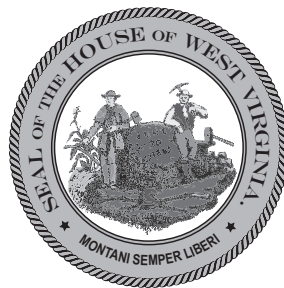


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Fifth Legislature
Second Regular Session

Held at Charleston
Published by the Clerk of the House



March 10, 2022
FIFTY-EIGHTH DAY

Thursday, March 10, 2022

FIFTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 9, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 7, Com. Sub. for S. B. 71 and S. B. 693 on Second Reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

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:

Com. Sub. for S. B. 468, Creating Unborn Child with Down Syndrome Protection and Education Act,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 468) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate D. Jeffries, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments,

S. B. 448, Developing policies and procedures for Statewide Interoperability Executive Committee,

Com. Sub. for S. B. 520, Increasing financial penalties for ransomware attacks,

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority,

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History,

Com. Sub. for S. B. 537, Providing additional firefighters and security guards for National Guard,

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development,

S. B. 597, Relating to PSC underground facilities damage prevention and one-call system

Com. Sub. for S. B. 598, Establishing partnerships and aid for at-risk veterans to combat suicide,

S. B. 638, Changing hearing and notice provisions for failing or distressed public utilities,

And,

Com. Sub. for S. B. 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4113, Public Health definitions and powers of secretary and commissioner.

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

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

“ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-2. DEFINITIONS.

As used in this article:

(1) ‘Basic public health services’ means those services that are necessary to protect the health of the public; ~~The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion and environmental health protection~~

(2) ‘Bureau’ means the Bureau for Public Health in the department;

(3) 'Combined local board of health' means one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties;

(4) 'Commissioner' means the commissioner of the bureau, who is the state health officer;

(5) 'County board of health' means one form of organization for a local board of health and means a local board of health serving a single county;

(6) 'Department' means the West Virginia Department of Health and Human Resources;

(7) 'Director' or 'director of health' means the state health officer. Administratively within the department, the bureau through its commissioner carries out the public health functions of the department, unless otherwise assigned by the secretary;

(8) 'Essential public health services' means the core public health activities necessary to promote health and prevent disease, injury, and disability for the citizens of the state. The services include:

(A) Monitoring health status to identify community health problems;

(B) Diagnosing and investigating health problems and health hazards in the community;

(C) Informing, educating, and empowering people about health issues;

(D) Mobilizing community partnerships to identify and solve health problems;

(E) Developing policies and plans that support individual and community health efforts;

(F) Enforcing laws and rules that protect health and ensure safety;

(G) Uniting people with needed personal health services and assuring the provision of health care when it is otherwise not available;

(H) Promoting a competent public health and personal health care workforce;

(I) Evaluating the effectiveness, accessibility, and quality of personal and population-based health services; and

(J) Researching for new insights and innovative solutions to health problems;

~~(9) 'Licensing boards' means those boards charged with regulating an occupation, business or profession and on which the commissioner serves as a member~~

~~(10)~~ (9) 'Local board of health', 'local board', or 'board' means a board of health serving one or more counties or one or more municipalities or a combination thereof;

~~(11)~~ (10) 'Local health department' means the staff of the local board of health;

~~(12)~~ (11) 'Local health officer' means the physician with a current West Virginia license to practice medicine who supervises and directs the activities, services, staff, and facilities of the

local health department and is appointed by the local board of health with approval by the commissioner;

~~(13)~~ (12) 'Municipal board of health' means one form of organization for a local board of health and means a board of health serving a single municipality;

~~(14)~~ (13) 'Performance-based standards' means generally accepted, objective standards such as rules or guidelines against which public health performance can be measured;

~~(15)~~ (14) 'Potential source of significant contamination' means a facility or activity that stores, uses, or produces substances or compounds with potential for significant contaminating impact if released into the source water of a public water supply;

~~(16)~~ 'Program plan' or 'plan of operation' means the annual plan for each local board of health that must be submitted to the commissioner for approval

~~(17)~~ (15) 'Public groundwater supply source' means a primary source of water supply for a public water system which is directly drawn from a well, underground stream, underground reservoir, underground mine, or other primary source of water supplies which is found underneath the surface of the state;

~~(18)~~ (16) 'Public surface water supply source' means a primary source of water supply for a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or other primary sources of water supplies which are found on the surface of the state;

~~(19)~~ (17) 'Public surface water influenced groundwater supply source' means a source of water supply for a public water system which is directly drawn from an underground well, underground river or stream, underground reservoir, or underground mine, and the quantity and quality of the water in that underground supply source is heavily influenced, directly or indirectly, by the quantity and quality of surface water in the immediate area;

~~(20)~~ (18) 'Public water system' means:

(A) Any water supply or system which regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of ~~twenty-five~~ 25 individuals per day for at least ~~sixty~~ 60 days per year, or which has at least ~~fifteen~~ 15 service connections, and shall include:

(i) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and

(ii) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system;

(B) A public water system does not include a system which meets all of the following conditions:

(i) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(ii) Obtains all of its water from, but is not owned or operated by, a public water system which otherwise meets the definition;

(iii) Does not sell water to any person; and

(iv) Is not a carrier conveying passengers in interstate commerce;

~~(24)~~ (19) 'Public water utility' means a public water system which is regulated by the West Virginia Public Service Commission pursuant to the provisions of ~~chapter twenty-four~~ §24-1-1 et seq. of this code;

~~(22)~~ (20) 'Secretary' means the secretary of the department.

~~(23)~~ (21) 'Service area' means the territorial jurisdiction of a local board of health;

~~(24)~~ ~~'State Advisory Council on Public Health' means the advisory body charged by this article with providing advice to the commissioner with respect to the provision of adequate public health services for all areas in the state;~~

~~(25)~~ ~~'State Board of Health' means the secretary, notwithstanding any other provision of this code to the contrary, whenever and wherever in this code there is a reference to the State Board of Health~~

~~(26)~~ (22) 'Zone of critical concern' for a public surface water supply is a corridor along streams within a watershed that warrant more detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of critical concern is determined using a mathematical model that accounts for stream flows, gradient, and area topography. The length of the zone of critical concern is based on a five-hour time-of-travel of water in the streams to the water intake, plus an additional one-fourth mile below the water intake. The width of the zone of critical concern is ~~one thousand~~ 1000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

§16-1-3. POWERS AND DUTIES OF THE SECRETARY.

(a) The secretary may establish a state public health system.

~~(b) All powers and duties of the director of health previously established by former section ten of this article that are not specifically included in this chapter as powers and duties of the commissioner are powers and duties of the secretary~~

~~(c)~~ (b) As necessary for the effective, efficient, and economical operation of the system, the secretary may from time to time delegate, assign, transfer, or combine responsibilities or duties to or among employees of the department.

~~(d)~~ (c) Within the limits of applicable federal law, the secretary may require every applicant for a license, permit, certificate of registration, or registration under this chapter to place his or her social security number on the application.

(d) The secretary may appoint advisory councils.

§16-1-4. PROPOSAL OF RULES BY THE SECRETARY.

(a) The secretary may propose legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code that include: ~~are necessary and proper to effectuate the purposes of this chapter. The secretary may appoint or designate advisory councils of professionals in the areas of hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and intellectual disability centers and any other areas necessary to advise the secretary on rules.~~

~~(b) The rules may include: but are not limited to, the regulation of~~

(1) Land usage endangering the public health: *Provided*, That no rules may be promulgated or enforced restricting the subdivision or development of any parcel of land within which the individual tracts, lots, or parcels exceed two acres each in total surface area and which individual tracts, lots, or parcels have an average frontage of not less than 150 feet even though the total surface area of the tract, lot, or parcel equals or exceeds two acres in total surface area, and which tracts are sold, leased, or utilized only as single-family dwelling units. Notwithstanding the provisions of this subsection, nothing in this section may be construed to abate the authority of the department to:

(A) Restrict the subdivision or development of a tract for any more intense or higher density occupancy than a single-family dwelling unit;

(B) Propose or enforce rules applicable to single-family dwelling units for single-family dwelling unit sanitary sewerage disposal systems; or

(C) Restrict any subdivision or development which might endanger the public health, the sanitary condition of streams, or sources of water supply;

(2) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities, and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods, and swimming pools in this state, whether publicly or privately owned;

(4) Safe drinking water, including:

(A) The maximum contaminant levels to which all public water systems must conform in order to prevent adverse effects on the health of individuals and, if appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(B) The minimum requirements for: sampling and testing; system operation; public notification by a public water system on being granted a variance or exemption, or upon failure to comply with

specific requirements of this section and rules promulgated under this section; record keeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems rules; and

(C) The requirements covering the production and distribution of bottled drinking water and may establish requirements governing the taste, odor, appearance, and other consumer acceptability parameters of drinking water;

(5) Food and drug standards, including cleanliness, proscription of additives, proscription of sale, and other requirements in accordance with §16-7-1 *et seq.* of this code as are necessary to protect the health of the citizens of this state;

(6) The training and examination requirements for emergency medical service attendants and emergency medical care technician-paramedics; the designation of the health care facilities, health care services, and the industries and occupations in the state that must have emergency medical service attendants and emergency medical care technician-paramedics employed, and the availability, communications and equipment requirements with respect to emergency medical service attendants and to emergency medical care technician-paramedics. Any regulation of emergency medical service attendants and emergency medical care technician-paramedics may not exceed the provisions of §16-4C-1 *et seq.* of this code;

(7) The health and sanitary conditions of establishments commonly referred to as bed and breakfast inns. For purposes of this article, 'bed and breakfast inn' means an establishment providing sleeping accommodations and, at a minimum, a breakfast for a fee. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer rooms to install a restaurant-style or commercial food service facility. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of more than six rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;

(8) Fees for services provided by the Bureau for Public Health including, but not limited to, laboratory service fees, environmental health service fees, health facility fees, and permit fees;

(9) The collection of data on health status, the health system, and the costs of health care;

~~(c) The secretary shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code for (10) The distribution of state aid to local health departments and basic public health services funds. The rule shall include the following provisions: in accordance with:~~

(A) Base allocation amount for each county;

(B) Establishment and administration of an emergency fund of no more than two percent of the total annual funds of which unused amounts are to be distributed back to local boards of health at the end of each fiscal year;

(C) A calculation of funds utilized for state support of local health departments;

(D) Distribution of remaining funds on a per capita weighted population approach which factors coefficients for poverty, health status, population density, and health department interventions for

each county and a coefficient which encourages counties to merge in the provision of public health services; and

~~A hold harmless provision to provide that each local health department receives no less in state support for a period of four years beginning in the 2009 budget year;~~

(E) The provisions of this subdivision are in effect until the performance standard funding formula is created and established by legislative rule.

