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NINTH DAY

Thursday, January 20, 2022

NINTH DAY

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Wednesday, January 19, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. J. R. 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the resolution (H. J. R. 102) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4065 - "A Bill to amend and reenact §18-2-8a of the Code of West Virginia, 1931, as amended, relating to a hunter safety orientation program in public schools; requiring program to be implemented; directing the State Board of Education to promulgate a rule for program requirements and implementation; and providing minimum program requirements,"

And,

H. B. 4074, Require schools provide eating disorder and self-harm training for teacher and students,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4074 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-40a, all relating to providing education on and prevention of self-harm behavior and eating disorders in public schools; naming the section "Meghan's Law"; requiring the state board to propose a legislative rule to establish training requirements for all public school employees on students' self-harm behaviors and eating disorders; setting forth criteria for said rule; requiring for yearly education of middle school and high school students regarding self-harm behavior and eating disorders signs, prevention and treatment; providing for consultation with the Bureau for Behavioral Health and Health Facilities, and allowing for the promulgation of state board rules therefore,"

With the recommendation that the committee substitutes each do pass.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4071, Mask and Quarantine Option For Parents and Faculty,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4071) was referred to the Committee on the Judiciary.

Delegate Zatezalo, Chair of the Committee on Workforce Development, submitted the following report, which was received:

Your Committee on Workforce Development has had under consideration:

H. B. 4024, Creating a cosmetology apprentice program that allows companies to train employees for practical real-world experience,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 4024) was referred to the Committee on Government Organization.

Delegate Martin, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2091, Creating a process by which voters may recall a county ordinance in a special election,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2091) was referred to the Committee on the Judiciary.

Delegate Steele, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2325, Removing the requirement of continuing education for barbers and cosmetologists,

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

Delegate Steele, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2177 - "A Bill to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended, relating to state issued identification cards; and permitting the issuance of a state issued identification card without a photo on the card, based upon signing a written affidavit or other form that taking a photograph would violate religion tenet or religious belief,"

H. B. 3220, Restrictions on Taxpayer funded lobbying,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 3220 - "A Bill to amend and reenact §6B-3-10 of the Code of West Virginia, 1931, as amended, relating to required disclosure of information from state agencies, municipalities, counties, or school districts that have contracted with a state agency for consulting services related to lobbying; and establishing an effective date,"

And,

H. B. 4062, Removing the residency requirement for the Commissioner of the Division of Highways,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4062 - "A Bill to amend and reenact §17-2A-2 of the Code of West Virginia, 1931, as amended, relating to removing the residency requirement for the Commissioner of the Division of Highways,"

With the recommendation that the committee substitutes each do pass.

Delegate Steele, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 3312, Establishing a memorial to child labor and child workers who died in the course of employment in this state,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 3312 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §10-3A-1, §10-3A-2, §10-3A-3, §10-3A-4, §10-3A-5, §10-3A-6, and §10-3A-7, all relating to the establishment of a monument to child labor; providing for legislative findings; establishing a short title; creating a commission to oversee the siting, design, construction, and dedication of the monument; establishing membership of the commission; outlining the goals of the commission regarding location of the monument; providing for a funding mechanism from existing revenue sources for construction and maintenance of the monument; creating an inscription or plaque to be used in the dedication of the monument; disbanding the commission upon meeting certain conditions; granting the City of Fairmont the ownership of the monument; providing funds for the City of Fairmont to maintain the monument; and establishing a mechanism for maintenance and ownership of the monument under certain conditions,"

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. 4112, Provide consumers a choice for pharmacy services,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4112, - "A Bill to amend and reenact §33-51-3, §33-51-8, §33-51-9, and §33-51-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-51-12, all relating to the regulation of pharmacy benefit managers; defining terms; prohibiting a pharmacy benefit manager from limiting a consumer's access to prescription drugs through the designation of specialty drugs; requiring pharmacy benefit managers to disclose any sub-networks for specialty drugs to the Insurance Commissioner; prohibiting a pharmacy benefit manager from limiting network access; requiring notice of contract changes; and providing an effective date."

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. 4113, Public Health definitions and powers of secretary and commissioner,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4113 – “A Bill to repeal §16-1-8, §16-1-13 and §16-1-21 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-1-2, §16-1-3 §16-1-4, §16-1-5 §16-1-6, §16-1-7 §16-1-10, §16-1-11 §16-1-12 and §16-1-14 of said code; and to amend and reenact §16-2-2, §16-2-10 §16-2-11, §16-2-12, §16-2-13 and §16-2-14 of said code; all relating to public health; permitting the secretary to appoint advisory councils; allowing the secretary of the Department of Public Health to propose legislative rules; requiring the commissioner of the Bureau of Public Health to establish a Center for Local Public Health; creating powers for the center; permitting local boards of health to provide immunizations and threat preparedness; and repealing obsolete areas of code,”

With the recommendation that the committee substitute do pass.

Delegate Capito, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 3231, Public Utilities not required to pay interest on security deposits,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 3231 - “A Bill to amend and reenact §24-3-8 of the Code of West Virginia, 1931, as amended, relating to public utility security deposits and interest thereon; prohibiting the charging of interest on security deposits held for up to eighteen months; and updating reference to prior law,”

With the recommendation that the committee substitute do pass.

Delegate Capito, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 191, Allowing poll workers to work full and half days,

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

Resolutions Introduced

Delegates Hanna, Keaton, Burkhammer, Haynes, Holstein, Phillips, Sypolt, Longanacre, Mallow, Crouse and Martin offered the following resolution, which was read by its title and referred to the Committee on Health and Human Resources then Rules:

H. C. R. 22 - “Designating January 22 as the Day of Tears in West Virginia.”

Whereas, On January 22, 1973, the majority of the members of the Supreme Court ruled that abortion was a right secured by the Constitution; and

Whereas, Since that fateful day, over 62 million unborn children have perished; now, therefore, be it

Resolved by the Legislature of West Virginia:

That January 22 hereby be recognized as the Day of Tears in West Virginia and that the citizens of West Virginia be encouraged to lower their flags to half-staff to mourn the innocents who have lost their lives to abortion.

Bills Introduced

Bills were introduced, pursuant to House Rule 92, and severally referred as follows:

By Delegates Reed, Wamsley, Smith, Worrell, Gearheart, Honaker, Mallow, Mandt, Clark, Crouse and Rowan:

H. B. 4290 - "A Bill to amend and reenact §17C-16-4 of the Code of West Virginia, 1931, as amended, relating to inspection of motor vehicles required by the Superintendent of the West Virginia State Police; and providing that motor vehicles three years old or less be inspected every three years"; to the Committee on Technology and Infrastructure then Government Organization.

By Delegate Ellington:

H. B. 4291 - "A Bill to amend and reenact §18B-17-2 and §18B-17-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing legislative rules regarding higher education; authorizing legislative rules for the Higher Education Policy Commission regarding the Research Trust Fund Program and Annual Reauthorization of Degree-Granting Institutions; and authorizing legislative rules for the Council for Community and Technical College Education regarding Business, Occupational, and Trade Schools, Annual Reauthorization of Degree-Granting Institutions, and West Virginia Invests Grant Program"; to the Committee on Education.

By Delegates Hott, D. Kelly, B. Ward, Honaker, Conley, Rowan, Nestor, Pinson, Westfall, Graves and Maynard:

H. B. 4292 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-5a, relating to the West Virginia State Police; and providing additional salary and sign-on incentive benefits to members of the State Police"; to the Committee on Veterans' Affairs and Homeland Security then Finance.

By Delegates Maynard, Howell, Holstein, Linville, Householder, Steele, Anderson, Hott, Keaton, Dean and Bridges:

H. B. 4293 - "A Bill to amend and reenact §3-3-5 of the Code of West Virginia, 1931, as amended, relating to providing applications for absentee ballots; requiring applications for absentee ballots to be available at the office of the county clerk and online at the Secretary of State's official website; prohibiting any person from providing unsolicited applications for absentee voting to any voter; and creating a felony penalty upon conviction for such prohibited activity"; to the Committee on the Judiciary.

