com. Sub. for S. B. 502), Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15.

(S. B. 532), Limiting claims for state tax credits and rebates.

(Com. Sub. for S. B. 534), Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds.

(S. B. 537), Relating generally to kidnapping.

(Com. Sub. for Com. Sub. for S. B. 542), Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants.

(Com. Sub. for S. B. 613), Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory.

(Com. Sub. for S. B. 636), Requiring certain history and civics courses be taught in schools.

(Com. Sub. for S. B. 641), Allowing counties to use severance tax proceeds for litter cleanup programs.

(Com. Sub. for S. B. 642), Requiring legal advertisements by State Auditor be posted to central website.

(Com. Sub. for S. B. 655), Eliminating sunset and legislative audit provisions for certain PSC rules.

(Com. Sub. for S. B. 658), Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children.

(Com. Sub. for S. B. 660), Providing for cooperation between law-enforcement agencies and military authorities.

(S. B. 661), Permitting retailers to assume sales or use tax assessed on tangible personal property.

(Com. Sub. for S. B. 671), Appointing Director of Office of Emergency Medical Services.

(S. B. 674), Clarifying that unpaid restitution does not preclude person from obtaining driver's license.

(Com. Sub. for S. B. 684), Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission.

(Com. Sub. for S. B. 695), Providing procedures for decreasing or increasing corporate limits by annexation.

(S. B. 714), Relating to physician assistant practice act.

(S. B. 718), Relating generally to Coal Severance Tax Rebate.

(H. B. 2029), Relating to teacher preparation clinical experience programs.

(Com. Sub. for H. B. 2763), Creating WV Cyber Incident Reporting.

(Com. Sub. for H. B. 2765), Relating to allowing emergency management and operations' vehicles operated by airports to use red flashing warning lights.

(H. B. 3129), Relating to the Consumer Price Index rate increase.

And,

(H. B. 3130), Relating to elimination of sunset provisions concerning towing rates.

Respectfully submitted,

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

Senator Tarr, 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 20th 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:

(Com. Sub. for S. B. 562), Relating to juvenile competency proceedings.

(Com. Sub. for Com. Sub. for S. B. 657), Relating to free expression on state institution of higher education campuses.

(Com. Sub. for S. B. 677), Relating generally to miners' safety, health, and training standards.

And,

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

Respectfully submitted,

Eric J. Tarr,
Member, Senate Committee.
Dean Jeffries,
Chair, House Committee.

Senator Tarr, 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 21st 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:

(Com. Sub. for H. B. 2368), Mylissa Smith's Law, creating patient visitation privileges.

(Com. Sub. for H. B. 2370), Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool.

(H. B. 3107), Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders.

(H. B. 3304), Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program.

And,

(H. B. 3308), Relating to increasing number of limited video lottery terminals.

Respectfully submitted,

Eric J. Tarr,
Member, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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 22nd 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:

(Com. Sub. for H. B. 2002), Relating to Broadband.

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

(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. Sub. for H. B. 2145), Relating to student aide class titles.

(Com. Sub. for H. B. 2195), Relating to motor vehicle crash reports.

(Com. Sub. for H. B. 2221), Relating to the establishment of an insurance innovation process.

(Com. Sub. for H. B. 2266), Relating to expanding certain insurance coverages for pregnant women.

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

(Com. Sub. for H. B. 2363), Relating to “Best Interests of the Child Protection Act of 2021”.

(Com. Sub. for H. B. 2427), Authorizing the Department of Health and Human Resources to promulgate legislative rules.

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

(Com. Sub. for H. B. 2573), Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse.

(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. Sub. for H. B. 2633), Creating the 2021 Farm Bill.

(Com. Sub. for H. B. 2667), To create a cost saving program for state buildings regarding energy efficiency.

(Com. Sub. for H. B. 2671), Relating to financial exploitation of elderly persons, protected persons or incapacitated adults.

(Com. Sub. for H. B. 2688), Allow county political parties to have building funds in a similar manner that state parties are allowed.

(Com. Sub. for H. B. 2694), Create the 2nd Amendment Preservation Act.

(Com. Sub. for H. B. 2720), Creating a Merit-Based Personnel System within DOT.

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

(Com. Sub. for H. B. 2747), Transferring the Parole Board to the Office of Administrative Hearings.

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

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

(H. B. 2776), Creating the Air Ambulance Patient Protection Act.

(Com. Sub. for H. B. 2794), To extend the Neighborhood Investment Program Act to July 1, 2026.

(Com. Sub. for H. B. 2834), Adding the Curator of the West Virginia Division of Arts, Culture and History as an ex officio voting member of the commission.