~~The Legislature finds that an emergency exists and, therefore, the secretary shall file an emergency rule to implement the provisions of this section pursuant to the provisions §29A-3-15 of this code. The emergency rule is subject to the prior approval of the Legislative Oversight Commission on Health and Human Resources Accountability prior to filing with the Secretary of State.~~

~~(d) The secretary may propose rules for legislative approval that may include the regulation of other health related matters which the department is authorized to supervise and for which the rule making authority has not been otherwise assigned~~

~~(e)~~ (b) The secretary shall not review any repair or modernization of equipment at a public pool facility as long as such activity does not change the scope of the facility or its current use and such activity does not exceed \$25,000 in planned cost.

§16-1-5. STATE HEALTH OFFICER; APPOINTMENT; QUALIFICATIONS; TERM.

The Commissioner of the Bureau for Public Health is the state health officer and shall be appointed by the secretary. The commissioner shall be ~~a physician~~ licensed under the laws of this state to practice medicine or a person holding a doctorate degree in public health administration. ~~The commissioner shall have not less than four years' experience in health services administration or a related field~~ The commissioner serves at the will and pleasure of the secretary and shall not be actively engaged or employed in any other business, vocation, or employment, serving full-time in the duties of the office as prescribed by this article.

§16-1-6. POWERS AND DUTIES OF THE COMMISSIONER.

(a) The commissioner is the chief executive, administrative and fiscal officer of the Bureau for Public Health and has the following powers and duties:

~~(a)~~ (1) To supervise and direct the fiscal and administrative matters of the bureau, and in that regard and in accordance with law, employ, fix the compensation of, and discharge all persons necessary for the proper execution of the public health laws of this state and the efficient and proper discharge of the duties imposed upon, and execution of powers vested in the commissioner by law and as directed by the secretary;

~~(b)~~ (2) To enforce all laws of this state concerning public health. ~~to that end,~~

~~(3) The commissioner shall make, or cause to be made, investigations and inquiries respecting~~ To investigate the cause of disease, especially of epidemics and endemic conditions, and the means of prevention, suppression, or control of those conditions; the source of sickness and mortality, ~~and~~ the effects of environment, employment, habits, and circumstances of life on the public health.

~~The commissioner shall further make, or cause to be made, inspections and examinations of~~
(4) To inspect and examine food, drink, and drugs offered for sale or public consumption in the manner the commissioner considers necessary to protect the public health and shall report all violations of laws and rules relating to the law to the prosecuting attorney of the county in which the violations occur;

~~(e)~~ (5) To make complaint or cause proceedings to be instituted against any person, corporation, or other entity for the violation of any public health law before any court or agency, without being required to give security for costs; the action may be taken without the sanction of the prosecuting attorney of the county in which the proceedings are instituted or to which the proceedings relate;

~~(d)~~ (6) To promote the provision of essential public health services to citizens of this state;

~~(e)~~ (7) To monitor the ~~administration,~~ operation and coordination of the local boards of health and local health officers;

(f) (8) To develop and maintain a state plan of operation that sets forth the needs of the state in the areas of public health; goals and objectives for meeting those needs; methods for achieving the stated goals and objectives; and needed personnel, funds, and authority for achieving the goals and objectives;

~~(g)~~ (9) To collect data as may be required to foster knowledge on the citizenry's health status, the health system, and costs of health care;

~~(h)~~ (10) To delegate to any appointee, assistant, or employee any and all powers and duties vested in the commissioner, including, but not limited to, the power to execute contracts and agreements in the name of the bureau: *Provided*, That the commissioner is responsible for the acts of his or her appointees, assistants, and employees;

~~(i)~~ (11) To transfer ~~at the direction of the secretary, notwithstanding other provisions of this code~~ any patient or resident between hospitals and facilities ~~under the control of the commissioner~~ and, by agreement with the state Commissioner of Corrections and Rehabilitation and otherwise in accord with law, accept a transfer of a resident of a facility under the jurisdiction of the state Commissioner of Corrections and Rehabilitation;

~~(j)~~ (12) To make periodic reports to the Governor and to the Legislature relative to specific subject areas of public health, ~~the state facilities under the supervision of the commissioner,~~ or other matters affecting the public health of the people of the state; ~~at the direction of the secretary;~~

~~(k)~~ ~~At the direction of the secretary~~ (13) To accept and use for the benefit of the health of the people of this state, any gift or devise of any property or thing which is lawfully given: *Provided*, That if any gift is for a specific purpose ~~or for a particular state hospital or facility~~ it shall be used as specified. Any profit which may arise from any gift or devise of any property or thing shall be deposited in a special revenue fund with the State Treasurer and shall be used only as specified by the donor or donors;

~~(l)~~ (14) To acquire by condemnation or otherwise any interest, right, privilege, land, or improvement and hold title to the land or improvement, for the use or benefit of the state or a state hospital or facility, ~~and, by and with the consent of the Governor, and at the direction of the secretary,~~ to sell, exchange or otherwise convey any interest, right, privilege, land, or

improvement acquired or held by the state, state hospital, or state facility and deposit the proceeds from the sale, exchange or other conveyance into the hospital services revenue account. Any condemnation proceedings shall be conducted pursuant to chapter fifty four §54-1-1 et seq. of this code;.

~~(m)~~ (15) To inspect and enforce rules to control the sanitary conditions of and license all institutions and health care facilities as set forth in this chapter, including, but not limited to, schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, places of entertainment, hotels, motels, tourist camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

~~(n)~~ (16) To make inspections, conduct hearings, and to enforce the legislative rules concerning occupational and industrial health hazards, the sanitary condition of streams, sources of water supply, sewerage facilities, and plumbing systems, and the qualifications of personnel connected with the supplies, facilities or systems without regard to whether they are publicly or privately owned; and to make inspections, conduct hearings and enforce the legislative rules concerning the design of chlorination and filtration facilities and swimming pools;

~~(o)~~ To provide in accordance with this subdivision and the definitions and other provisions of article one a, chapter twenty seven 27-1A-1 et seq. of this code, and as directed by the secretary, for a comprehensive program for the care, treatment and rehabilitation of alcoholics and drug abusers; for research into the cause and prevention of alcoholism and drug abuse; for the training and employment of personnel to provide the requisite rehabilitation of alcoholics and drug abusers; and for the education of the public concerning alcoholism and drug abuse

~~(p)~~ (17) To provide in accordance with this subdivision for a program for the care, treatment, and rehabilitation of the parents of sudden infant death syndrome victims; for the training and employment of personnel to provide the requisite rehabilitation of parents of sudden infant death syndrome victims; for the education of the public concerning sudden infant death syndrome; for the responsibility of reporting to the Legislature on a quarterly basis the incidence of sudden infant death syndrome cases occurring in West Virginia; for the education of police, employees, and volunteers of all emergency services concerning sudden infant death syndrome; for the state sudden infant death syndrome advisory council to develop regional family support groups to provide peer support to families of sudden infant death syndrome victims; and for requesting appropriation of funds in both federal and state budgets to fund the sudden infant death syndrome program;

~~(q)~~ (18) To establish and maintain a state hygienic laboratory as an aid in performing the duties imposed upon the commissioner, and to employ chemists, bacteriologists, and other employees that may be necessary to properly operate the laboratory. The commissioner may establish branches of the state laboratory at any points within the state that are necessary in the interest of the public health;

~~(r)~~ To establish and fund a uniform health professionals data system to collect and maintain uniform data on all health professionals in the state. This data shall include, but not be limited to, the following information about each health professional: His or her name, profession, the area of the state where he or she is practicing, his or her educational background, his or her employer's name, and number of years practicing within the profession. The boards provided for in articles three, four, four a, five, seven, seven a, fourteen, fourteen a, fifteen, sixteen, twenty, twenty one, twenty three, twenty eight, thirty one, thirty two, thirty four, thirty five, thirty six and thirty seven,

~~chapter thirty of this code shall annually collect the data on health professionals under their jurisdiction in the format prescribed by the commissioner. Each board shall pay to the bureau annually, an amount determined by the commissioner to be a pro rata portion, for anticipated expenses to establish and operate the uniform health professionals data system required by this section. The commissioner may standardize data collection methods if necessary to implement the provisions of this section. The commissioner shall publish annually and make available, upon request, a report setting forth the data which was collected the previous year; areas of the state which the collected data indicates have a shortage of health professionals; and projections, based upon the collected data, as to the need for more health professionals in certain areas~~

~~(e) (19) To expend, for the purpose of performing the public health duties imposed on the bureau, or authorized by law, any sums appropriated by the Legislature. The commissioner may make advance payments to public and nonprofit health services providers when the commissioner determines it is necessary for the initiation or continuation of public health services. The advance payments, being in derogation of the principle of payment only after receipt of goods or services, shall be authorized only after serious consideration by the commissioner of the necessity of the advance payments and shall be for a period no greater than ninety 90 days in advance of rendition of service or receipt of goods and continuation of health services; and~~

~~(f) (20) To exercise all other powers delegated to the commissioner by the secretary or by this chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities necessary and incident to the authority and area of concern entrusted to the bureau or the commissioner.~~

(b) The commissioner shall establish within the Bureau for Public Health, a Center for Local Public Health. The center shall:

(1) Enhance the quality and availability of essential public health services throughout the state provided by local boards of health;

(2) Provide technical assistance and consultation to a local board of health agency;

(3) Allocate and distribute funding based upon performance based standards;

(4) Provide technical assistance to the local public health workforce;

(5) Facilitate bi-directional communication;

(6) Establish a uniform state-wide computer system for the reporting of public health data;

(7) Inventory the services provided by a local boards of health;

(8) Support sharing of services between local boards of health;

(9) Create a performance-based evaluation system based on standards established by legislative rule;

(10) Provide a quarterly training to ensure consistency in the application of state laws, legislative rules, and local health department rules; and

(11) Enforce compliance with performance standards.