By Delegates Maynard, Howell, Holstein, Linville, Householder, Queen, Anderson, Statler, Hott, Sypolt and Jennings:

H. B. 4294 - "A Bill to amend and reenact §11-13JJ-1, §11-13JJ-2, §11-13JJ-3, §11-13JJ-4, §11-13JJ-6, and §11-13JJ-7 of the Code of West Virginia, 1931, as amended, all relating to providing a credit against personal income tax to volunteer firefighters and first responders; extending eligibility for the tax credit to first responders; defining 'first responder'; specifying the

application of the tax credit for taxpayers filing a joint return; and specifying dates for applicability of the credit and for reports to be filed by the State Fire Commission”; to the Committee on Fire Departments and Emergency Medical Services then Finance.

By Delegate Westfall:

H. B. 4295 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-20b; to amend and reenact §33-2-23 of said code; and to amend and reenact §33-3-14 and §33-3-14a of said code, all relating to the State Office of the National Flood Insurance Program; transferring the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management; authorizing the director of the Division of Emergency Management to employ staff for the State Office of the National Flood Insurance Program; providing that state-owned property in any nonparticipating community shall be governed by appropriate rules promulgated by the Division of Emergency Management; requiring the State Office of the National Flood Insurance Program and floodplain managers to develop a strategic plan to meet goals and objectives, which plan shall be reviewed and approved by the State Resiliency Officer and State Resiliency Board; requiring the State Office of the National Flood Insurance Program to establish floodplain management guidelines in special hazard areas which are in conformity with federal regulations; providing the State Office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; transferring the assets of the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management; and requiring the state treasurer to distribute funds from the flood insurance tax fund to finance the operations and responsibilities of the State Office of the National Flood Insurance Program”; to the Committee on Banking and Insurance then Veterans’ Affairs and Homeland Security then Government Organization.

By Delegate Westfall:

H. B. 4296 - “A Bill to repeal §23-1-1c, §23-1-1d, §23-1-1e, §23-1-1g, §23-1-3, §23-1-4a, §23-1-6, §23-1-7, and §23-1-20 of the Code of West Virginia, 1931, as amended; to repeal §23-2-1b, §23-2-4, §23-2-5c, §23-2-5d, §23-2-14, §23-2-15, and §23-2-16 of said code; to repeal §23-2B-1, §23-2B-2, and §23-2B-3 of said code; to repeal §23-2C-3a, §23-2C-4, §23-2C-11, §23-2C-13, §23-2C-14, §23-2C-23, and §23-2C-24 of said code; to repeal §23-2D-1, §23-2D-2, §23-2D-3, §23-2D-4, §23-2D-5, §23-2D-5a, §23-2D-6, §23-2D-7, §23-2D-8, §23-2D-9, and §23-2D-10 of said code; to repeal §23-3-1, §23-3-1a, §23-3-2, §23-3-3, §23-3-4, §23-3-5, and §23-3-6 of said code; to repeal §23-4A-2, §23-4A-3, §23-4A-4, §23-4A-5, §23-4A-6, §23-4A-8, and §23-4A-9 of said code; to repeal §23-4B-6, §23-4B-8, §23-4B-8a, and §23-4B-8b of said code; to repeal §23-4C-1, §23-4C-2, §23-4C-3, §23-4C-4, §23-4C-5, and §23-4C-6 of said code; to amend and reenact §23-1-1, §23-1-1b, §23-1-1f, §23-1-2, §23-1-4, §23-1-5, §23-1-8, §23-1-9, §23-1-10, §23-1-11, §23-1-12, §23-1-13, §23-1-14, §23-1-15, §23-1-18, and §23-1-19 of said code; to amend said code by adding thereto a new section, designated §23-1-21; to amend and reenact §23-2-1, §23-2-1c, §23-2-1d, §23-2-2, §23-2-3, §23-2-5, §23-2-5a, §23-2-6, §23-2-7, §23-2-8, §23-2-9, §23-2-11, §23-2-13, and §23-2-17 of said code; to amend and reenact §23-2A-1 of said code; to amend and reenact §23-2C-1, §23-2C-2, §23-2C-3, §23-2C-6, §23-2C-7, §23-2C-8, §23-2C-12, §23-2C-15, §23-2C-16, §23-2C-18, §23-2C-19, §23-2C-20, and §23-2C-21 of said code; to amend and reenact §23-4A-1 of said code; and to amend and reenact §23-4B-2, §23-4B-4, §23-4B-5, §23-4B-7, and §23-4B-9 of said code, all relating to modernizing and updating workers’ compensation statutes; removing or revising provisions made obsolete by legislation and regulatory revisions in 2005 and 2006; standardizing references to public offices or agencies; updating statutory citations; and making spelling and grammatical changes throughout”; to the Committee on the Judiciary.

By Delegate Westfall:

H. B. 4297 - "A Bill to amend and reenact §9-6-8 of the Code of West Virginia, 1931, as amended, relating to the coordination of efforts and sharing of information between the Department of Health and Human Resources and the State Auditor's Office for the purpose of conducting investigations of financial exploitation of a vulnerable adult"; to the Committee on Government Organization then the Judiciary.

By Delegates Conley, Kimble, Mandt, Mazzocchi, G. Ward, McGeehan, Phillips, J. Jeffries and Pritt:

H. B. 4298 - "A Bill to amend and reenact §16-3-4b of the Code of West Virginia, 1931, as amended, relating to COVID-19 vaccine mandates"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Holstein, Horst, Sypolt, Hanna, Linville, Wamsley, Keaton, Kimble, Pack, Summers and Tully:

H. B. 4299 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-9-21, relating to prohibiting certain intentional actions obstructing or interfering with a voter during hours that polls are open for in-person voting in an election; and creating a misdemeanor crime of certain intentional actions obstructing or interfering with a voter during hours that polls are open for in-person voting in an election and establishing penalties thereto"; to the Committee on the Judiciary.

By Delegate Holstein:

H. B. 4300 - "A Bill to amend and reenact §22-5-6 of the Code of West Virginia, 1931, as amended, relating to increasing the daily civil penalty for refuse burning and clarifying that the civil penalty is recoverable for a first minor violation"; to the Committee on the Judiciary.

By Delegate Rohrbach:

H. B. 4301 - "A Bill to amend and reenact section 2, chapter twenty-six, Acts of the Legislature, regular session, 1924 (municipal charters), as last amended by chapter one hundred, Acts of the Legislature, regular session 2003, relating to reforming membership requirements of the Greater Huntington Park and Recreation District"; to the Committee on Government Organization.

By Delegates Reed, Queen, Rowan, Riley, Worrell, Mallow, Horst, Keaton, Longanacre, Booth and Miller:

H. B. 4302 - "A Bill to amend and reenact §19-21A-1 of the Code of West Virginia, 1931, as amended; to repeal §19-21A-2 of said code; and to amend and reenact §19-21A-3, §19-21A-4, §19-21A-6, and §19-21A-8 of said code, all relating to conservation districts; providing for a title of the article to be known as the 'Conservation Districts Law of West Virginia;' providing for legislative determinations; providing for revised definitions; modifying the process for elections and for the filling of vacancies; and providing an updated process for public meetings"; to the Committee on Agriculture and Natural Resources then the Judiciary.