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

(H. B. 2874), Extend the current veteran’s business fee waivers to active duty military members and spouses.

(Com. Sub. for H. B. 2884), To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions.

(Com. Sub. for H. B. 2890), To clarify the regulatory authority of the Public Service Commission of West Virginia over luxury limousine services.

(Com. Sub. for H. B. 2891), Creating minimum statutory standards for law-enforcement officers.

(H. B. 2914), To remove certain ex officio, voting members from the Archives and History Commission and update formatting.

(H. B. 2915), Relating to public records management and preservation.

(Com. Sub. for H. B. 2916), Creating the Semiquincentennial Commission for the celebration of the 250th anniversary of the founding of the United States of America.

(Com. Sub. for H. B. 2927), Adding Caregiving expenses to campaign finance expense.

(Com. Sub. for H. B. 2933), Anti-Discrimination Against Israel Act.

(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. Sub. for H. B. 2962), Relating generally to dental practice.

(Com. Sub. for H. B. 2982), Relating to the Second Chances at Life Act of 2021.

(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. Sub. for H. B. 3002), Update road abandonment process.

(H. B. 3078), Relating to powers and duties of the parole board.

(H. B. 3089), Make utility workers essential employees during a state of emergency.

(Com. Sub. for H. B. 3106), To change the hearing requirement for misdemeanors to 10 days.

(H. B. 3132), Relating to motor carrier inspectors.

(H. B. 3133), Relating to motor carrier rates.

(H. B. 3177), Removing expired, outdated, inoperative and antiquated provisions and report requirements in education.

(Com. Sub. for H. B. 3215), Amending the requirements to become an elected prosecutor.

(Com. Sub. for H. B. 3266), Providing for termination of extracurricular contact upon retirement.

(Com. Sub. for H. B. 3293), Relating to single-sex participation in interscholastic athletic events.

(H. B. 3299), Authorizing Higher Education Rules.

(H. B. 3301), Relating generally to property tax increment financing districts.

(H. B. 3310) Relating to the jurisdiction of the Public Service Commission.

(H. B. 3311), Relating to the cost of medical records.

Respectfully submitted,

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

Executive Communications

Under authorization of Senate approval therefor in prior proceedings today, to include in this day's Journal communications showing the Governor's action on enrolled bills presented to him in post-session reports, the following are inserted hereinafter:

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



Jim Justice
Governor of West Virginia

April 13, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Six Hundred Ninety-Three (693), which was presented to me on April 6, 2021.

You will note that I have approved this bill on April 13, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. Seventy-Eight (78), which was presented to me on April 8, 2021.

Committee Substitute for Senate Bill No. Eighty (80), which was presented to me on April 7, 2021.

Committee Substitute for Senate Bill No. Eighty-One (81), which was presented to me on April 7, 2021.

Senate Bill No. Eighty-Nine (89), which was presented to me on April 8, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Three Hundred Thirty-Four (334), which was presented to me on April 15, 2021.

You will note that I have approved this bill on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Committee Substitute for Senate Bill No. Three Hundred Thirty-Five (335), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Three Hundred Forty-Six (346), which was presented to me on April 6, 2021.

Senate Bill No. Three Hundred Seventy-Four (374), which was presented to me on April 7, 2021.

Committee Substitute for Senate Bill No. Three Hundred Seventy-Seven (377), which was presented to me on April 8, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Three Hundred Eighty-Nine (389), which was presented to me on April 7, 2021.

Committee Substitute for Senate Bill No. Four Hundred Twenty-One (421), which was presented to me on April 7, 2021.

Committee Substitute for Senate Bill No. Four Hundred Twenty-Nine (429), which was presented to me on April 6, 2021.

Senate Bill No. Four Hundred Thirty-Seven (437), which was presented to me on April 8, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. Four Hundred Sixty-Three (463), which was presented to me on April 7, 2021.

Senate Bill No. Four Hundred Eighty-Six (486), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Five Hundred Fourteen (514), which was presented to me on April 8, 2021.

Committee Substitute for Senate Bill No. Five Hundred Eighteen (518), which was presented to me on April 8, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. Five Hundred Twenty-One (521), which was presented to me on April 13, 2021.

Senate Bill No. Five Hundred Twenty-Nine (529), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Five Hundred Eighty-Seven (587), which was presented to me on April 6, 2021.

Senate Bill No. Six Hundred Forty-Four (644), which was presented to me on April 8, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. Seven Hundred Seventeen (717), which was presented to me on April 13, 2021.