§16-1-7. COMMISSIONER SERVING ON ADVISORY BOARDS.

~~(A) Effective July 1, 2012, the commissioner serves on the West Virginia Board of Medicine, provided in §30-3-1 et seq. of this code.~~

~~(b) Effective July 1, 2012~~ The commissioner serves on the following advisory councils, boards, and commissions:

- (1) The Advisory Committee on Cancer (Cancer Registry);
- (2) The Air Quality Board;
- (3) The Appalachian States Low-level Radioactive Waste Commission;
- (4) The Child Fatality Review Team;
- (5) The Childhood Immunization Advisory Committee;
- (6) The Early Intervention Coordinating Council;
- (7) The Interagency Council on Osteoporosis;
- (8) The Sewage Advisory Board;
- (9) The State Emergency Response Commission;
- (10) The State Groundwater Coordinating Committee;
- (11) The Water Development Authority;
- (12) The West Virginia Commission for the Deaf and Hard of Hearing;
- (13) The West Virginia Infrastructure and Jobs Development Council; and

(14) Any other advisory council, board, or commission as assigned by the secretary except for business, professional, or occupational licensing boards.

~~(c) (b) Notwithstanding any other provision of this code to the contrary, The commissioner may, at his or her discretion designate in writing a representative to serve in his or her stead at the meetings and in the duties of all boards and commissions on which the commissioner is designated as an ex officio member. The appropriately designated representative or proxy acts with the full power and authority of the commissioner in voting, acting upon matters concerning the public health and welfare and other business that is properly the duty of any board or commission. The representative serves as proxy at the commissioner's will and pleasure. The provisions of this section do not apply to the West Virginia Board of Medicine, the Air Quality Board, or other board, commission, or body on which the commissioner is designated by this code as chairman ex officio, secretary ex officio, or a board, commission, or body on which the commissioner is designated by this code as being that person whose signature must appear on licenses, minutes, or other documents necessary to carry out the intents and purposes of the board, commission, or body~~

§16-1-8. DUTIES AND POWERS OF THE COMMISSIONER; AUTHORIZATION TO COOPERATE WITH ANY STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES AND ANY FEDERAL GOVERNMENT AGENCIES IN HOSPITAL AND OTHER HEALTH FACILITY PROGRAMS.

[Repealed].

§16-1-10. DISPOSITION OF PERMIT, LICENSE, OR REGISTRATION FEES RECEIVED BY THE COMMISSIONER; REPORT TO AUDITOR; HEALTH FACILITY LICENSING ACCOUNT.

(a) The commissioner shall receive and account for all moneys required to be paid as fees to the bureau for permits, licenses, or registrations, pursuant to the provisions of this code and legislative rules.

(b) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the State Treasury a separate account which shall be designated 'the Health Facility Licensing Account.' The commissioner shall deposit to the Health Facility Licensing Account all health facility licensing fees and may spend the moneys deposited in the health facility licensing account in accordance with the laws of this state to implement activities of health facility licensing. As part of the annual state budget, the Legislature shall appropriate for health facility licensure all moneys deposited in the Health Facility Licensing Account.

Any remaining balance including accrued interest in the account at the end of any fiscal year shall not revert to the General Revenue Fund, but shall remain in the account, and the moneys may be spent after appropriation by the Legislature in ensuing fiscal years. ~~The commissioner shall make an annual report to the Legislature on the health facility licensing account, including the previous fiscal year's expenditures and projected expenditures for the next fiscal year~~

§16-1-11. DISPOSITION OF FEES FOR SERVICES CHARGED AND RECEIVED BY THE COMMISSIONER; HEALTH SERVICES FUND.

(a) ~~Notwithstanding any other provisions of this chapter,~~ The commissioner may assess and charge reasonable fees for the provision of services provided by the bureau: *Provided*, That no individual may be denied health care services by the bureau because of the inability of the individual to pay for services. ~~when services are provided to similarly situated individuals who have the ability to pay for them~~ The fees shall be deposited into a special revolving fund in the State Treasury designated the 'Health Services Fund.'

(b) Any balance including accrued interest in the special revolving fund at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the fund for use by the commissioner for funding health programs in the ensuing fiscal years.

(c) ~~The commissioner may authorize reasonable fees for the provision of services by local boards of health as created in article two of this chapter: *Provided*, That no individual may be denied health care services by the local health department because of the inability of the individual to pay for services when services are provided to similarly situated individuals who have the ability to pay for them. The fees shall be deposited into the local board of health account for use by the local board for funding health programs. The commissioner shall establish the fees on a sliding fee basis determined by an individual's ability to pay: *Provided, however*, That the local board of health may submit a request through the administrator for third party reimbursement where the~~

~~request is appropriate: *Provided further*, That Local boards of health that establish fees shall annually submit a schedule of fees, a sliding fee scale and an accounting of amounts collected to the commissioner as part of its program plan or plan of operation.~~

~~(d) The secretary shall propose legislative rules in accordance with article three, chapter twenty nine a of this code, setting forth the fees established, assessed, and charged by the commissioner~~

§16-1-12. RECEIPT AND DISBURSEMENT OF FEDERAL AID AND OTHER MONEYS FOR HEALTH PURPOSES.

(a) The commissioner ~~at the direction of the secretary~~, may accept, receive, and receipt for federal moneys and other moneys, either public or private, for and on behalf of this state or any county or municipality of this state, for public health purposes, or for the establishment or construction of public health facilities, whether the work is to be done by the state, or by the county or municipality, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are, or may be, prescribed by the laws of the United States and regulations made thereunder. The commissioner may act as the agent of the state or any of its agencies, or of any county or municipality of this state, upon the request of any agency of the state or of any county or municipality, in accepting, receiving and receipting for the moneys in its behalf, for public health facilities financed either, in whole or in part, by federal moneys.

(b) The state, any agency of the state, or any county or municipality may, designate the commissioner as its agent for the purposes set forth in subsection (a) of this section and the agency, county, or municipality may enter into an agreement with the commissioner prescribing the terms and conditions of the agency in accordance with federal laws and regulations, and with the laws of this state. The moneys paid over by the United States government shall be retained by the state or paid over to the counties or municipalities under the terms and conditions imposed by the United States government in making the grants.

(c) All moneys accepted for disbursement pursuant to this section shall be deposited by ~~the secretary~~ or the commissioner in the State Treasury, and unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purpose for which the moneys were made available, and held by the state in trust for those purposes. All moneys are hereby appropriated for the purposes for which the moneys were made available and shall be expended in accordance with federal laws and regulations and with the laws of this state. The commissioner may, whether acting for the state or one of its agencies, or as the agency for any county or municipality, when requested by the United States government or any agency or department of the United States government, or when requested by the state, a state agency, or any county or municipality for which the moneys have been made available, disburse the moneys for the designated purposes, but this shall not include any other authorized method of disbursement.

§16-1-13. HOSPITAL SERVICES REVENUE ACCOUNT; HEALTH FACILITIES LONG-RANGE PLANS.

[Repealed].

§16-1-14. TRAINING OF EMPLOYEES.

~~To insure adequate standards of public service,~~The commissioner may provide technical and specialized instruction for employees of the bureau.

~~If upon review of the personnel records of any employee of the bureau, the commissioner is of the opinion that it would be in the best interest of the bureau to provide the employee with additional training or instruction, not to exceed nine months in any four year period, in the field or vocation in which the employee is engaged, the commissioner may, upon approval of the secretary, direct that the employee obtain the additional training or instruction at any place the commissioner considers suitable. Designated attendance of the employee shall be compensated for as a part of regular employment. The commissioner is further authorized to may pay out of federal funds and such state funds as are available to match such federal funds, any required tuition or enrollment fees.~~

§16-1-21. CREATION OF DIABETES ACTION PLAN.

[Repealed].

ARTICLE 2. LOCAL BOARDS OF HEALTH.

§16-2-2. DEFINITIONS.

Unless the context in ~~which~~ used clearly requires a different meaning, as used in this article:

'Appointing authority' means the county commission or municipality, or combination thereof, that authorized the creation or combination of the local board of health, in whatever form it presently exists;

'Basic public health services' means those services that are necessary to protect the health of the public and that a local board of health must provide; ~~The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion, and environmental health protection;~~

'Bureau' means the Bureau for Public Health in the Department of Health and Human Resources;

'Clinical and categorical programs' means those services provided to individuals of specified populations and usually focus on health promotion or disease prevention. These services are not considered comprehensive health care but focus on specific health issues such as breast and cervical cancer, prenatal and pediatric health services, and home health services;

'Combined local board of health' is one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties;

'Commissioner' means the Commissioner of the Bureau for Public Health, who is the state health officer;

'Communicable and reportable disease prevention and control' ~~is one of three areas of basic public health services each local board of health must offer. Services shall include~~ means disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of ~~rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other~~ communicable and reportable diseases;

~~'Community health promotion' is one of three areas of basic public health services each local board of health must offer. Services shall include mean assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;~~

'County board of health' is one form of organization for a local board of health and means a local board of health serving a single county;

'Department' means the West Virginia Department of Health and Human Resources;

~~'Director' or 'director of health' means the state health officer. Administratively within the department, the Bureau for Public Health through its commissioner carries out the public health function of the department, unless otherwise assigned by the secretary;~~

'Enforcement activity' means the implementation or enforcement of applicable state rules, local rules, and local health department rules;

~~'Enhanced public health services' means services that focus on health promotion activities to address a major health problem in a community, are targeted to a particular population and assist individuals in this population to access the health care system; such as lead and radon abatement for indoor air quality and positive pregnancy tracking. Enhanced public health services are services a local health department may offer;~~

~~'Environmental health protection' is one of three areas of basic public health services each local board of health must offer. Services shall include means efforts to protect the community from environmental health risks including, inspection of housing, institutions, recreational facilities, sewage, and wastewater facilities; inspection and sampling of drinking water facilities; and response to disease outbreaks or disasters;~~

'Guidance' means providing advice to a person, the public, a business, school board, or governmental entity regarding a public health issue or matter. Guidance is not a health order;