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

H. B. 4303 - "A Bill to repeal §16-1-8, §16-1-13 and §16-1-21 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-1-2, §16-1-3 §16-1-4, §16-1-5, §16-1-6, §16-1-7, §16-1-10, §16-1-11, §16-1-12, and §16-1-14 of said code; and to amend and reenact §16-2-2, §16-2-10, §16-2-11, §16-2-12, §16-2-13, §16-2-14, and §16-2-17 of said code, all relating to public health; repealing certain provisions; amending definitions; clarifying duties of the Secretary; amending rulemaking authority and the required experience of state health officer; modifying

duties of commissioner; clarifying commissioner's service on advisory boards; omitting requirement for annual report on health facility licensing account; modifying provisions on disposition of fees received by commissioner, disbursement of federal aid, and training of employees; clarifying meeting requirements and duties of local board of health; modifying provision concerning appointment of local health officer; amending powers of local health officer and financial provisions for local boards of health; and omitting Secretary's review of certain legislative rules"; to the Committee on Health and Human Resources.

By Delegates Hanna, Mazzocchi, Kimble, Keaton, Haynes, Holstein, Phillips, McGeehan, Ferrell, Sypolt and Pack:

H. B. 4304 - "A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to providing for excused absences from compulsory school attendance for exclusion, expulsion, or suspension when no other reasonable alternative placement for learning has been provided"; to the Committee on Education.

By Delegates Hansen, Steele and Young:

H. B. 4305 - "A Bill to repeal §16-27A-1 and §16-27A-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §24-2-1r; and to amend and reenact §24-2-4f of said code, all relating to power generating plant sites; repealing the ban on construction of nuclear power plants; revising consumer rate relief bonds; and enabling the use of securitization to refinance the unamortized investment in prematurely retired coal-fired generating plants"; to the Committee on Energy and Manufacturing then the Judiciary.

By Delegates Burkhammer, Pinson, Keaton, Haynes, Graves, Maynor, Worrell, Martin, Linville, Mazzocchi and Hanna:

H. B. 4306 - "A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; removing certain deductions for modification of social security income in adjusted gross income"; to the Committee on Finance.

By Delegate Capito:

H. B. 4307 - "A Bill to amend and reenact §14-2A-3 of the Code of West Virginia, 1931, as amended, relating to increasing and expanding certain benefits payable from the Crime Victims' Compensation Fund; increasing the limit on allowable benefits for travel and relocation; increasing the limit on the allowable benefit for mental health counseling for secondary victims; and expanding the definition of 'work loss' to compensate victims and responsible adults for work lost to attend court proceedings"; to the Committee on the Judiciary then Finance.

By Delegate Capito:

H. B. 4308 - "A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §14-2A-11a; to amend and reenact §14-2A-14 of said code; and to amend and reenact §49-5-101 of said code, all relating to facilitating investigation and award of benefits under the West Virginia Crime Victims' Compensation Fund when a child is the subject of a civil abuse and neglect petition or injurious conduct is alleged to have been committed by or against a child; expanding the class of persons who may apply on behalf of a child; specifying that official records relating to a child or juvenile may be disclosed for evaluation of a Crime Victims' Compensation Fund application, and providing for confidentiality of records and proceedings"; to the Committee on the Judiciary.

By Delegates G. Ward, McGeehan, Mazzocchi, Kimble, Fast, Longanacre, Booth, Sypolt, Jennings, Barnhart and Phillips:

H. B. 4309 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §30-3-16a; and §30-5-10a, all relating to authorizing physicians and pharmacists to fill and dispense prescriptions for the anti-malarial drugs hydroxychloroquine or chloroquine, or the drug ivermectin for off-label use as a therapeutic drug to provide a prophylaxis for an outpatient (at-home) or an inpatient (hospital) with COVID-19; providing fines for pharmacists who refuse to fill these prescriptions; providing fine for refusal to fill prescription; and providing that pharmacists are not liable for adverse reactions from the prescription"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Steele and Foster:

H. B. 4310 - "A Bill to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to specifying when a public employee's spouse may be covered by Public Employee Insurance Act; providing for the premium cost and premium coverage associated with such coverage; and establishing an effective date"; to the Committee on Finance.

Special Calendar

Second Reading

S. B. 8, Relating generally to state's savings and investment programs; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk, on page one, by striking out everything after the enacting clause and substituting in lieu thereof the following:

"CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 9. SAVINGS AND INVESTMENT PROGRAM FULFILLMENT FUND.

§12-9-1. Special revenue account continued.

There is continued in the State Treasury the special revenue account, designated the West Virginia Savings and Investment Program Fulfillment Fund, previously authorized by §18-30-6a of this code. The fund shall be administered by the State Treasurer for the purposes described in this article.

§12-9-2. Receipts and expenditures.

(a) The West Virginia Savings and Investment Program Fulfillment Fund shall consist of all moneys in the fund on the effective date of this section, any moneys that may be appropriated to the fund by the Legislature, all interest or other return earned or received from investment of the fund; any moneys which the fund is authorized to receive under any provision of this code for the purposes of this article, and all gifts, grants, bequests, or transfers made to the fund from any source.

(b) The State Treasurer may expend moneys in the West Virginia Savings and Investment Program Fulfillment Fund for costs to implement or administer any savings or investment program with an initial date of operation occurring on or after July 1, 2021, including, but not limited to, the

Hope Scholarship Program, established in §18-31-1 et seq. of this code, and Jumpstart Savings Program, established in §18-30A-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 to be expended as authorized by this article.

§12-9-3. Investment of fund.

The State Treasurer is authorized to invest and reinvest moneys in the fund, and all interest and earnings of the fund shall accrue to the fund and be available for expenditure in accordance with this article.

CHAPTER 18. EDUCATION.

ARTICLE 30. WEST VIRGINIA COLLEGE ~~PREPAID TUITION AND SAVINGS PROGRAM~~ ACT.

§18-30-1. Title.

This article is known and cited as the 'West Virginia College ~~Prepaid Tuition and Savings Program Act~~'.

§18-30-2. Legislative findings and purpose.

The Legislature finds and determines that enhancing the accessibility and affordability of education for all citizens of West Virginia will promote a well-educated and financially secure population to the ultimate benefit of all citizens of West Virginia, and that assisting individuals and families in planning for future educational expenses by making the tax incentives in 26 U.S.C. § 529 available to West Virginians is one of the proper governmental functions and purposes of the state.

~~The Legislature also finds that continuation of the prepaid tuition plan and creation of a savings plan will further those governmental functions and purposes. It is, therefore, the legislative intent of this article to continue the prepaid tuition plan and to enhance the plan by authorizing the creation of a savings plan so that more students may attend eligible educational institutions~~

§18-30-3. Definitions.

For the purposes of this article, the following terms have the meanings ascribed to them, unless the context clearly indicates otherwise or as otherwise provided in 26 U.S.C. §529:

'Account' means ~~a prepaid tuition account~~ or a savings plan account established in accordance with this article.

'Account owner' means the individual, corporation, association, partnership, trust, or other legal entity ~~who enters into a prepaid tuition contract and is obligated to make payments in accordance with the prepaid tuition contract~~ or who enters into a savings plan contract and invests money in a savings plan account.

'Beneficiary' means the individual designated as a beneficiary at the time an account is established, the individual designated as the beneficiary when beneficiaries are changed, the individual entitled to receive distributions from an account, and any individual designated by the

account owner, his or her agent, or his or her estate in the event the beneficiary is unable or unwilling to receive distributions under the terms of the contract.

'Board' means the Board of Trustees of the West Virginia College Prepaid Tuition and Jumpstart Savings Program Programs as provided in §18-30-4 of this code.

'Distribution' means any disbursement from an account in accordance with 26 U.S.C. §529.

'Eligible educational institution' means an institution of higher education or a private or religious primary, middle, or secondary school that qualifies under 26 U.S.C. §529 as an eligible educational institution.

'Outstanding obligations of the Prepaid Tuition Plan' means the outstanding contract obligations of the board to persons owning Prepaid Tuition Plan accounts. The term also includes any fees, charges, expenses, penalties, or any other obligation or liability of the Prepaid Tuition Trust Fund or plan.