House Bill No. Two Thousand Eight Hundred Ninety-Eight (2898), which was presented to me on April 7, 2021.

House Bill No. Two Thousand Nine Hundred Forty-One (2941), which was presented to me on April 7, 2021.

House Bill No. Two Thousand Seven Hundred Sixty-Eight (2768), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty-Nine (2769), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021


The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Two Thousand Twenty-Two (2022), which was presented to me on April 14, 2021.

You will note that I have approved this bill on April 15, 2021.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Ninety-Four (2094), which was presented to me on April 7, 2021.

House Bill No. Two Thousand Two Hundred Fifty-Three (2253), which was presented to me on April 10, 2021.

Committee Substitute for House Bill No. Two Thousand Four Hundred (2400), which was presented to me on April 7, 2021.

Committee Substitute for House Bill No. Two Thousand Four Hundred Ninety-Five (2495), which was presented to me on April 7, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Seven Hundred Ninety (2790), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Seven Hundred Ninety-One (2791), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Eight Hundred Ninety-Five (2895), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Nine Hundred (2900), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Two Hundred Eighty-Six (3286), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Eight Hundred Eight (2808), which was presented to me on April 7, 2021.

House Bill No. Two Thousand Eight Hundred Fifty-Two (2852), which was presented to me on April 7, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh¹

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Three Thousand Two Hundred Eighty-Seven (3287), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Two Hundred Eighty-Eight (3288), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Two Hundred Eighty-Nine (3289), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Two Hundred Ninety-One (3291), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Three Thousand Two Hundred Ninety-Five (3295), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 15, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Three Thousand Two Hundred Ninety-Seven (3297), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Two Hundred Ninety-Eight (3298), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Three Hundred Thirteen (3313), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Three Hundred Fourteen (3314), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Three Hundred Fifteen (3315), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Three Hundred Sixteen (3316), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 15, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 19, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Three Hundred Seventy-Five (375), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Three Hundred Ninety-Two (392), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Four Hundred Thirty-Nine (439), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Four Hundred Seventy-Two (472), which was presented to me on April 7, 2021.

Committee Substitute for Senate Bill No. Four Hundred Seventy-Nine (479), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Four Hundred Eighty-Three (483), which was presented to me on April 13, 2021.

You will note that I have approved these bills on April 19, 2021.

Sincerely,

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

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 19, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. Four Hundred Ninety-Six (496), which was presented to me on April 13, 2021.

Senate Bill No. Five Hundred Seventy-Seven (577), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Six Hundred Twenty-Six (626), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Six Hundred Thirty-Four (634), which was presented to me on April 13, 2021.

Senate Bill No. Six Hundred Fifty-One (651), which was presented to me on April 13, 2021.

Senate Bill No. Six Hundred Eighty (680), which was presented to me on April 13, 2021.

Senate Bill No. Seven Hundred Thirteen (713), which was presented to me on April 13, 2021.

You will note that I have approved these bills on April 19, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 19, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Twenty-Eight (2028), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Ninety-Three (2093), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Three Hundred Sixty-Six (2366), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Five Hundred (2500), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Seventy-Seven (2877), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Eight Hundred Eighty-Eight (2888), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 19, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 21, 2021

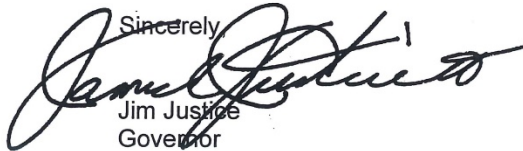
The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Seven Hundred Fourteen (714), which was presented to me on April 16, 2021.

You will note that I have approved this bill on April 21, 2021.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 21, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Three Hundred Forty-Four (344), which was presented to me on April 16, 2021.

Senate Bill No. Three Hundred Fifty-Nine (359), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Three Hundred Sixty-One (361), which was presented to me on April 14, 2021.

Senate Bill No. Three Hundred Ninety-Seven (397), which was presented to me on April 14, 2021.

Committee Substitute for Senate Bill No. Three Hundred Ninety-Eight (398), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 21, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 21, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Four Hundred Fifty-Eight (458), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Four Hundred Sixty-Six (466), which was presented to me on April 13, 2021.

Senate Bill No. Four Hundred Eighty-Eight (488), which was presented to me on April 13, 2021.

Senate Bill No. Five Hundred Thirty-Two (532), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Sixty-Eight (668), which was presented to me on April 13, 2021.

You will note that I have approved these bills on April 21, 2021.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 21, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Five Hundred Twenty-Nine (2529), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Twenty-Two (2722), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty-Five (2765), which was presented to me on April 16, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Eighty-Five (2785), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Twenty-Three (2823), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 21, 2021.