'Health order' means an order issued by the local health officer or local health board to protect the public health of the citizens by directing an individual or a discreet group of individuals to take a specific action to protect the health of the public or stop the spread of a communicable disease;

'Imminent public health emergency' means any immediate acute threat, hazard, or danger to the health of the population of the jurisdiction, whether specific or general, whether or not officially declared;

'Local board of health', 'local board', or 'board' means a board of health serving one or more counties or one or more municipalities or a combination thereof;

'Local health department' means the staff of the local board of health;

'Local health department rule' means a rule issued by the local board of health that has been approved by the appointing authority or was adopted prior to March 4, 2021, or a rule issued by the local board of health that may immediately go into effect because of an imminent public health emergency under §16-2-1(b)(3)(H) of this code;

'Local health officer' means the individual physician with a current West Virginia license to practice medicine or a licensed advanced practice registered nurse that has the ability to independently practice who supervises and directs the activities of the local health department services, staff and facilities and is appointed by the local board of health ~~with approval by the commissioner;~~

'Local rule' means an order adopted by a county commission or an ordinance adopted by a city that properly directs the local health department to implement or enforce the order or ordinance;

'Municipal board of health' is one form of organization for a local board of health and means a board of health serving a single municipality;

'Performance-based standards' means generally accepted, objective standards such as rules or guidelines against which a local health department's level of performance can be measured;

'Primary care services' means health care services, including medical care, that emphasize first contact patient care and assume overall and ongoing responsibility for the patient in health maintenance and treatment of disease. Primary care services are services that local boards of health may offer if the board has determined that an unmet need for primary care services exists in its service area. Basic public health services funding may not be used to support these services;

~~'Program plan' or 'plan of operation' means the annual plan for each local board of health that must be submitted to the commissioner for approval;~~

'Secretary' means the Secretary of the Department of Health and Human Resources; ~~and~~

'Service area' means the territorial jurisdiction of the local board of health; and

'State Rule' means a state statute, legislative rule promulgated by a state agency, or an order of the secretary relating to public health that is to be enforced by a local health department.

§16-2-10. LOCAL BOARD OF HEALTH; MEETINGS; ATTENDANCE; BYLAWS; QUORUM; CHAIRPERSON SELECTION, POWERS AND DUTIES.

(a) ~~Each~~ A local board of health ~~may~~ shall meet as often as necessary to orderly and efficiently execute its duties and exercise its powers: ~~Provided, That in a service area having a population of less than thirty thousand residents, the board shall meet no fewer than four times per year and in a service area having a population of more than thirty thousand residents, the board shall meet~~ but, no fewer than six times per year. Members of a local board of health shall attend board meetings in compliance with attendance policies established by its bylaws or rules.

(b) ~~Each~~ A local board of health ~~is authorized to and shall adopt and may amend bylaws or rules governing the time and place of its regular meetings, procedures, and method of conducting its meetings. including quorum, meeting attendance policies, requirements for written minutes and board actions as public records, duties and election process for officers, process for filling board vacancies, number, duties, tenure and eligibility of members, and any other matters affecting how the board is organized to perform its duties.~~ A quorum of the board for transacting business is a simple majority of the constituent membership of the board.

(c) ~~Each~~ A local board of health, pursuant to its bylaws, shall elect from its members a chairperson. The chairperson shall serve for a term of one year and may be reelected for additional terms. The chairperson may, on behalf of the board, sign documents, execute contracts, and otherwise act for and in the name of the board in all matters within its lawful powers and as duly authorized by a majority of the board members.

§16-2-11. LOCAL BOARD OF HEALTH; POWERS AND DUTIES.

(a) ~~Each~~ A local board of health created, established, and operated pursuant to the provisions of this article shall:

(1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:

(i) ~~(A)~~ (A) Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;

(ii) ~~(B)~~ (B) Environmental health protection including the promoting and maintaining of clean and safe air, water, food, and facilities, and the administering of public health laws as specified by the commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

(iii) ~~(C)~~ (C) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other communicable and reportable diseases;

(D) Immunizations; and

(E) Threat preparedness.

~~(2) Appoint a local health officer to serve at the will and pleasure of the local board of health with approval of the commissioner;~~

~~(3) Submit a general plan of operation to the commissioner for approval, if it receives any state or federal money for health purposes. This program plan shall be submitted annually and comply with provisions of the local board of health standards administrative rule;~~

(4) ~~(2)~~ Provide equipment and facilities for the local health department that are in compliance with federal and state law;

~~(5)~~ (3) Permit the commissioner to act by and through it, as needed. The commissioner may enforce all public health laws of this state, the rules and orders of the secretary, any county commission orders or municipal ordinances of the board's service area relating to public health, and the rules and orders of the local board within the service area of a local board. The commissioner may enforce these laws, rules, and orders when, in the opinion of the commissioner, a public health emergency exists or when the local board fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or

reportable disease dangerous to the public health. The expenses incurred shall be charged against the counties or municipalities concerned;

~~(6)~~ (4) Deposit all moneys and collected fees into an account designated for local board of health purposes. The moneys for a municipal board of health shall be deposited with the municipal treasury in the service area. The moneys for a county board of health shall be deposited with the county treasury in the service area. The moneys for a combined local board of health shall be deposited in an account as designated in the plan of combination: *Provided*, That nothing contained in this subsection is intended to conflict with the provisions of §16-1-1 *et seq.* of this code;

~~(7)~~ (5) Submit vouchers or other instruments approved by the board and signed by the local health officer or designated representative to the county or municipal treasurer for payment of necessary and reasonable expenditures from the county or municipal public health funds: *Provided*, That a combined local board of health shall draw upon its public health funds account in the manner designated in the plan of combination;

~~(8)~~ (6) Participate in audits, be in compliance with tax procedures required by the state, and annually develop a budget for the next fiscal year;

~~(9)~~ (7) Perform public health duties assigned by order of a county commission or by municipal ordinance consistent with state public health laws; ~~and~~

~~(10)~~ (8) Enforce the public health laws of this state and any other laws of this state applicable to the local board; and

(9) Create by rule a fee schedule, as approved by the appointing authority, for those environmental services it provides that are not established by state code.

(b) ~~Each~~ A local board of health ~~created, established, and operated pursuant to the provisions of this article~~ may:

(1) Provide primary care services, clinical and categorical programs, and enhanced public health services;

(2) Employ or contract with any technical, administrative, clerical, or other persons, to serve as needed and at the will and pleasure of the local board of health. Staff and any contractors providing services to the board shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the board shall be covered by the rules of the Division of Personnel under §29-10-6 of this code. However, any local board of health may, in the alternative and with the consent and approval of the appointing authority, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the local board by its order, subject to the approval of the appointing authority, adopting and making applicable to the local health department all, or any portion of any order, rule, standard, or compensation rate in effect in the state merit system as may be desired and as is properly applicable;

(3) (A) Adopt and promulgate and from time to time amend local health department rules consistent with state rules, that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation, and spread of disease.

(B) The commissioner shall establish a procedure by which adverse determinations by local health departments may be appealed, unless otherwise provided for, for the purpose of ensuring a consistent interpretation of state rules.

(C) When local health department rules are adopted, promulgated, or amended, the local board of health shall place notice in the State Register and on their organization's web page setting forth a notice of proposed action, including the text of the new local health department rule or the amendment and the date, time, and place for receipt of public comment.

(D) All local health department rules shall be approved, disapproved, or amended and approved by the county commission or appointing authority within 30 days of approval from the local board of health, and any local health department rule on which the appointing authority has taken no action within 30 days shall be void: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(E) All local health department rules of a combined local board of health shall be approved, disapproved, or amended and approved by each appointing authority within 30 days of approval from the combined local board of health. If one appointing authority approves and another other does not approve a local health department rule from a combined local board health department, the local health department rule is only in effect in the jurisdiction of the appointing authority which approved the local health department rule: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(F) An approved local health department rule shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality, or both, and shall be kept by the clerk or recording officer in a separate book as public records.

(G) A local health department rule currently in effect on March 4, 2021, is not subject to approval, unless amended, from the county commission or appointing authority.

(H) If there is an imminent public health emergency, approval of the county commission or appointing authority is not necessary before a local health department rule goes into effect but shall be approved or disapproved by the county commission or appointing authority within 30 days after the local health department rules are effective, and any rule on which the appointing authority has taken no action within 30 days shall be void;

(4) Accept, receive, and receipt for money or property from any federal, state, or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;

(5) Assess, charge, and collect fees for permits and licenses for the provision of public health services: *Provided*, That permits and licenses required for agricultural activities may not be assessed, charged, or collected: *Provided, however*, That a local board of health may assess, charge, and collect all of the expenses of inspection of the physical plant and facilities of any distributor, producer, or pasteurizer of milk whose milk distribution, production, or pasteurization facilities are located outside this state but who sells or distributes in the state, or transports, causes, or permits to be transported into this state, milk or milk products for resale, use or consumption in the state and in the service area of the local board of health. A local board of health may not assess, charge, and collect the expenses of inspection if the physical plant and

facilities are regularly inspected by another agency of this state or its governmental subdivisions or by an agency of another state or its governmental subdivisions certified as an approved inspection agency by the commissioner. No more than one local board of health may act as the regular inspection agency of the physical plant and facilities; when two or more include an inspection of the physical plant and facilities in a regular schedule, the commissioner shall designate one as the regular inspection agency;

(6) ~~Assess, charge, and collect fees for services provided by the local health department: *Provided*, That fees for services shall be submitted to and approved by the commissioner: *Provided, however*, That a~~ A local health department may bill health care service fees to a payor which includes, but is not limited to, Medicaid, a Medicaid Managed Care Organization, and the Public Employees Insurance Agency for medical services provided: *Provided further*, That health care service fees billed by a local health department are not subject to commissioner approval and may be at the payor's maximum allowable rate;

(7) Contract for payment with any municipality, county, or board of education, for the provision of local health services or for the use of public health facilities. Any contract shall be in writing and permit provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: *Provided*, That this subsection is not intended to conflict with the provisions of §17C-15-46 of this code: *Provided, however*, That any local board of health offering a child safety car seat program or employee or agent of a local board of health is immune from civil or criminal liability in any action relating to the improper use, malfunction, or inadequate maintenance of the child safety car seat and in any action relating to the improper placement, maintenance, or securing of a child in a child safety car seat.