~~'Prepaid tuition account' means an account established by an account owner pursuant to this article, in order for the beneficiary to apply distributions in accordance with the Prepaid Tuition Plan.~~

~~'Prepaid tuition contract' means a contract entered into by the board and an account owner establishing a prepaid tuition account.~~

~~'Prepaid Tuition Plan' means the plan that contractually guarantees payment of tuition at an eligible educational institution~~

'Prepaid Tuition Program' means the Prepaid Higher Education Program and Plan, which was previously established and authorized by this article as reflected in Chapter 80, Acts of the Legislature, Regular Session, 1997, and which was closed in 2021.

'Program' means the West Virginia College ~~Prepaid Tuition and~~ Savings Program established pursuant to this article and as defined in §18-30-4(a) of this code.

'Qualified education expenses' means expenses treated as 'qualified higher education expenses' under 26 U.S.C. §529.

'Savings plan' means the plan that allows account distributions for qualified higher educational expenses and tuition at private or religious primary, middle, and secondary schools.

'Savings plan account' means an account established by an account owner pursuant to this article, in order for the beneficiary to apply distributions toward qualified higher education expenses and tuition expenses at eligible educational institutions.

'Savings plan contract' means a contract entered into by the board or its agent, if any, and an account owner establishing a savings plan account.

'Treasurer' means the West Virginia State Treasurer.

'Tuition' means the quarter, semester, or term charges imposed by an eligible educational institution and all mandatory fees required as a condition of enrollment by all students for full-time attendance.

§18-30-3a. 2022 Legislative findings; statutory construction.

(a) The Legislature makes the following findings regarding the amendments to this article adopted during the 2022 Regular Session of the Legislature:

(1) Whereas the Prepaid Tuition Program and Plan, administered by the board from 1998 until 2021, was statutorily closed to new accounts in 2001;

(2) Whereas the board initiated a statutorily authorized buyout of all remaining accounts in 2021 and terminated the Prepaid Tuition Program, Plan, and Trust Fund;

(3) Whereas the Jumpstart Savings Act, adopted during the 2021 Regular Session of the Legislature, created a new savings and investment program to become operational on July 1, 2022;

(4) Whereas the Jumpstart Savings Program is structurally similar to the College Savings Program, both programs share the objective of assisting West Virginians to obtain the education and skills that they need for productive and successful livelihoods, and the Jumpstart Savings Act allows state tax rollovers from a SMART529 account into a Jumpstart Savings Account;

(5) Whereas authorizing a single board to administer both the College Savings Program and Jumpstart Savings Program, rather than requiring each program to have a separate board, will significantly reduce management and administrative costs to the state;

(6) Therefore, the Board of Trustees of the College Prepaid Tuition and Savings Program should be continued and re-designated as 'the Board of Trustees of the West Virginia College and Jumpstart Savings Programs' and said board should be tasked with administering the College Savings Program, established by this article, and the Jumpstart Savings Program, established by §18-30A-1 *et seq.* of this code.

(b) The Legislature further finds that, whenever possible, this article should be read *in pari materia* and construed in harmony with the Jumpstart Savings Act, located in §18-30A-1 *et seq.* of this code.

(c) The Legislature further finds that interests in the College Savings Program Trust are intended:

(1) To qualify for relevant federal securities law exemptions for public instrumentalities of a State; and

(2) To be exempt from registration under Chapter 32 of the West Virginia Code, the 'Uniform Securities Act'.

§18-30-4. The Board of Trustees of the West Virginia College and Jumpstart Savings Programs; Creation of program; board; members; terms; compensation; proceedings generally.

(a) The West Virginia College ~~Prepaid Tuition and Savings Program~~ is continued. The program consists of ~~a savings plan and the outstanding obligations of the Prepaid Tuition Plan.~~ the savings plan administered according to this article and the requirements of 26 U.S.C. §529.

(b) The Board of Trustees of the College Prepaid Tuition and Savings Program is continued as a public instrumentality of the State of West Virginia: *Provided*, That the Board shall hereafter be known as the Board of Trustees of the West Virginia College and Jumpstart Savings Programs. ~~and all powers, rights, and responsibilities of the Board of Trustees of the Prepaid Tuition Trust Fund are vested in the Board of the College Prepaid Tuition and Savings Program~~

(c) The board consists of ~~nine~~ 11 members and includes the following:

(1) The State Treasurer, or his or her designee;

(2) The State Superintendent of Schools, or his or her designee;

(3) A representative of the Higher Education Policy Commission, who may or may not be a member of the Higher Education Policy Commission, appointed by the commission who serves as a voting member of the board;

(4) A representative of the Council for Community and Technical College Education, who may or may not be a member of the Council for Community and Technical College Education, appointed by the council who serves as a voting member of the board; and

(5) ~~Five~~ Seven other members, appointed by the Governor, with the advice and consent of the Senate, as follows:

(A) Three private citizens with knowledge, skill, and experience in a financial field, who are not employed by, or an officer of, the state or any political subdivision of the state: *Provided*, That reasonable efforts shall be made to appoint one such citizen to the board who holds a designation of Chartered Financial Analyst, offered by the CFA Institute; ~~and~~

(B) Two private citizens, appointed by the Governor, with knowledge, skill, and experience in trade occupations or businesses, to be appointed as follows:

(i) A member representing a labor organization that represents tradespersons in this state; and

(ii) A member representing a business or entity offering trade or skilled labor apprenticeships in this state; and

~~(B)~~ (C) Two members representing the interests of private institutions of higher education located in this state appointed from one or more nominees of the West Virginia Independent Colleges and Universities.

(d) Only state residents are eligible for appointment to the board.

(e) Members appointed by the Governor serve a term of five years and are eligible for reappointment at the expiration of their terms. If there is a vacancy among appointed members, the Governor shall appoint a person representing the same interests to fill the unexpired term.

(f) Members of the board serve until the later of the expiration of the term for which the member was appointed or the appointment of a successor. Members of the board serve without compensation. The Treasurer may pay all expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Expense payments are made from the ~~College Prepaid Tuition and Jumpstart Savings Program~~ Administrative Account and are made at the same rate paid to state employees.

(g) The Treasurer may provide support staff and office space for the board.

(h) The Treasurer is the chairperson and presiding officer of the board and may appoint the employees the board considers advisable or necessary. A majority of the members of the board constitutes a quorum for the transaction of the business of the board.

§18-30-5. Powers of the board to administer the College Savings Program.

~~In addition to the powers granted by any other provision of this article, the board has the powers necessary or appropriate to carry out the provisions and objectives of this article, other methods of financing post-secondary education as relate to the program, and the powers delegated by any other law of the state or any executive order of the state. The board may also:~~

~~(a) Adopt and amend bylaws;~~

~~(b) Sue and be sued;~~

~~(c) Execute contracts and other instruments for necessary goods and services, employ necessary personnel and engage the services of private consultants, actuaries, Auditors, counsel, managers, trustees, and any other contractor or professional needed. Selection of these services is not subject to the provisions of article three, chapter five-a of this code;~~

~~(d) Operate a prepaid tuition plan in accordance with this article and 26 U.S.C. §529;~~

~~(e) Operate a savings plan in accordance with this article and 26 U.S.C. §529;~~

~~(f) Develop and impose any requirements, policies, procedures, and guidelines to implement and manage the program;~~

~~(g) Impose reasonable requirements for residency for beneficiaries at the time of purchase of a prepaid tuition contract. However, nothing in this subdivision establishes residency requirements for matriculation at state eligible educational institutions;~~

~~(h) Assess, collect and expend administrative fees, charges, and penalties;~~

~~(i) Authorize the assessment, collection, and retention of fees and charges against the amounts paid into and the earnings on the trust funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, or other professional managing or investing the trust funds and accounts;~~

~~(j) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board or other professional investing the funds and accounts. Investments made under this article shall be made in accordance with the provisions of article six-c, chapter forty-four of this code,~~

~~the West Virginia uniform prudent investor act. No board member, nor any person, financial institution, investment manager, fund manager or the West Virginia Investment Management Board to whom the board delegates any of its investment authority who acts within the standard of care set forth in this section is personally liable for losses suffered by the program on investments made pursuant to this article;~~

~~(k) Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans, aid, and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state or local governmental programs in carrying out the purposes of this article. The board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within ninety days of receipt;~~

~~(l) Propose legislative rules for promulgation in accordance with the provisions of article three a, chapter twenty nine a of this code;~~

~~(m) Make all necessary and appropriate arrangements with eligible educational institutions in order to fulfill its obligations under the prepaid tuition contracts and the savings plan contracts; and~~

~~(n) Establish a direct support organization which is a West Virginia corporation, not for profit, organized and operated to receive, hold, invest and administer property and make expenditures to or for the benefit of the purposes of this article, if the board determines a need for the organization exists. The board may authorize the direct support organization to use program facilities and property, except money. The board may invest funds of the direct support organization.~~

(a) The board shall administer the College Savings Program in accordance with this article and 26 U.S.C. §529.