Sincerely,

A handwritten signature in cursive script, reading "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 21, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Eight Hundred Twenty-Nine (2829), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Eight Hundred Thirty (2830), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Nine Hundred Fifty-Eight (2958), which was presented to me on April 10, 2021.

House Bill No. Three Thousand One Hundred Seven (3107), which was presented to me on April 21, 2021.

House Bill No. Three Thousand One Hundred Twenty-Nine (3129), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 21, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 21, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:


House Bill No. Three Thousand One Hundred Thirty (3130), which was presented to me on April 16, 2021.

House Bill No. Three Thousand One Hundred Seventy-Five (3175), which was presented to me on April 14, 2021.

House Bill No. Three Thousand One Hundred Ninety-One (3191), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Three Thousand Two Hundred Fifty-Four (3254), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 21, 2021.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Two Hundred Ninety-Seven (297), which was presented to me on April 14, 2021.

Senate Bill No. Three Hundred Seventy-Six (376), which was presented to me on April 14, 2021.

Committee Substitute for Senate Bill No. Three Hundred Eighty-Seven (387), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Four Hundred Sixty (460), which was presented to me on April 13, 2021.

Committee Substitute for House Bill No. Two Thousand Three Hundred Seventy (2370), which was presented to me on April 21, 2021.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Eighty-Four (2884), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. Three Hundred Seven (307), which was presented to me on April 14, 2021.

Committee Substitute for Senate Bill No. Three Hundred Forty-Three (343), which was presented to me on April 14, 2021.

Committee Substitute for Senate Bill No. Four Hundred One (401), which was presented to me on April 14, 2021.

Committee Substitute for Senate Bill No. Four Hundred Nineteen (419), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Four Hundred Thirty-Four (434), which was presented to me on April 14, 2021.

Committee Substitute for Committee Substitute for Senate Bill No. Four Hundred Sixty-Four (464), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Four Hundred Seventy-Eight (478), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Four Hundred Ninety-Two (492), which was presented to me on April 16, 2021.

Senate Bill No. Four Hundred Ninety-Four (494), which was presented to me on April 13, 2021.

Committee Substitute for Senate Bill No. Five Hundred Two (502), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Five Hundred Thirty-Four (534), which was presented to me on April 16, 2021.

Senate Bill No. Five Hundred Thirty-Seven (537), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Six Hundred Thirteen (613), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Thirty-Six (636), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Forty-One (641), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Forty-Two (642), which was presented to me on April 16, 2021.

Committee Substitute for Committee Substitute for Senate Bill No. Six Hundred Fifty-Seven (657), which was presented to me on April 20, 2021.

Committee Substitute for Senate Bill No. Six Hundred Fifty-Eight (658), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Six Hundred Sixty (660), which was presented to me on April 16, 2021.

Senate Bill No. Six Hundred Sixty-One (661), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Seventy-One (671), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Seventy-Three (673), which was presented to me on April 13, 2021.

Senate Bill No. Six Hundred Seventy-Four (674), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Eighty-Four (684), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Twenty-Nine (2029), which was presented to me on April 16, 2021.

Committee Substitute for House Bill No. Two Thousand One Hundred Ninety-Five (2195), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Two Hundred Twenty-One (2221), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Five Hundred Seven (2507), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Five Hundred Seventy-Three (2573), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Six Hundred Eighty-Eight (2688), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Seven Hundred Twenty (2720), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Seven Hundred Thirty (2730), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Fifty-Eight (2758), which was presented to me on April 14, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty-Three (2763), which was presented to me on April 16, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Seventy-Three (2773), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Ninety-Four (2794), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Eight Hundred Thirty-Four (2834), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Forty-Two (2842), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Nine Hundred Six (2906), which was presented to me on April 14, 2021.

House Bill No. Two Thousand Nine Hundred Fourteen (2914), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Nine Hundred Fifteen (2915), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Nine Hundred Eighteen (2918), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Eight Hundred Ninety (2890), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Sixteen (2916), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Thirty-Three (2933), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Fifty-Three (2953), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Ten (3010), which was presented to me on April 7, 2021.

Committee Substitute for House Bill No. Three Thousand One Hundred Six (3106), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Nine Hundred Fifty-Seven (2957), which was presented to me on April 14, 2021.

House Bill No. Three Thousand Forty-Five (3045), which was presented to me on April 10, 2021.