(c) The local boards of health are charged with protecting the health and safety, as well as promoting the interests of the citizens of West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

(d) If the Governor declares a statewide public health emergency, the state health officer may develop emergency policies and guidelines that each of the local health departments responding to the emergency must comply with in response to the public health emergency.

§16-2-12. LOCAL HEALTH OFFICER; TERM OF APPOINTMENT; QUALIFICATIONS; REAPPOINTMENT; COMPENSATION; AND REMOVAL.

A local board of health shall appoint a full-time or part-time local health officer. ~~with approval by the commissioner.~~ The local health officer shall be a physician or a licensed advanced practice registered nurse with the ability to practice independently currently licensed in this state and knowledgeable in the science of public health. A local health officer serves at the will and pleasure of the local board for a term of one year and is eligible for reappointment at compensation determined by the local board of health.

A local health officer may be removed from office by the commissioner if the local health officer fails or refuses to carry out the lawful orders or rules of the secretary in the event the commissioner

determines a public health emergency exists or if the local health officer fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of communicable or reportable diseases dangerous to the public health. Upon removal, a successor local health officer shall immediately be appointed by the board pursuant to the provisions of this article.

§16-2-13. LOCAL HEALTH OFFICER; POWERS AND DUTIES.

(a) A local health officer serves as the executive officer of the local board and under its supervision, a local health officer shall administer and enforce state rules, local rules, and local health department rules within the local board of health's service area.

(b) A local health officer has the following additional powers ~~and duties~~ which may be delegated with the approval of the board:

(1) To attend local board meetings as a nonvoting member. A local health officer serves as secretary at all board meetings and is responsible for maintaining the board's offices, meeting minutes, and records;

(2) To supervise and direct the activities of the local board's health services, employees and facilities;

(3) To ensure that procedures are established for the receipt of communicable or reportable disease reports ~~from local physicians and other reporting sources~~ and for the transmittal of the reports to the commissioner;

(4) To perform mandatory HIV tests on persons convicted of sex-related offenses and resident within the service area; and

(5) To determine when sufficient corrections have been made to warrant removal of any restrictions or limitations placed on an individual or entity for public health purposes by an employee of the local board of health.

(c) A local health officer shall perform enforcement activity.

(d) A local health officer may issue guidance.

(e) A local health officer may issue a health order.

§16-2-14. Financial responsibilities of appointing authorities for local boards of health; levies; appropriation of county or municipal general funds for public health purposes; state funding.

The appointing authorities for local boards of health shall provide financial support for the operation of the local health department. The county commission of any county or the governing body of any municipality in which a local board of health is established ~~pursuant to the provisions of this article~~, or the county commission of any county or the governing body of any municipality who is a participating member of a combined local board of health may levy a county or municipal tax to provide funds for the local board of health: *Provided*, That the tax may not exceed 3 cents on each \$100 of assessed valuation of the taxable property in the levying county or municipality, according to the latest assessment.

The county commission of any county or the governing body of any municipality in which a local board of health is established, ~~pursuant to the provisions of this article~~, or the county commission of any county or the governing body of any municipality who is a participating member of a combined local board of health may appropriate and spend money from the county or municipal general funds for public health purposes and to pay the expenses of the operation of the local board of health services and facilities.

The commissioner and the secretary may pay over and contribute to any board of health, ~~created and maintained pursuant to the provisions of this article~~ the sum or sums of money that may be available from funds included in appropriations made for the department. ~~of Health and Human Resources~~. The commissioner may withhold all or part of any funds until a local board of health submits an acceptable plan to correct deficiencies in the local board's program plan.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 463**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Cooper, Hardy, Kimble, Thompson and Toney.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4113) passed.

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

On this question, the yeas and nays were taken (**Roll No. 464**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Cooper, Hardy, Kimble, Thompson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4113) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4257, Require visitation immediately following a procedure in a health care facility.

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

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

“ARTICLE 39. PATIENT SAFETY ACT.**§16-39-3. DEFINITIONS.**

For purposes of this article, the following words and phrases have the following meanings:

‘Appropriate authority’ means a federal, state, county, or municipal government body, agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste or any member, officer, agent, representative, or supervisory employee thereof;

‘Clergy’ means an ordained clergy, such as a rabbi, priest, Islamic cleric, associate pastor, licensed minister, or lay minister serving under the direction of the congregation such as the Roman Catholic Eucharistic ministers;

‘Commissioner’ means the commissioner of the division of health;

‘Direct patient care’ means health care that provides for the physical, diagnostic, emotional, or rehabilitational needs of a patient or health care that involves examination, treatment, or preparation for diagnostic tests or procedures.

‘Discrimination or retaliation’ includes any threat, intimidation, discharge, or any adverse change in a health care worker’s position, location, compensation, benefits, privileges, or terms or conditions of employment that occurs as a result of a health care worker engaging in any action protected by this article.

‘Good faith report’ means a report of conduct defined in this article as wrongdoing or waste that is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true.

‘Health care entity’ includes a health care facility, such as a hospital, clinic, nursing facility, or other provider of health care services.

‘Health care facility’ means:

- (1) A hospital licensed pursuant to §16-5B-1 *et seq.* of this code;
- (2) A nursing home licensed pursuant to §16-5C-1 *et seq.* of this code;
- (3) An assisted living residence licensed pursuant to §16-5D-1 *et seq.* of this code; and
- (4) Hospice licensed pursuant to §16-5I-1 *et seq.* of this code.

‘Health care worker’ means a person who provides direct patient care to patients of a health care entity and who is an employee of the health care entity, a subcontractor, or independent contractor for the health care entity, or an employee of the subcontractor or independent contractor. The term includes, but is not limited to, a nurse, nurse’s aide, laboratory technician, physician, intern, resident, physician assistant, physical therapist, or any other person who provides direct patient care.

‘Patient’ means a person living or receiving services as an inpatient at a healthcare facility.

'Public Health State of Emergency' means a federal or state declaration of a state of emergency arising from or relating to a public health crisis.

'Visitor' means any visitor from the patient's family, or hospice or clergy visiting a patient in a healthcare facility.

'Waste' means the conduct, act, or omission by a health care entity that results in substantial abuse, misuse, destruction, or loss of funds, resources, or property belonging to a patient, a health care entity, or any federal or state program.

'Wrongdoing' means a violation of any law, rule, regulation, or generally recognized professional or clinical standard that relates to care, services, or conditions and which potentially endangers one or more patients or workers or the public.

§16-39-8. VISITATION OF A PATIENT IN A HEALTH CARE FACILITY.

(a) During a declared public health state of emergency for a contagious disease, a health care facility shall permit visitation of a patient. If the patient's death is imminent, the health care facility shall allow visitation upon request at any time and frequency. In all other instances, the health care facility shall allow visitation once the patient is stable following a surgical procedure and, not less than once every five days: *Provided*, That visitation permitted by any health care entity may not be inconsistent with any applicable federal law, rule, policy, or guidance in effect for the same emergency.

(b) A visitor shall comply with the applicable procedures established by the health care facility.

(c) The health care facility may deny a visitor entry to the health care facility, may subject a visitor to expulsion from the facility, or may permanently revoke visitation rights to a visitor who does not comply with the applicable procedures established by the health care facility.

(d) A healthcare facility is not liable to a person visiting another person, nor to any other patient or resident of the health care facility, for any civil damages for injury or death resulting from or related to actual or alleged exposure during, or through the performance of, the visitation in compliance with this section, unless the health care facility failed to substantially comply with the applicable health and safety procedures established by the health care facility.

(e) Health care facilities shall provide patients adequate and lawful access to clergy so that patients can practice their religion by receiving clergy visitation at any reasonable time, as long as the visit does not disrupt clinical care: *Provided*, That if the health care facility limits the number of people able to visit the patient, the member of the clergy is not to be considered within that number.

(f) Clergy shall comply with the applicable visitation procedures established by the health care facility."

And,

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

Com. Sub for H. B. 4257 - "A Bill to amend and reenact §16-39-3 and §16-39-8 of the Code of West Virginia, 1931, as amended, all relating to requiring visitation of a patient in a health care

facility; defining terms; permitting visitation when the patient is stable following a surgical procedure; permitting visitation of a patient by a member of clergy; and establishing parameters for clergy visitation.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 465**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Hardy, Thompson and Toney.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4257) passed.

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

On this question, the yeas and nays were taken (**Roll No. 466**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Hardy, Thompson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4257) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 4396, Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically.

A message from the Senate, by

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

H. B. 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

A message from the Senate, by

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

Com. Sub. for H. B. 4451, Eliminating the requirement that otherwise qualified investment assets be located or installed at or within 2 miles of a preexisting manufacturing facility.

A message from the Senate, by

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

Com. Sub. for H. B. 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

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

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

“ARTICLE 2K. COALFIELD COMMUNITIES GRANT FACILITATION COMMISSION.

§5B-2K-1. Short title.

This article shall be known as the Coalfield Grant Facilitation Act of 2022.

§5B-2K-2. LEGISLATIVE FINDINGS.

The Legislature finds that the historical coal field communities of this state that were once thriving and vital parts of the state have seen decades of decline as changes in coal mining technologies and mining practices and the decline in the market for coal have resulted in a steady decline in the populations and economic vitality of the coal mining regions of our state; and every effort made to revitalize these areas is an important and necessary component of the success and advancement of the economy of this state.

Many funding initiatives available to these areas in the form of matching grants from federal and private sources have become a significant and important opportunity for access to capital to initiate revitalization, but limitations of funds to match grants and having the resources to apply for and facilitate receipt of these grants has encumbered the utilization of these resources.

The Legislature, by enactment of this article, intends to initiate mechanisms to facilitate the access to such capital, by establishing a commission to administer state funds to provide to eligible local entities the required local matching portion for certain grants; and to facilitate assistance to these local entities by providing access to grant writing expertise and support by utilizing our state university and colleges to assist in the development of successful grant writing resources for local entities to maximize their success in rebuilding their communities.

§5B-2K-3. COALFIELD COMMUNITY GRANT FACILITATION COMMISSION CREATED.