(b) The board shall offer and issue interests in the Savings Plan Trust to eligible members of the public.

(c) The board is authorized to take any lawful action necessary to effectuate the provisions of this article and successfully administer the program, subject to applicable state and federal law, including, but not limited to, the following:

(1) Adopt and amend bylaws;

(2) Execute contracts and other instruments for necessary goods and services, employ necessary personnel, and engage the services of private consultants, auditors, counsel, managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice: *Provided*, That selection of these services is not subject to the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That all expenditures and monetary and financial transactions may be subject to periodic audits by the Legislative Auditor;

(3) Implement the program through use of financial organizations as account depositories and managers, as provided in §18-30-6 of this code;

(4) Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program;

(5) Establish the method by which funds shall be allocated to pay for administrative costs and assess, collect, and expend administrative fees, charges, and penalties;

(6) Authorize the assessment, collection, and retention of fees and charges against the amounts paid into and the earnings on the trust funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, the Board of Treasury Investments, or other professional managing or investing the trust funds and accounts;

(7) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, the Board of Treasury Investments, or other professional investing the funds and accounts: *Provided*, That investments made under this article shall be made in accordance with the provisions of §44-6C-1 *et seq.* of this code;

(8) Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this article: *Provided*, That the board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within 90 days of receipt;

(9) Make all necessary and appropriate arrangements with eligible educational institutions in order to fulfill its obligations under the savings plan contracts; and

(10) Propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code, including emergency rules when necessary.

(d) The power and duties of the board provided in this article are in addition to the powers and duties of the board provided in §18-30A-1 *et seq.* of this code.

§18-30-6. West Virginia prepaid tuition trust escrow fund. Use of financial organizations as program depositories and managers.

~~(a) The Prepaid Tuition Trust Fund is continued within the accounts held by the State Treasurer for administration by the board until such time as the moneys in the fund are depleted and the board elects to close the fund.~~

~~(b) Upon the closure of the Prepaid Tuition Trust Fund, the board is authorized to expend moneys from the Prepaid Tuition Trust Escrow Fund for the purpose of satisfying outstanding obligations of the Prepaid Tuition Trust Plan, according to the requirements of subsection (h) of this section.~~

~~(c) The corpus, assets, and earnings of the Prepaid Tuition Trust Fund and the Prepaid Tuition Trust Escrow Fund do not constitute public funds of the state and are available solely for carrying out the purposes of this article. Any contract entered into by or any obligation of the board on behalf of and for the benefit of the Prepaid Tuition Plan does not constitute a debt of the state but is solely an obligation of the Prepaid Tuition Trust Fund. The state has no obligation to any designated beneficiary or any other person as a result of the Prepaid Tuition Plan. All amounts payable from the Prepaid Tuition Trust Fund are limited to amounts available in the Prepaid Tuition Trust Fund.~~

~~(d) Nothing in this article or in any prepaid tuition contract is a promise or guarantee of admission to, continued enrollment in, or graduation from an eligible educational institution.~~

~~(e) Effective March 8, 2003, the Prepaid Tuition Plan is closed to new contracts. Closing the plan to new contracts does not affect any Prepaid Tuition Plan contracts in effect on March 8, 2003. All contract owners shall continue to pay any amounts due, including without limitation monthly installments, penalties, and fees. Earnings derived from the investment of moneys in the Prepaid Tuition Trust Fund shall continue to accrue to the fund until the fund is closed in accordance with this section. Upon a determination of the board that all outstanding contract obligations to persons owning Prepaid Tuition Plan accounts have been satisfied as provided in subsection (h) of this section, the plan shall be closed.~~

~~(f) The board shall continue to have the actuarial soundness of the Prepaid Tuition Trust Fund evaluated annually until the fund's closure.~~

~~(g) On or before December 1, 2003, and each year until the Prepaid Tuition Trust Fund's closure, the chairperson of the board shall submit to the Governor, the President of the Senate, the Speaker of the House of Delegates, the Joint Committee on Government and Finance, and the unclaimed property administrator a report certified by an actuary of the actuarial status of the Prepaid Tuition Trust Fund at the end of the fiscal year immediately preceding the date of the report.~~

~~(h) *Escrow fund; expenditures.*—~~

~~(1) The Prepaid Tuition Trust Escrow Fund is continued in the State Treasury to guarantee payment of outstanding obligations of the Prepaid Tuition Plan. The board shall invest the Prepaid Tuition Trust Escrow Fund in accordance with the provisions of this article in fixed income securities, and all earnings of the escrow fund shall accrue to the escrow fund and be available for expenditure in accordance with this section.~~

~~(2) In the event the money in the Prepaid Tuition Trust Fund is insufficient to cover the amount of money needed to meet the outstanding obligations of the Prepaid Tuition Trust Plan, the board may withdraw from the Prepaid Tuition Trust Escrow Fund the amount of money needed to meet outstanding obligations of the Prepaid Tuition Trust Plan.~~

~~(3) To the extent possible, the board shall satisfy outstanding contract obligations to persons owning Prepaid Tuition Plan accounts, on a pro rata basis as their interests may appear. Any account owner assets presumed abandoned shall be reported and remitted to the unclaimed property administrator in accordance with the Uniform Unclaimed Property Act in §36-8-1 et seq. of this code: *Provided*, That notwithstanding the requirements of said article, account owner assets are presumed abandoned 60 days after final payment checks for their remaining plan units are issued and said checks have not been presented for payment.~~

~~(i) After all outstanding obligations of the Prepaid Tuition Trust Plan have been satisfied in accordance with this section, any moneys remaining in the Prepaid Tuition Trust Fund and the Prepaid Tuition Trust Escrow Fund shall be allocated as follows:~~

~~(1) Five million dollars shall be transferred to the West Virginia Savings and Investment Program Fulfillment Fund, as set forth in §18-30-6a of this code.~~

~~(2) Up to \$1,000,000 may be maintained in the Prepaid Tuition Trust Escrow Fund, at the election of the board, for a period not to exceed 10 years following the closure of the Fund for the purpose of satisfying any claims against the Prepaid Tuition Trust Plan arising after the plan's closure: *Provided*, That upon the expiration of 10 years following the date of closure of the Prepaid Tuition Trust Fund or when the balance of the Prepaid Tuition Trust Escrow Fund is zero, whichever occurs first, the account shall be closed and any moneys remaining in the Prepaid Tuition Trust Escrow Fund upon said fund's closure shall revert to the state's General Revenue Fund.~~

~~(3) All moneys remaining, after the allocations provided in subdivisions (1) and (2) of this subsection, shall revert to the General Revenue Fund.~~