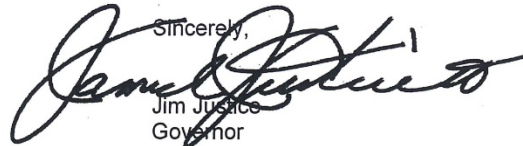
House Bill No. Three Thousand Eighty-One (3081), which was presented to me on April 10, 2021.

House Bill No. Three Thousand Eighty-Nine (3089), which was presented to me on April 22, 2021.

House Bill No. Three Thousand One Hundred Thirty-Two (3132), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Three Thousand Two Hundred Fifteen (3215), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Three Thousand One Hundred Thirty-Three (3133), which was presented to me on April 22, 2021.

House Bill No. Three Thousand One Hundred Seventy-Seven (3177), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Two Hundred Ninety-Nine (3299), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Three Hundred One (3301), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Three Hundred Four (3304), which was presented to me on April 21, 2021.

House Bill No. Three Thousand Three Hundred Eight (3308), which was presented to me on April 21, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

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Jim Justice
Governor of West Virginia

April 26, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Three Thousand Two Hundred Sixty-Six (3266), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Three Hundred Eleven (3311), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 26, 2021.

Sincerely

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 27, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Two Hundred Sixty-Seven (2267), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Six Hundred Ninety-Four (2694), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Nine Hundred Ninety-Seven (2997), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 27, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Thirty-Four (34), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Two Hundred Sixty-Three (263), which was presented to me on April 16, 2021.

Committee Substitute for Committee Substitute for Senate Bill No. Two Hundred Ninety-Four (294), which was presented to me on April 14, 2021.

Committee Substitute for Committee Substitute for Senate Bill No. Three Hundred Eighteen (318), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Three Hundred Sixty-Eight (368), which was presented to me on April 16, 2021.

Committee Substitute for Committee Substitute for Senate Bill No. Four Hundred Seventy (470), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000



Jim Justice
Governor of West Virginia

April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Committee Substitute for Senate Bill No. Five Hundred Forty-Two (542), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Five Hundred Sixty-Two (562), which was presented to me on April 20, 2021.

Committee Substitute for Senate Bill No. Six Hundred Fifty-Five (655), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Six Hundred Seventy-Seven (677), which was presented to me on April 20, 2021.

Committee Substitute for Senate Bill No. Six Hundred Ninety-Five (695), which was presented to me on April 16, 2021.

Committee Substitute for Senate Bill No. Seven Hundred Two (702), which was presented to me on April 20, 2021.

Senate Bill No. Seven Hundred Eighteen (718), which was presented to me on April 16, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

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Jim Justice
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April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Two (2002), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Five (2005), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Twenty-Five (2025), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand One Hundred Forty-Five (2145), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Two Hundred Sixty-Six (2266), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

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Jim Justice
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April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Three Hundred Sixty-Three (2363), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Three Hundred Sixty-Eight (2368), which was presented to me on April 21, 2021.

Committee Substitute for House Bill No. Two Thousand Four Hundred Twenty-Seven (2427), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Five Hundred Eighty-One (2581), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Six Hundred Thirty-Three (2633), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Six Hundred Sixty-Seven (2667), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Six Hundred Seventy-One (2671), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Forty-Seven (2747), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty (2760), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Seven Hundred Seventy-Six (2776), which was presented to me on April 22, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

House Bill No. Two Thousand Eight Hundred Seventy-Four (2874), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Ninety-One (2891), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Twenty-Seven (2927), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Sixty-Two (2962), which was presented to me on April 22, 2021.

House Bill No. Two Thousand Nine Hundred Sixty-Nine (2969), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

April 28, 2021

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Nine Hundred Eighty-Two (2982), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Three Thousand Two (3002), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Seventy-Eight (3078), which was presented to me on April 22, 2021.

Committee Substitute for House Bill No. Three Thousand Two Hundred Ninety-Three (3293), which was presented to me on April 22, 2021.

House Bill No. Three Thousand Two Hundred Ninety-Four (3294), which was presented to me on April 14, 2021.

You will note that I have approved these bills on April 28, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis
The Honorable Stephen J. Harrison

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[CLERK'S NOTE: **Enr. House Bill 3310** became law without the Governor's signature on April 28, 2021, under the provisions of Section 14, Article VII of the Constitution of West Virginia.]

All business of the sixty-day session now being concluded,

Senator Nelson, from the select committee to notify His Excellency, the Governor, that the Senate is ready to adjourn *sine die*, returned to the chamber and was recognized by the President. Senator Nelson then reported this mission accomplished.

Thereupon,

On motion of Senator Takubo, at 12:02 a.m., the Senate adjourned *sine die*.