(a) The Coalfield Community Grant Facilitation Commission is hereby created as an independent body corporate. The commission shall consist of 12 members, who shall be residents and citizens of the state. Commission members shall be appointed by the Governor, by and with the advice and consent of the Senate. The commission shall consist of the following members:

(1) The Secretary of the Department of Economic Development, or his or her designee, who shall serve as chairperson of the commission;

(2) A representative of county governments of this state;

(3) A representative of large municipalities of this state;

(4) A representative of small municipalities of this state;

(5) Two representatives of a foundation, nonprofit, or other organization that provides grants for public interest projects in this state and who has expertise in grant issuance or administration;

(6) Two representatives of institutions of higher education with specialized knowledge in economic development;

(7) A representative from businesses and industries within the state; and

(8) Three members at large appointed from regions and counties within coalfield areas of the state who have knowledge and experience in local issues, economic development, or other areas of expertise within the directive of the commission.

(b) Each member shall serve a term of five years. Of the members first appointed, five shall be appointed for a term ending December 31, 2023, and three each for terms ending one and two years thereafter. Commission members may be reappointed to additional terms, and although their terms may have expired shall continue to serve until their successor has been appointed.

(c) It is the duty of the commission:

(1) To establish a process for timely review of applications and approval of awards of funds needed as a required match to receive federal, state, or private grants with the goal to assure the greatest possibility that a grant being applied for is received;

(2) To award grants of commission funds, as available, in an efficient and fair manner to provide a match for local entities that would otherwise qualify for a federal, state, or private grant but are unable to fulfill the grant's matching fund requirements;

(3) To provide grant applicants with technical assistance and support; and

(4) To disseminate information for the purpose of educating persons and entities as to the existence and functions of the commission and as to the availability of state, federal, and nongovernmental resources.

(d) The Department of Economic Development shall assist the commission in its functions and operations including, but not limited to, providing administrative, clerical, and technical support.

(e) Members of the commission are not entitled to compensation for services performed as members. Each member is entitled to reimbursement for reasonable expenses incurred in the discharge of their official duties. All expenses incurred by members shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable solely from the funds of the Department of Economic Development or from funds appropriated for that purpose by the Legislature.

(f) No liability or obligation is incurred by the commission beyond the extent to which moneys are awarded for grant acquisition facilitation.

(g) Members shall meet as designated and scheduled by the chairperson. The presence of a majority of commission members, in person or by real-time electronic communication, constitutes a quorum to conduct business at a meeting.

(h) The commission shall prioritize the locations for grant funding assistance by utilizing the designation of priority communities established by the 'Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization' established by presidential executive order 14008, issued on January 21, 2021. The commission may not certify a project unless it finds that the proposal is in the public interest and the grant will be used for a public purpose. For purposes of this article, projects in the public interest and for a public purpose can provide private benefit, if the commission, in its judgment determines that: (1) the project will enhance a local community or region; (2) the granting entity for which the commission's matching grant is being used requires a public purpose for grant eligibility; and (3) the commission in its judgment concludes the proposal will enhance the quality of life or services of a community or region. A public purpose includes, but is not limited to, proposals that:

(1) Enhance economic vitality, including revitalization of structures that have public purpose or benefit;

(2) Promote or develop an artistic or philanthropic purpose;

(3) Improve traditional infrastructure, such as water and wastewater treatment facilities, transmission lines, transportation facilities, and flood and wastewater management;

(4) Create or enhance telecommunications infrastructure including cellular towers, fiber optic expansion and technology infrastructure;

(5) Promote agricultural activities and development;

(6) Enhance development of previously mined areas or areas previously used by the coal industry and other industrial activities into uses that diversify the local economy;

(7) Create or expand recreational facilities, such as walking, hiking, all-terrain vehicle, bike trails, picnic facilities, restrooms, boat docking and fishing piers, and athletic facilities;

(8) Are used for acquisition of private property for local public purposes that promote economic vitality and housing development and enhancement;

(9) Preserve or enhance buildings that are of local historic or economic interest;

(10) Restore or create retail facilities, including related service, parking, and transportation facilities, to revitalize decaying downtown areas;

(11) Are the construction or expansion of other facilities that promote or enhance economic development or tourism opportunities thereby promoting the general welfare of local residents;

(12) Provide facilities and activities that provide resources for local residences that enhance quality of life including, but not limited to, childcare access and public transportation;

(13) Provide vocational and entrepreneurial training for displaced miners and other persons that have lost jobs or have been unable to find employment or business opportunities in the region;

(14) Make investments in coal field communities housing stock removal and remediation to facilitate community preservation and aesthetics; and

(15) Create drug and substance abuse rehabilitation programs and facilities.

(i) Prior to making any matching grant award, the commission may conduct a public hearing to assess local public support. If a public hearing is to be held, notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in the county where the proposed grant project is located at least 14 days prior to the hearing date.

(j) When a member of the commission must recuse himself or herself because of a perceived or actual conflict of interest regarding a proposed grant assistance award, a majority of the remaining members of the commission without a conflict shall be sufficient for the conduct of commission business.

§5B-2K-4. COALFIELD COMMUNITY GRANT FACILITATION SPECIAL REVENUE ACCOUNT.

A special revenue fund to be known as the Coalfield Community Grant Facilitation Fund is hereby created which shall consist of all moneys made available for the purposes of this article and include any amounts to be deposited in the fund, including all appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants, or contributions received by the fund. All amounts deposited in the fund shall be awarded by the commission as provided pursuant to the provisions of this article to local governmental units and private and public entities for purposes provided for in this article.

§5B-2K-5. FACILITATION OF GRANT SUBMISSIONS BY HIGHER EDUCATION INSTITUTIONS.

To maximize the resources of the state and to create a resource for entities and persons interested in applying for grants that need assistance with grant proposal and applications, the commission shall coordinate and administer a specialized subcommittee of the commission made up of representatives of West Virginia University, Marshall University, the Alliance for Economic Development of Southern West Virginia, and all institutions of higher learning in the coal field counties and regions of this state to provide assistance in the development of grants and grant applications by persons or entities that need assistance in designing, preparing, or implementing a grant proposal submission to a governmental or private entity providing grants. This assistance shall include:

(1) Training of persons to have expertise in developing, applying for, and administering grants;

(2) Providing technical assistance to the commission on administration and facilitation of grant assistance applications; and

(3) Any other actions or initiatives that assist the commission and promote the goals of this article.

§5B-2K-6. REPORT TO THE LEGISLATURE.

The commission shall provide by December first of each year to the Joint Committee on Government and Finance an annual electronic report that provides the following:

(1) A summary of grant assistance applications received and relevant statistics relating to actions taken by the commission and grants awarded;

(2) An analysis of types of grants or public, private and nonprofit grants available but not applied for that if received could be utilized to benefit coal field communities;

(3) Recommendations regarding appropriations to the Coalfield Community Grant Facilitation Fund for the upcoming fiscal year; and

(4) Any recommended legislation or policy actions needed to facilitate greater receipt of grant funding to coalfield communities.”

And,

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

Com. Sub. for H. B. 4479 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, and §5B-2K-6, all relating to establishing the Coalfield Communities Grant Facilitation Commission; providing legislative findings; establishing the Commission and providing for its membership and duties; providing for commission assistance from the Department of Economic Development and certain institutions of higher education; authorizing the Commission to provide the local match portion for local public and private entities applying for grants from federal, state and private sources; providing what constitutes a public purpose for eligibility for grant match; establishing a special revenue account; directing the creation of a special subcommittee of the Commission to assist the Commission and grant applicants with training and other technical expertise as directed by the Commission; and providing for annual electronic reports to the Legislature’s Joint Committee on Government and Finance.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 467**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Cooper, Hardy, Thompson and Toney.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4479) passed.

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

A message from the Senate, by

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

H. B. 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

On motion of Delegate Kessinger, the House of Delegates concurred in the following Senate title amendment:

H. B. 4604 – “A Bill to amend and reenact §18B-3D-2 of the Code of West Virginia, 1931, as amended, relating to abolishing the Workforce Development Initiative Program advisory committee.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 468**), and there were—yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Pushkin, Walker and Young.

Absent and Not Voting: Cooper, Foster, Hardy, Thompson and Toney.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (H. B. 4604) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 505, Updating laws on licensure and regulation of money transmitters.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect from passage, of

Com. Sub. for S. B. 553, Relating to powers of WV Health Care Authority.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

S. C. R. 58 - “Requesting the Joint Committee on Government and Finance study the common law cause of action for public nuisance in West Virginia. “

Whereas, the Supreme Court of Appeals of West Virginia held in *Hark v. Mountain Fork Lumber Co.*, 127 W. Va. 586, 595 (1945): “A public nuisance is an act or condition that unlawfully operates to hurt or inconvenience an indefinite number of persons. The distinction between a public nuisance and a private nuisance is that the former affects the general public, and the latter injures one person or a limited number of persons only. Ordinarily, a suit to abate a public nuisance cannot be maintained by an individual in his private capacity, as it is the duty of the proper public officials to vindicate the rights of the public. *Curry v. Timber Co.*, 87 W. Va. 429, 105 S.E. 263; *Davis v. Spragg*, 72 W. Va. 672, 79 S.E. 652; *Talbott v. King*, 32 W. Va. 6, 9 S.E. 48; *Keystone Bridge Company v. Summers et al.*, 13 W. Va. 476. But if the act or condition causes special injury to one or a limited number of persons and substantial permanent damages result

which cannot be fully compensated in an action at law, a suit to abate a nuisance so existing may be maintained by a private individual. *Keystone Bridge Company v. Summers et al., supra.*”: therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study the common law cause of action for public nuisance in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

S. C. R. 59 - “Respectfully urging the executive branches of the United States government and the State of West Virginia to provide adequate staffing levels for all governmental agencies and departments involved in permitting road, bridge, water, wastewater, broadband, and other infrastructure projects.”

