

West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Fifth Legislature  
Second Regular Session

Held at Charleston  
Published by the Clerk of the House



January 14, 2022  
THIRD DAY



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Friday, January 14, 2022

**THIRD DAY**

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, January 13, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

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

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

**H. B. 4004**, Relating to limiting an abortion to fifteen week's gestation,

And,

**H. B. 4005**, Relating to fetal body parts,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4004 and H. B. 4005) were each referred to the Committee on the Judiciary.

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

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

**H. B. 4059**, Exempting new Department of Health and Human Resources' Deputy Commissioners from civil service,

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

**Com. Sub. for H. B. 4059** - "A Bill to amend and reenact §29-6-4, of the Code of West Virginia, 1931, as amended, relating to clarifying that all new Department of Health and Human Resources' Deputy Commissioners are policy making positions exempt from civil service,"

With the recommendation that the committee substitute do pass.

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

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

**H. B. 4060**, Repealing outdated sections of code relating to health,

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

### **Bills Introduced**

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

**By Delegates J. Kelly, Anderson, Zatezalo, Barnhart, Wamsley and Riley:**

**H. B. 4083** - "A Bill to amend and reenact §22-30-3 and §22-30-5 of the Code of West Virginia, 1931, as amended, relating to modifying an exception to the definition of aboveground storage tank by removing a location requirement for small devices having a capacity of 210 barrels or less, excluding points of isolation; excluding tanks not holding liquids; removing zones of critical concern; redefining release; redefining secondary containment; exempting certain tanks from level one and level two regulations for a period of one year; providing that the secretary may not require any regulated tanks in operation as of August 1, 2016, to be lifted, moved, or otherwise physically altered in connection with a visual leak detection program in the absence of a confirmed release; encouraging and promoting the use of 'remote non-destructive examination technologies' in connection with any required periodic physical inspections of tanks in order to eliminate human confined spaces entries into regulated tanks; providing that emptying the contents from an aboveground storage tank shall cause the tank to become a nonoperation tank, and relieve the owner and operator of the requirements of this article, including closure requirements, until it contains liquid causing the tank to again become a regulated tank; and excepting that such tanks must continue to meet the registration requirements contained in §22-30-4 of this code, the notice requirements contained in §22-30-10 of this code, and the signage requirements contained in §22-30-11 of this code"; to the Committee on Energy and Manufacturing then the Judiciary.

**By Delegates Zatezalo, Anderson, J. Kelly, Reynolds, Howell, Miller and Forsht:**

**H. B. 4084** - "A Bill to amend and reenact §22-15-2 of the Code of West Virginia, 1931, as amended, relating to advanced recycling; adding definitions relating to advanced recycling and advanced recycling facilities; adding depolymerization and gasification as definitions; defining pyrolysis and expanding the definition of recovered feedstock; and facilitating the conversion of plastics and other recovered materials through advanced recycling processes"; to the Committee on Small Business, Entrepreneurship and Economic Development then Energy and Manufacturing.

**By Delegate Hornbuckle:**

**H. B. 4085** - "A Bill to amend and reenact §16-19-3, §16-19-4, and §16-19-5 of the Code of West Virginia, 1931, as amended, all relating to living anatomical gifts; providing definition; establishing who may make a living anatomical gift and for what purposes; and establishing requirements for obtaining consent of the donor to make the gift"; to the Committee on Health and Human Resources then the Judiciary.

**By Delegates Horst, McGeehan, Kimes, Hanna, Barrett, Booth, B. Ward, Hardy, Mandt, Conley and Mazzocchi:**

**H. B. 4086** - “A Bill to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating to adding definition of ‘ammunition’ for purposes of obtaining state license to carry concealed deadly weapon”; to the Committee on the Judiciary.

**By Delegates Nestor, Jennings, Horst, Zatezalo, Reynolds, Reed, Booth and Haynes:**

**H. B. 4087** - “A Bill to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating to requiring the State Fire Commission to propose rules relating to sprinkler protection, providing that buildings commencing construction after July 1, 2022, housing emergency fire, rescue, or ambulance services shall be protected throughout by approved automatic sprinkler systems; and exempting emergency services buildings that only house equipment and do not have sleeping areas or quarters within them”; to the Committee on Fire Departments and Emergency Medical Services then Government Organization.