~~(j) To fulfill the charitable and public purpose of this article, neither the earnings nor the corpus of the Prepaid Tuition Trust Fund or the Prepaid Tuition Trust Escrow Fund is subject to taxation by the state or any of its political subdivisions.~~

~~(k) Notwithstanding any provision of this code to the contrary, money in the Prepaid Tuition Trust Fund and the Prepaid Tuition Trust Escrow Fund is exempt from creditor process and not subject to attachment, garnishment, or other process; is not available as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge; and is not subject to seizure, taking, appropriation, or application by any legal or equitable process or operation of law to pay any debt or liability of any account owner, beneficiary, or successor in interest.~~

~~The provisions of this section may not be construed to interfere with the operation of the savings plan authorized under this article.~~

(a) The board may implement the program through use of financial organizations as account depositories and managers. The board may solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instruments which will be held in accounts. The board may select more than one financial organization and investment instrument for the program. The board shall select financial organizations to act as program depositories and managers, based on the following criteria:

(1) The financial stability and integrity of the financial organization;

(2) The safety of the investment instrument being offered;

(3) The ability of the financial organization to satisfy recordkeeping and reporting requirements;

(4) The financial organization's plan for promoting the program and the investment the organization is willing to make to promote the program;

(5) The fees, if any, proposed to be charged to the account owners;

(6) The minimum initial deposit and minimum contributions that the financial organization will require;

(7) The ability of the financial organization to accept electronic deposits and withdrawals, including payroll deduction plans; and

(8) Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover expenses of operation of the program.

(b) The board may enter into any contracts with a financial organization necessary to effectuate the provisions of this article. Any management contract shall include, at a minimum, terms requiring the financial organization to:

(1) Take any action required to keep the program in compliance with requirements of this article and any other applicable state or federal law;

(2) Keep adequate records of each account, keep each account segregated from each other account, and provide the board with the information necessary to prepare the statements required by this article and other applicable state and federal laws;

(3) Compile, summarize, and total information contained in statements required to be prepared under this article and applicable state and federal laws and provide such compilations to the board;

(4) Provide the board with access to the books and records of the program manager and with any other information needed to determine compliance with the contract, this article, and any other applicable state or federal law;

(5) Hold all accounts for the benefit of the account owner or owners;

(6) Be audited at least annually by a firm of certified public accountants selected by the program manager and provide the results of such audit to the board;

(7) Provide the board with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while the financial organization is holding any accounts, other than confidential filings or reports that will not become part of the program. The program manager shall make available for review by the board and the Treasurer the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except to the extent that such report or reports may not be disclosed under law; and

(8) Ensure that any description of the program, whether in writing or through the use of any medium, is consistent with the marketing plan developed pursuant to the provisions of this article.

(c) The board may:

(1) Enter into contracts it deems necessary for the implementation of the program, including but not limited to a contract with a financial institution, manager, consultant or other professional to provide services to both the College Savings Program and the Jumpstart Savings Program, established in §18-30A-1 *et seq.* of this code;

(2) Require that an audit be conducted of the operations and financial position of the program depository and manager at any time if the board has any reason to be concerned about the

financial position, the record keeping practices, or the status of accounts of such program depository and manager; and

(3) Terminate or decline to renew a management agreement: *Provided*, That if the board terminates or does not renew a management agreement, the board shall seek to promptly transfer such accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

§18-30-6a. Special revenue account created for fulfillment of savings and investment programs.

[Repealed].

§18-30-8. ~~The College prepaid tuition and~~ Jumpstart Savings program Administrative Account.

(a) There is hereby ~~created~~ continued a separate special revenue account within the State Treasurer's office Treasury titled the 'college prepaid tuition and savings program administrating account', which shall hereafter be known as 'the College and Jumpstart Savings Administrative Account.' The board shall administer and make expenditures from the account for the purposes of implementing, operating, and maintaining the trust funds, ~~and the~~ program created by this article, and the program created by §18-30A-1 *et seq* of this code.

(b) The administrative account shall receive all fees, charges, and penalties collected by the board. Expenditures from the fund are authorized from collections ~~subject to appropriations made by the Legislature.~~ 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 to be expended as authorized by this section.

§18-30-10. Reports and account; annual audit.

(a) In addition to any other requirements of this article, the board shall:

~~(1) Provide annually summary information on the financial condition of the prepaid tuition trust fund and annual statements on the savings plan accounts to the respective account owners; and~~

~~(2) Prepare, or have prepared, a quarterly report on the status of the program, including the trust funds and the administrative account, and provide a copy of the report to the Joint Committee on Government and Finance and the Legislative Oversight commission on education accountability. and~~

~~(3) Prepare, or have prepared, an annual actuarial report of the prepaid tuition trust fund and transmit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Delegates and the Legislative Oversight commission on education accountability.~~

(b) All accounts of the board, including the trust funds, are subject to an annual external audit by an accounting firm, selected by the board, of which all members or partners assigned to head the audit are members of the American institute of certified public accountants. The audit shall comply with the requirements of §5A-2-33 of this code.

§18-30-11. Financial aid eligibility.

The calculations of a beneficiary's eligibility for state student financial aid for higher education may not include or consider ~~the value of distributions available in a prepaid tuition account or the value of distributions available in a savings plan account.~~

§18-30-13. ~~Board of Trustees; authorization of rules.~~ Remaining obligations of the Prepaid Tuition Program and Escrow Fund.

~~The legislative rules filed in the state register on September 30, 1997, modified by the board of trustees of the West Virginia prepaid tuition trust fund to meet the objections of the Legislative Oversight commission on education accountability and refiled in the state register on January 30, 1998, relating to the West Virginia prepaid tuition trust fund (rules for the West Virginia prepaid tuition trust fund), are authorized.~~

(a) The Prepaid Tuition Trust Escrow Fund, which was previously authorized by §18-30-6 of this code, is continued in the State Treasury to guarantee payment of outstanding obligations of the Prepaid Tuition Plan arising after the Plan's closure. The board is authorized to take any action necessary to satisfy obligations of the Prepaid Tuition Plan arising after the Plan's closure.

(b) The Prepaid Tuition Trust Escrow Fund shall consist of any moneys in the fund on the effective date of this section. Up to \$1,000,000 may be maintained in the Prepaid Tuition Trust Escrow Fund for a period not to exceed 10 years following the closure of the Prepaid Tuition Fund for the purpose of satisfying any claims against the Prepaid Tuition Trust Plan arising after the plan's closure: *Provided*, That upon the expiration of 10 years following the date of closure of the Prepaid Tuition Trust Fund or when the balance of the Prepaid Tuition Trust Escrow Fund is zero, whichever occurs first, the account shall be closed and any moneys remaining in the Prepaid Tuition Trust Escrow Fund upon said fund's closure shall revert to the state's General Revenue Fund.

(c) The board shall invest the Prepaid Tuition Trust Escrow Fund, in accordance with the provisions of this article, in fixed income securities, and all earnings of the fund shall accrue to the fund and be available for expenditure in accordance with this section.

ARTICLE 30A. WEST VIRGINIA JUMPSTART SAVINGS ACT.**§18-30A-2. Findings.**

(a) The Legislature recognizes the importance of cultivating an environment in West Virginia where our tradespersons and entrepreneurs can be successful in their careers and remain in their home state. The Legislature finds that a savings and investment program to assist our citizens who wish to embark on a new trade or establish a new business within this state, is an investment in the future of West Virginia and its hardworking citizens.

(b) The Legislature further finds that, whenever possible, this article should be read in *pari materia* and construed in harmony with the West Virginia College Savings Program Act, §18-30-1 *et seq.* of this code.

(c) The Legislature further finds that interests in the Jumpstart Savings Program Trust are intended:

(1) To qualify for relevant federal securities law exemptions for public instrumentalities of a state; and

(2) To be exempt from registration under Chapter 32 of the West Virginia Code, titled the 'Uniform Securities Act.'