Whereas, The federal government has been a vital contributor to West Virginia’s infrastructure funding, and West Virginia is expecting increased funding in the future, such as from the Infrastructure Investment and Jobs Act of 2021; and

Whereas, In addition to funding, the availability of materials and speedy processing of permits, including but not limited to environmental permits, is essential to allow infrastructure projects to commence in a timely manner. Delays in the issuance of permits create obstacles that can cause, increase the cost, and prevent infrastructure improvements and construction; and

Whereas, The executive summary of the American Society of Civil Engineer’s 2020 Report Card for West Virginia’s Infrastructure gave West Virginia a grade point average of “D”, with a “D” grade defined as being poor and at risk. The summary noted, in part, that more than 95 percent of the state’s 7,291 bridges are maintained by the West Virginia Division of Highways and, of those bridges, 21 percent or 1,531 are structurally deficient, a much higher percentage than the national average of seven percent; and

Whereas, Time is of the essence to ensure that West Virginia’s infrastructure is available for save use, and a delay in the ability to obtain necessary permits, such as from the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, may be prevented by streamlining permit processes and securing staffing levels capable of handling requests at once; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby respectfully urges the executive branches of the United States government and the State of West Virginia to provide adequate staffing levels for all governmental agencies and departments involved in permitting road, bridge, water, wastewater, broadband, and other infrastructure projects; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President of the United States, the Administrator of the U.S. Environmental Protection Agency, the Chief of Engineers and Commanding General of the United States Army Corps of Engineers, the Governor of the State of West Virginia, and the Secretary of the West Virginia Department of Environmental Protection.”; which was referred to the Committee on Rules.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

S. C. R. 60 - “Requesting the Joint Committee on Government and Finance study outdoor advertising and propose updates to the state’s outdoor advertising laws and regulations, including allowing temporary signage that complies with federal law and regulations.”

Whereas, There have been multiple attempts by the West Virginia Legislature to update state law on outdoor advertising, W.Va. Code §17-22-1 *et seq.*, including Senate Bill 116 (2022), Senate Bills 329 and 615 and House Bill 3104 (2021), Senate Bill 497 (2020), House Bill 2701 (2019), Senate Bill 309 and House Bill 2365 (2018), and House Bill 2365 (2017), and some of this legislation sought to allow for temporary signage, including Senate Bill 116 (2022); and

Whereas, The West Virginia Division of Highways (DOH) typically points out in fiscal notes concerning such bills that the bills appear to violate federal law and regulations, as well as the Division of Highways’ January 6, 1969, agreement with the Federal Highway Administration (FHWA), and that this 1969 agreement contains no provisions to regulate temporary outdoor advertising signing; and

Whereas, Most sections in W.Va. Code §17-22-1 *et seq.* were enacted in 1939 or 1969 and have not been substantially updated since that time, despite changing needs, at least one U.S. Supreme Court opinion addressing temporary directional signs, and other developments; and

Whereas, Temporary outdoor advertising is an important tool for tourism and economic ventures, and temporary signage could be used to inform the public of fairs, festivals, special sales, and other worthy events; and

Whereas, Oregon law, Oregon Revised Statutes §377.735, makes special mention of temporary signs, indicating that signs that are up for less than 60 days in a year and are no more than 12 square feet and not posted for compensation may be exempt from needing a permit, further indicating that a state may enact temporary sign legislation without violating federal law and without jeopardizing federal funding; and

Whereas, The Division of Highways and the West Virginia Legislature should examine how outdoor advertising laws may be modernized to benefit the state; and

Whereas, The Division of Highways should consider updating Title 157, Series 6, of the Code of State Rules, a rule that contains provisions concerning outdoor advertising; and

Whereas, The Division of Highways and Department of Transportation should examine if and how the State Road Commission of West Virginia's January 6, 1969, agreement with the United States of America, by the Secretary of Transportation, acting through the Federal Highway Administrator, may need to be revised to benefit the state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study outdoor advertising and propose updates to the state's outdoor advertising laws and regulations, including allowing temporary signage that complies with federal law and regulations; and, be it

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

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

Resolutions Introduced

Delegates Anderson, J. Kelly, Zatezalo, Cooper, Boggs, Criss, Householder, Pethtel, Maynard, Bridges and Evans offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 20 - “Highlighting West Virginia's once-in-a-lifetime opportunity to strengthen national security and energy independence and supply world energy markets.”

Whereas, The tragic events in Ukraine are bringing renewed attention to national security issues and world energy policies; and

Whereas, Multiple NATO countries remain dependent on Russian energy, *i.e.* coal, gas and oil; and

Whereas, Remarkably, even the United States is consuming shipments of Russian coal to generate electricity and oil to fuel its energy needs; and

Whereas, dependence on Russian coal, gas and oil throughout Europe is clearly limiting an effective response from NATO countries; and

Whereas, World sanctions against Russia are having limited effects because energy sales are exempt from sanctions; and

Whereas, Countries, including the United States, by purchasing Russian energy, are sending payments to Russia, funding their military actions; and

Whereas, Current national energy policies have and continue to jeopardize domestic national security and our ability to assist our allies overseas; and

Whereas, By shutting down coal-fired power plants, curtailing coal output, prohibiting natural gas production and pipeline development, and importing Russian energy, current policies have weakened our energy security and our capacity to help our allies overseas; and

Whereas, The national security and energy independence of the United States is of paramount importance and has taken a second seat to climate policies and environmental interests; and

Whereas, West Virginia energy, such as coal and natural gas, shall hereinafter be referred to as "Freedom Fuel," and our coal workers referred to as "Freedom Miners"; and

Whereas, Russia currently supplies about 30% of the metallurgical coal used by European steelmakers and about 60% of the thermal coal used to generate electricity; and

Whereas, West Virginia coal, already preferred by European electricity generators and steel manufacturers for its quality and stable supply history, can offset European needs for Russian coal; and

Whereas, If natural gas supplies are further disrupted, coal-fired power plants can generate more electricity to offset the lost generation from natural gas plants; and

Whereas, West Virginia coal can be converted to liquid fuels to address oil and diesel fuel shortages; therefore, be it

Resolved by the House of Delegates of West Virginia:

That the State Executive, State Legislature, and industry leaders convene immediately to discuss the situation; and, be it

Further Resolved, That the State Executive and State Legislature is urged to identify and remove barriers and obstacles to establish a path forward for West Virginia coal and natural gas to be extracted and transported to NATO countries; and, be it

Further Resolved, That the Legislature is urged to create a special committee under the leadership of the House of Delegates' and Senate's Energy Committee Chairmen and select committee members to develop policies, legislation, and regulatory reforms necessary to effectuate the intent and scope of the charge outlined herein; and, be it

Further Resolved, That the Legislature is urged to unleash the power of West Virginia's Freedom Fuels for a stronger nation and safer, more secure global community.

Special Calendar

Third Reading

S. B. 1, Creating Mining Mutual Insurance Company; on third reading, coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 5, Creating WV Unmanned Aircraft Systems Advisory Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 469**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: J. Kelly and Kimes.

Absent and Not Voting: Clark, Cooper, Dean, Hardy, Storch, Thompson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 5) passed.

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

Com. Sub. for S. B. 5 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4 and §5B-2K-5, and to amend said code by adding thereto a new section designated §61-16-3; all relating to advanced air mobility aircraft, advanced air mobility, and public-use vertiports; stating the public policy; requires public-use vertiports be authorized by and be in compliance with federal authorities; prohibiting a political subdivision in the state from authorizing exclusive use of public-use vertiports; stating the provisions of the article supplement any federal law or standard; authorizing the use of federal grants to construct, maintain, operate, or otherwise utilize vertiports; prohibiting any county, city, village, or township from adopting any ordinance, policy, or rule that prohibits or otherwise attempts to regulate use or ownership of advanced air mobility aircraft or advanced air mobility system; and providing definitions for advanced air mobility aircraft and advanced air mobility system.”

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

On this question, the yeas and nays were taken (**Roll No. 470**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Cooper, Dean, Hardy, Longanacre, Thompson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 5) takes effect from its passage.

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

Com. Sub. for S. B. 6, Establishing common law “veil piercing” claims not be used to impose personal liability; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 471**), and there were—yeas 75, nays 22, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Hardy, Longanacre and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 6) passed.

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

Com. Sub. for S. B. 25, Updating provisions of Medical Professional Liability Act; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

No amendments were offered to the bill.

The bill was then read a third time.

Delegate L. Pack requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 472**), and there were, including pairs—yeas 58, nays 40, absent and not voting 2, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Keaton Nay: Hornbuckle

Nays: Barach, Boggs, Booth, Bridges, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Honaker, D. Kelly, Longanacre, Lovejoy, Mallow, Mandt, Martin, Miller, Nestor, Paynter, Pethtel, Pushkin, Reynolds, Rowan, Rowe, Sypolt, Thompson, Tully, Walker, Wamsley, G. Ward, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Skaff and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 25) passed.

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

S. B. 172, Increasing compensation of elected county officials; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Householder asked and obtained unanimous consent to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of such.

On motion of Delegate Householder, the bill was amended on page one, following the article heading, inserting the following:

“§7-7-1. Legislative findings and purpose.

(a) The Legislature finds that it has, since January 1, ~~2007~~ 2015, consistently and annually imposed upon the county commissioners, sheriffs, county and circuit clerks, assessors and prosecuting attorneys in each county new and additional duties by the enactment of new provisions and amendments to this code. The new and additional duties imposed upon the aforesaid county officials by these enactments are such that they would justify the increases in compensation as provided in section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(b) The Legislature further finds that there are, from time to time, additional duties imposed upon all county officials through the acts of the Congress of the United States and that such acts constitute new and additional duties for county officials and, as such, justify the increases in compensation as provided by section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(c) The Legislature further finds that there is a direct correlation between the total assessed property valuations of a county on which the salary levels of the county commissioners, sheriffs, county and circuit clerks, assessors and prosecuting attorneys are based, and the new and additional duties that each of these officials is required to perform as they serve the best interests of their respective counties. Inasmuch as the reappraisal of the property valuations in each county has now been accomplished, the Legislature finds that a change in classification of counties by virtue of increased property valuations will occur on an infrequent basis. However, it is the further finding of the Legislature that when such change in classification of counties does occur, that new and additional programs, economic developments, requirements of public safety and the need for new services provided by county officials all increase, that the same constitute new and additional duties for county officials as their respective counties reach greater heights of economic development, as exemplified by the substantial increases in property valuations and, as such, justify the increases in compensation provided in section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(d) The Legislature further finds and declares that the amendments enacted to this article are intended to modify the provisions of this article so as to cause the same to be in full compliance with the provisions of the Constitution of West Virginia and to be in full compliance with the decisions of the Supreme Court of Appeals of West Virginia.”