**By Delegates Howell, Keaton, Linville, Hamrick, Criss, Householder, Storch, Hott, Riley, Smith and Ferrell:**

**H. B. 4088** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13LL-1, §11-13LL-2, §11-13LL-3, §11-13LL-4, §11-13LL-5, §11-13LL-6, §11-13LL-7, §11-13LL-8, §11-13LL-9, §11-13LL-10, §11-13LL-11, §11-13LL-12, §11-13LL-13, §11-13LL-14, §11-13LL-15, §11-13LL-16, §11-13LL-17, §11-13LL-18, §11-13LL-19, and §11-13LL-20; and to amend said code by adding thereto a new section, designated §22-2-10, all relating to the creation of the Rare Earth Element and Critical Mineral Investment Tax Credit Act of 2022; providing for administration and enforcement of act; providing for a short title; making legislative findings relating to the mining and processing of rare earth elements and critical minerals, as well as the manufacturing of products that require rare earth elements and critical minerals; establishing the legislative purpose for the act; defining terms of the act; specifying an amount of credit allowable based on amount of qualified investment and the number of new jobs created as they relate to mining, processing, and manufacturing of products that require rare earth elements and critical minerals; providing limitations and conditions for the qualification and use of the act; defining in service or use; providing for the application of the credit to the corporate net income tax and the personal income tax, as appropriate; providing for methods of calculation of the qualified investment in rare earth element/critical mineral mining and processing facilities, as well as manufacturing facilities whose products require rare earth elements and critical minerals; providing for a determination and certification of the number of new jobs as they relate to the act; providing for carry over and forfeiture of unused tax credits and redetermination of tax credits under certain circumstances; providing certain limitations for credits being carried over; providing for full recapture and partial recapture of credit under certain circumstances and imposing a recapture tax; allowing transfer of qualified investment property without forfeiture or recapture under certain circumstances; requiring identification of qualified investment property and record keeping; providing penalties for failure to keep required records; providing for interpretation and construction of credit; requiring timely filing of application for credit; specifying burden of proof; requiring periodic tax credit review and accountability reports; authorizing rulemaking; making credit subject to West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing for severability; specifying an effective date for the act; and clarifying ownership of rare earth elements and critical minerals in order to incentivize acid mine drainage treatment while recovering rare earth elements and critical minerals”; to the Committee on Energy and Manufacturing then the Judiciary.

**By Delegates Rohrbach, D. Jeffries, Tully, Pack, G. Ward, Bates, Rowan, Mallow and Worrell:**

**H. B. 4089** - “A Bill to amend and reenact §9-5-20 of the Code of West Virginia, 1931, as amended, relating to Medicaid coverage for hypertension; requiring benefits be provided; and requiring reimbursement for costs”; to the Committee on Banking and Insurance then Health and Human Resources.

**By Delegates Keaton, Holstein and Pinson:**

**H. B. 4090** - “A Bill to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating to trespassing; increasing the criminal penalty for trespass”; to the Committee on the Judiciary.

**By Delegates Keaton, Haynes, Pinson, Clark and Hanna:**

**H. B. 4091** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6M-1, §11-6M-2, §11-6M-3, §11-6M-4, and §11-6M-5, all relating to creating the Family Supporting Jobs Tax Relief Act; providing for a short title; creating definitions applicable to the Act; providing for a special valuation of tangible industrial personal property after July 1, 2022; providing for an initial determination, process, and appeal; and providing for an effective date”; to the Committee on Finance.

**By Delegates Keaton, Barnhart, Haynes, Burkhammer, Holstein, Dean, Wamsley, Clark, Pinson, Reynolds and Linville:**

**H. B. 4092** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6M-1, §11-6M-2, §11-6M-3, §11-6M-4, and §11-6M-5, all relating to establishing the Rare Earth Property Tax Industrial Development Act; providing for definitions; creating valuation of certain rare earth business personal property; creating an initial determination with a process for protest and appeal; and creating an effective date”; to the Committee on Energy and Manufacturing then the Judiciary.

**By Delegates Keaton, Haynes, Clark, Pinson, Maynor and Hanna:**

**H. B. 4093** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-5A-1, §11-5A-2, and §11-5A-3, all relating to business personal property tax, allowing a tax to be assessed at salvage value for business located in economically distressed areas”; to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

### Miscellaneous Business

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

**H. B. 4024:** Delegate Young.

At 9:14 a.m., the House of Delegates adjourned until 1:00 p.m., Monday, January 17, 2022.

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

**SPECIAL CALENDAR**

**Monday, January 17, 2022**

**6<sup>th</sup> Day**

**1:00 P. M.**

**FIRST READING**

- Com. Sub. for H. B. 4059 - Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service (ROHRBACH) (EFFECTIVE FROM PASSAGE)
- H. B. 4060 - Repealing outdated sections of code relating to health (ROHRBACH) (REGULAR)

**HOUSE CALENDAR**

**Monday, January 17, 2022**

**6<sup>th</sup> Day**

**1:00 P. M.**

**(No Bills)**



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**MONDAY, JANUARY 17, 2022**

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**HOUSE CONVENES AT 1:00 P.M.**

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**COMMITTEE ON THE JUDICIARY  
IMMEDIATELY FOLLOWING FLOOR SESSION – ROOM 418 M**

**TECHNOLOGY AND INFRASTRUCTURE  
IMMEDIATELY FOLLOWING FLOOR SESSION – ROOM 434 M**

**COMMITTEE ON GOVERNMENT ORGANIZATION  
IMMEDIATELY FOLLOWING FLOOR SESSION – HOUSE CHAMBER**

**VETERANS' AFFAIRS AND HOMELAND SECURITY  
2:00 P.M. – ROOM 418 M**

**PUBLIC HEARING  
COMMITTEE ON HEALTH AND HUMAN RESOURCES  
3:00 P.M. – HOUSE CHAMBER**

**H. B. 4004, RELATING TO LIMITING AN ABORTION TO FIFTEEN WEEK'S  
GESTATION.**

**H. B. 4005, RELATING TO FETAL BODY PARTS.**

**COMMITTEE ON EDUCATION  
3:00 P.M. – ROOM 434 M**





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