§18-30A-3. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

(1) 'Account owner' means the person who opens and invests money into a Jumpstart Savings Account, as provided in this article.

(2) 'Beneficiary' means the person designated as a beneficiary at the time an account is established, or the individual designated as the beneficiary when the beneficiary is changed.

(3) The 'board' means the Board of Trustees of the West Virginia College and Jumpstart Savings Board Programs created in ~~§18-30A-5~~ §18-30-4 of this code.

(4) 'Contribution' means any amount of money deposited into a Jumpstart Savings Account according to the procedures established and required by the board or the Treasurer.

(5) 'Deduction' as used in this article has the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is clearly required. Deduction means and refers to a deduction allowable under the federal income tax code for the purpose of determining federal taxable income or federal adjusted gross income, unless text clearly indicates otherwise.

(6) 'Distributee' has the same meaning provided in §11-21-12m of this code.

(7) 'Distribution' means any disbursement from an account.

(8) The term 'family member', as used to describe a person's relationship to a designated beneficiary, includes any of the following:

(A) The spouse of the beneficiary;

(B) A child of the beneficiary or a descendant of the beneficiary's child;

(C) A brother, sister, stepbrother, or stepsister of the beneficiary;

(D) The father or mother of the beneficiary, or an ancestor of either;

(E) A first cousin of the beneficiary;

(F) A stepfather or stepmother of the beneficiary;

(G) A son or daughter of a brother or sister of the beneficiary;

(H) A brother or sister of the father or mother of the beneficiary;

(I) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or

(J) The spouse of any person described in paragraphs (A) (B) through (I) of this subdivision.

(K) Any term set forth in this subdivision means and includes such term as established through a lawful adoption, including, but not limited to, adoptions of a child or children, or other natural person, by a natural person or natural persons who are not the father, mother, or stepparent of the child or person.

(9) 'Labor organization' means any organization, agency, association, union, or employee representation committee of any kind that exists, in whole or in part, to assist employees in negotiating with employers concerning grievances, labor disputes, wages, rates of pay, or other terms or conditions of employment.

(10) The 'program' refers to the Jumpstart Savings Program established by this article.

(11) The 'Treasurer' refers to the West Virginia State Treasurer or his or her designee.

§18-30A-5. The Board of Trustees of the West Virginia College and Jumpstart Savings Programs Board; members; terms; compensation, proceedings generally.

(a) The West Virginia Jumpstart Savings Program shall be administered by the Board of Trustees of the West Virginia College and Jumpstart Savings Board Programs. The board is created in §18-30-4 of this code and is a public instrumentality of the State of West Virginia.

~~(b) The board consists of seven members and includes the following:~~

~~(1) The State Treasurer;~~

~~(2) The State Superintendent of Schools, or his or her designee;~~

~~(3) The Chancellor of the West Virginia Community and Technical College System, or his or her designee;~~

~~(4) Four members, appointed by the Governor, with knowledge, skill, and experience in trade occupations or businesses, to be appointed as follows:~~

~~(A) A member representing a labor organization that represents tradespersons in this state;~~

~~(B) A member representing a business or entity offering apprenticeships in this state; and~~

~~(C) Two private citizens not employed by, or an officer of, the state or any political subdivision of the state.~~

~~(c) The members designated in this section to be appointed by the Governor are so appointed with the advice and consent of the Senate.~~

~~(d) Only state residents are eligible for appointment to the board.~~

~~(e) Members appointed by the Governor serve a term of five years and are eligible for reappointment at the expiration of their terms. If there is a vacancy among appointed members,~~

~~the Governor shall appoint a person meeting the requirements of this section to fill the unexpired term. Members of the board serve until the later of the expiration of the term for which the member was appointed or the appointment of a successor.~~

~~(f) Members of the board serve without compensation. The Treasurer may pay all reasonable expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Expense payments are made from the Jumpstart Savings Expense Account and are made at the same rates and in the same manner as travel reimbursements are paid to state employees.~~

~~(g) The Treasurer is the chairman and presiding officer of the board and shall appoint the employees the board considers advisable or necessary.~~

~~(h) The board shall adopt bylaws and rules of procedure at its first official meeting. A majority of the members of the board constitutes a quorum for the transaction of the business of the board.~~

§18-30A-6. Powers of the board to implement and administer the Jumpstart Savings Program.

(a) The board shall implement and administer the Jumpstart Savings Program in accordance with this article and all applicable laws and regulations.

(b) The board is authorized to take any lawful action necessary to effectuate the provisions of this article and successfully administer the program, subject to applicable state and federal law, including, but not limited to, the following:

(1) Adopt and amend bylaws;

(2) Execute contracts and other instruments for necessary goods and services, employ necessary personnel, and engage the services of private consultants, auditors, counsel, managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice: *Provided*, That selection of these services is not subject to the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That all expenditures and monetary and financial transactions shall may be subject to periodic audits by the Office of Chief Inspector, or the Legislative Auditor, or both;

(3) Implement the program through use of financial organizations as account depositories and managers, as provided in §18-30A-9 of this code;

(4) Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program;

(5) Establish the method by which funds shall be allocated to pay for administrative costs and assess, collect, and expend administrative fees, charges, and penalties;

(6) Authorize the assessment, collection, and retention of fees and charges against the amounts paid into and the earnings on the trust funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, the Board of Treasury Investments, or other professional managing or investing the trust funds and accounts;

(7) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, the Board of Treasury Investments, or other professional investing the funds and accounts: *Provided*, That investments made under this article shall be made in accordance with the provisions of §44-6C-1 *et seq.* of this code;

(8) Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this article: *Provided*, That the board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within 90 days of receipt; and

(9) Propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code, including emergency rules when necessary.

(c) The board may enter into agreements with other states or agencies of, subdivisions of, or residents of those states related to the program or a program that is substantially similar to the Jumpstart Savings Program established by another state.

(d) The power and duties of the board provided in this article are in addition to the powers and duties of the board provided in §18-30-1 *et seq.* of this code.

§18-30A-8. West Virginia Jumpstart Savings Program Trust and Trust Fund; and Expense Fund created; administrative account.

~~(a) The board shall establish~~ There is hereby established the Jumpstart Savings Program Trust, a public instrumentality of the State of West Virginia. The Jumpstart Savings Program Trust shall offer and issue interests in the trust to eligible members of the public.

(b) There is hereby also established a Jumpstart Savings Program Trust Fund Account, titled the Jumpstart Savings Trust Fund, within the accounts held by the Treasurer or with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, the Board of Treasury Investments, or any other person for the purpose of managing and investing the trust fund. Assets of the Jumpstart Savings Program Trust are held in trust for account owners and beneficiaries.

~~(b)~~ (c) The Jumpstart Savings Trust Fund shall receive all moneys from account owners on behalf of beneficiaries or from any other source, public or private. Earnings derived from the investment of the moneys in the Jumpstart Savings Trust Fund shall remain in the fund, held in trust in the same manner as contributions, except as refunded, applied for purposes of the beneficiaries, and applied for purposes of maintaining and administering the program.

~~(c)~~ (d) The corpus, assets, and earnings of the Jumpstart Savings Trust Fund do not constitute public funds of the state and are available solely for carrying out the purposes of this article. Any contract entered into by, or any obligation of the board on behalf of and for the benefit of the program, does not constitute a debt or obligation of the state but is solely an obligation of the Jumpstart Savings Trust Fund.

~~(d)~~ (e) All interest derived from the deposit and investment of moneys in the Jumpstart Savings Trust Fund shall be credited to the fund. At the end of any fiscal year, all unexpended and

unencumbered moneys in the trust fund may not be credited or transferred to the State General Fund or to any other fund.

~~(e)~~ (f) In order to fulfill the charitable and public purposes of this article, neither the earnings nor the corpus of the Jumpstart Savings Trust Fund is subject to taxation by the state or any of its political subdivisions.

~~(f)~~ (g) Notwithstanding any provision of this code to the contrary, money in the Jumpstart Savings Trust Fund is exempt from creditor process and not subject to attachment, garnishment, or other process; is not available as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge; and is not subject to seizure, taking, appropriation, or application by any legal or equitable process or operation of law to pay any debt or liability of any account owner, beneficiary, or successor in interest.

~~(g) (1) The Jumpstart Savings Program Expense Fund is hereby established in the State Treasury.~~

~~(2) The Jumpstart Savings Expense Fund shall receive all fees, charges, and penalties collected by the board. Expenditures from the fund are authorized from collections subject to appropriations made by the Legislature.~~

~~(3) All expenses incurred by the board or the Treasurer in developing and administering the program shall be payable from the Jumpstart Savings Expense Fund.~~

(h) The College and Jumpstart Savings Administrative Account, established in §18-30-8 of this Code, shall receive all fees, charges, and penalties collected by the board. All expenses incurred by the board or the Treasurer in developing and administering the program shall be payable from the College and Jumpstart Savings Administrative Account.

§18-30A-9. Use of financial organizations as program depositories and managers.

(a) The board may implement the program through use of financial organizations as account depositories and managers. The board may solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instruments which will be held in accounts. The board may select more than one financial organization and investment instrument for the program. The board shall select financial organizations to act as program depositories and managers ~~from among the bidding financial organizations that demonstrate the most advantageous combination, both to potential program participants and this state,~~ based on the following criteria:

(1) The financial stability and integrity of the financial organization;

(2) The safety of the investment instrument being offered;

(3) The ability of the financial organization to satisfy recordkeeping and reporting requirements;

(4) The financial organization's plan for promoting the program and the investment the organization is willing to make to promote the program;

(5) The fees, if any, proposed to be charged to the account owners;

(6) The minimum initial deposit and minimum contributions that the financial organization will require;

(7) The ability of the financial organization to accept electronic deposits and withdrawals, including payroll deduction plans; and

(8) Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover expenses of operation of the program.

(b) The board may enter into any contracts with a financial organization necessary to effectuate the provisions of this article. Any management contract shall include, at a minimum, terms requiring the financial organization to:

(1) Take any action required to keep the program in compliance with requirements of this article and any other applicable state or federal law;

(2) Keep adequate records of each account, keep each account segregated from each other account, and provide the board with the information necessary to prepare the statements required by this article and other applicable state and federal laws;

(3) Compile, summarize, and total information contained in statements required to be prepared under this article and applicable state and federal laws and provide such compilations to the board;

(4) Provide the board with access to the books and records of the program manager and with any other information needed to determine compliance with the contract, this article, and any other applicable state or federal law;

(5) Hold all accounts for the benefit of the account owner or owners;

(6) Be audited at least annually by a firm of certified public accountants selected by the program manager and provide the results of such audit to the board;

(7) Provide the board with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while the financial organization is holding any accounts, other than confidential filings or reports that will not become part of the program. The program manager shall make available for review by the board and the Treasurer the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except to the extent that such report or reports may not be disclosed under law; and

(8) Ensure that any description of the program, whether in writing or through the use of any medium, is consistent with the marketing plan developed pursuant to the provisions of this article.

(c) The board may:

(1) Enter into contracts it deems necessary for the implementation of the program, including, but not limited to, a contract with a financial institution, manager, consultant or other professional to provide services to both the Jumpstart Savings Program, and the College Savings Program, established in §18-30-1 et seq. of this code;

(2) Require that an audit be conducted of the operations and financial position of the program depository and manager at any time if the board has any reason to be concerned about the financial position, the record keeping practices, or the status of accounts of such program depository and manager; and

(3) Terminate or decline to renew a management agreement. If the board terminates or does not renew a management agreement, the board ~~shall take custody of accounts held by such program manager and~~ shall seek to promptly transfer such accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.”

On motion of Delegate Steele, the amendment was amended on page three, section three, line twenty, after the word “institution”, by inserting the following:

“Jumpstart Savings Expense Fund’, for the purposes of this article, means the College and Jumpstart Savings Administrative Account, established in §18-30-8 of this Code.”

The Committee on Government Organization amendment, as amended, was subsequently adopted.

There being no further amendments, the bill was ordered to third reading.

Com. Sub. for H. B. 4067, To make certain agency reports electronic or eliminating certain agency reports altogether; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for H. B. 2184, Increasing the penalties for exposure of governmental representatives to fentanyl or any other harmful drug,

Com. Sub. for H. B. 2972, Allowing a person to manufacture a stated amount of alcoholic liquor for personal consumption,

And,

H. B. 3303, Relating to clarifying the process of filling vacancies on ballots.

Miscellaneous Business

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

H. B. 2092: Delegates Booth, Hanna, Mazzocchi, Tully and G. Ward;

H. B. 2184: Delegate Pinson;

H. B. 2908: Delegate Maynor;

H. B. 3225: Delegate Zukoff;

H. B. 4073: Delegate Zukoff;

H. B. 4073: Delegate Horst;

H. B. 4280: Delegate Mandt;

H. B. 4288; Delegate Pushkin;

And,

H. J. R. 15: Delegate Forsht.

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

H. B. 4254: Delegate Mandt.

At 11:24 a.m., the House of Delegates adjourned until 11:00 a.m., Friday, January 21, 2022.

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

SPECIAL CALENDAR

Friday, January 21, 2022

10th Day

11:00 A. M.

THIRD READING

- S. B. 8 - Relating generally to state's savings and investment programs (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 4067 - To make certain agency reports electronic or eliminating certain agency reports altogether (STEELE) (REGULAR)

SECOND READING

- Com. Sub. for H. B. 2184 - Increasing the penalties for exposure of governmental representatives to fentanyl or any other harmful drug (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2972 - Allowing a person to manufacture a stated amount of alcoholic liquor for personal consumption (CAPITO) (REGULAR)
- H. B. 3303 - Relating to clarifying the process of filling vacancies on ballots (CAPITO) (REGULAR)

FIRST READING

- S. B. 191 - Allowing poll workers to work full and half days (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2177 - Permitting the issuance of a state issued identification card without a photo on the card under certain conditions (STEELE) (REGULAR)
- H. B. 2325 - Removing the requirement of continuing education for barbers and cosmetologists (STEELE) (REGULAR)
- Com. Sub. for H. B. 3220 - Restrictions on Taxpayer funded lobbying (STEELE) (REGULAR)
- Com. Sub. for H. B. 3231 - Public Utilities not required to pay interest on security deposits (CAPITO) (REGULAR)
- Com. Sub. for H. B. 3312 - Establishing a memorial to child labor and child workers who died in the course of employment in this state (STEELE) (REGULAR)
- Com. Sub. for H. B. 4062 - Removing the residency requirement for the Commissioner of the Division of Highways (STEELE) (REGULAR)
- Com. Sub. for H. B. 4065 - Allowing the Division of Natural Resources to teach hunter's safety courses in school (ELLINGTON) (REGULAR)

- Com. Sub. for H. B. 4074 - Require schools provide eating disorder and self-harm training for teacher and students (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 4112 - Provide consumers a choice for pharmacy services (ROHRBACH) (REGULAR)
- Com. Sub. for H. B. 4113 - Public Health definitions and powers of secretary and commissioner (ROHRBACH) (EFFECTIVE FROM PASSAGE)

HOUSE CALENDAR

Friday, January 21, 2022

10th Day

11:00 A. M.

(NO BILLS)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, JANUARY 21, 2022

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON FINANCE
9:00 A.M. – ROOM 462 M**

**SENIOR, CHILDREN, AND FAMILY ISSUES
8:00 A.M. – HOUSE CHAMBER**

**SELECT COMMITTEE ON JAILS AND PRISONS
8:00 A.M. – ROOM 418 M**

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