And,

On page two, section four, line thirty-two, following the words “is effective”, by striking out “July 1, 2014” and inserting in lieu thereof a parentheses, a blank line, and a parentheses.

The bill was then read a third time.

Delegates Paynter and Mandt requested to be excused from voting under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 473**), and there were, including pairs—yeas 89, nays 8, absent and not voting 3, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Hornbuckle Nay: McGeehan

Nays: Doyle, Hamrick, Kimble, Kimes, Mandt, Paynter and Pritt.

Absent and Not Voting: J. Kelly, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 172) passed.

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

S. B. 172 – “A Bill to amend and reenact §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as amended, all relating to increasing the compensation of elected county officials.”

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

Com. Sub. for S. B. 231, Relating generally to broadband connectivity; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 245, Revising wage payment and collection; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary was reported by the Clerk and adopted, on page 2, section 3, line 39, by inserting a new subsection (c) to read as follows:

“(c) An employer who chooses to compensate its employees using payroll cards pursuant to the provisions of subsection (b)(3) of this section must also give employees the option of being paid by electronic transfer under the provisions of subsection (b)(4) of this section.”

And,

Renumbering the remaining subsections accordingly.

An amendment offered by Delegate Young was reported by the Clerk.

Whereupon,

Delegate Young asked and obtained unanimous consent that the amendment be withdrawn.

Delegate Young moved to amend the bill on page 2, Section 3, line 25, by striking out the words “at least one withdrawal or transfer” and insert in lieu thereof, the word “unlimited withdrawals or transfers”.

The question being on the adoption of the amendment, the same was put and did not prevail.

Delegate Young moved to amend the bill on page 2, section 3, line 29, following the period, by inserting the following:

“Payroll card vendors may not provide employers with any financial or other incentives for offering payroll cards as a wage payment option.”

The question being on the adoption of the amendment, the same was put and did not prevail.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 474**), and there were—yeas 76, nays 24, absent and not voting none, with the nays being as follows:

Nays: Barach, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Nestor, Paynter, Pethtel, Pushkin, Rohrbach, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 245) passed.

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

S. B. 253, Relating to voting precincts and redistricting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 475**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and the absent and not voting being as follows:

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

Absent and Not Voting: Brown and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 253) passed.

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

S. B. 253 – “A Bill to amend and reenact §3-1-5 of the Code of West Virginia, 1931, as amended, relating generally to voting precincts and redistricting; requiring county commissions to submit precinct boundary modifications to the Secretary of State, President of the Senate, and Speaker of the House of Delegates; designating the President of the Senate and the Speaker of the House of Delegates, or designee, as state liaison to the U.S. Census Bureau during certain

phases of the Redistricting Data Program; authorizing the Legislature to request the Secretary of State to provide technical responsibilities to staff; requiring county commissions to submit certain information relating to precinct updates to the Secretary of State and the Legislative liaisons on ongoing basis; requiring the Legislative liaisons and Secretary of State to coordinate with counties; requiring the Legislative liaisons and Secretary of State to compile and submit certain information to the U.S. Census Bureau in compliance with certain deadlines and requiring the Secretary of State provide copies to Legislative leadership; requiring the Legislature to provide certain maps and files to the Secretary of State at conclusion of federal congressional or state legislative redistricting; requiring Legislature to provide updated maps and files to the U.S. Census Bureau; requiring Secretary of State to make certain maps and files publicly available in physical office and on website; requiring Secretary of State to maintain certain maps and files in records; requiring county commissions to include magisterial districts in publicly available maps; requiring county commissions to submit certain maps and files to the Legislature and the Secretary of State; and requiring the Secretary of State notify the Legislature and provide copies of any maps it receives from a county commission.”

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

Com. Sub. for S. B. 261, Requiring video cameras in certain special education classrooms; on third reading, coming up in regular order, was read a third time.

Delegates Criss and Evans requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class possibly to be affected, and not directly, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 476**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 261) passed.

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

On this question, the yeas and nays were taken (**Roll No. 477**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Graves.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 261) takes effect from its passage.

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

Com. Sub. for S. B. 443, Including police and firefighter as electors of trustees for certain pension funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 478**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Graves and McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 443) passed.

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

Com. Sub. for S. B. 476, Relating to imposition of minimum severance tax on coal; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 479**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 476) passed.

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

On this question, the yeas and nays were taken (**Roll No. 480**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 476) takes effect from its passage.

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

S. B. 478, Relating to Neighborhood Investment Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 481**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 478) passed.

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

On this question, the yeas and nays were taken (**Roll No. 482**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Honaker, Longanacre and Thompson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 478) takes effect from its passage.

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

Com. Sub. for S. B. 487, Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 483**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Honaker and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 487) passed.

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

Com. Sub. for S. B. 487 - “A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to decreasing the threshold below which the secretary of the department of revenue is to annually deposit up to the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended; and requiring the secretary to provide certain annual reports to the Governor and the Joint Committee on Government and Finance.”

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

On this question, the yeas and nays were taken (**Roll No. 484**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 487) takes effect from its passage.

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

S. B. 492, Relating to electronic collection of tolls; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 485**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Honaker and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 492) passed.

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

S. B. 492 - “A Bill to amend and reenact §17-16A-11 of the Code of West Virginia, 1931, as amended, relating to the electronic collection of tolls; and providing that nonrenewal of vehicle registration provisions may become effective whenever a reciprocal enforcement agreement is entered into by the West Virginia Parkways Authority, the Commissioner of Motor Vehicles, and any state sharing a common border with this state.

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

On this question, the yeas and nays were taken (**Roll No. 486**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Honaker and Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 492) takes effect from its passage.

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

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 487**), and there were—yeas 88, nays 7, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Bates, Diserio, Fluharty, Hansen, Pethtel, Pushkin and Zukoff.

Absent and Not Voting: Doyle, Honaker, Longanacre, Skaff and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 493) passed.

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

S. B. 493 – “A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to requiring each county board of education to ensure that all of its meetings

are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website; providing exception for executive session; allowing each county board to make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend; requiring the county board to ensure that any person expressing an interest in speaking has the opportunity in compliance with adopted procedures; requiring that speakers are treated equally; requiring that a draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days; establishing the duration in which the approved minutes shall remain on the website; and removing the option for a county board to join the National School Board Association.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken (**Roll No. 488**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bates, Fluharty, Pethtel, Pushkin and Zukoff.

Absent and Not Voting: Honaker, Longanacre and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 493) takes effect July 1, 2022.

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

Com. Sub. for S. B. 518, Allowing nurses licensed in another state to practice in WV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Forsht and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 518) passed.

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

Com. Sub. for S. B. 518 – “A Bill to repeal §30-7-1a, §30-7-15e, and §30-7-20 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-7-3, §30-7-4, §30-7-6, §30-7-7, §30-7-8, §30-7-8a, §30-7-20, all relating to the practice of registered nursing; updating the board membership; updating the board’s powers; updating licensure requirements; updating the requirements for temporary permits; providing license requirements for license renewal; reconstituting the nursing shortage study commission; and removing outdated provisions.”

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

On this question, the yeas and nays were taken (**Roll No. 490**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer, Forsht, J. Kelly and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 518) takes effect from its passage.

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

Com. Sub. for S. B. 528, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 491**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer, J. Kelly, Mazzocchi, Miller, Pack, Toney and Wamsley.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 528) passed.

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

On this question, the yeas and nays were taken (**Roll No. 492**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly, Mazzocchi, Miller, Pack, Toney and Wamsley.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 528) takes effect from its passage.

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

S. B. 529, Encouraging additional computer science education in WV schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 493**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly, Mazzocchi, Toney and Wamsley.

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

A title amendment recommended by the Committee on Finance was reported by the Clerk.

Whereupon,

Delegate Householder asked and obtained unanimous consent that the amendment be withdrawn.

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

S. B. 529 – “A Bill to amend and reenact §18-2-12 of the Code of West Virginia, 1931, as amended, relating to computer science education in West Virginia schools; recognizing a need to provide coursework on computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, digital literacy, and cyber security; requiring the board to update and build upon prior computer science education plans and policy to include additional subject matter; and removing obsolete language.”

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

Com. Sub. for S. B. 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 494**), and there were—yeas 92, nays 2, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Burkhammer and Criss.

Absent and Not Voting: J. Kelly, Kessinger, Mazzocchi, Toney, Wamsley and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) passed.

The House returned to further consideration of Com. Sub. for S. B. 543 and, on motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 543 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-10-23, relating to authorizing the Commissioner of Workforce West Virginia to create an Unemployment Compensation Insurance Fraud Unit; establishing training and experience requirements; specifying duties; granting certain authorities necessary to conduct investigations into alleged unemployment insurance fraud; authorizing certain personnel to operate a state vehicle and carry a firearm; establishing training requirements for carrying a firearm; exempting the Unemployment Compensation Fraud Unit from the requirements of the Freedom of Information Act and the Open Government Proceedings Act; and creating certain immunities for acts of an investigator employed by the unit.

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

S. B. 546, Expanding uses of fees paid by students at higher education institutions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 495**), and there were—yeas 87, nays 9, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Fluharty, Foster, Griffith, J. Jeffries, McGeehan, Paynter, Pushkin and Zukoff.

Absent and Not Voting: Barnhart, Bates, Kessinger and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 546) passed.

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

S. B. 570, Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 496**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Kessinger, Linville and Statler.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 570) passed.

Delegate Fleischauer asked unanimous consent to return to S. B. 546 for questions, which consent was not granted, objections being heard.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates on S. B. 570 and request concurrence therein.

Com. Sub. for S. B. 571, Declaring certain claims to be moral obligations of state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 497**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Kessinger, Linville, Maynard, Reed and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 571) passed.

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

On this question, the yeas and nays were taken (**Roll No. 498**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Kessinger, Linville, Reed and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 571) takes effect from its passage.

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

Com. Sub. for S. B. 584, Relating to WV Infrastructure and Jobs Development Council; on third reading, coming up in regular order, was read a third time.

Delegate Riley requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 499**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Hardy, Kessinger, Reed and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 584) passed.

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

Com. Sub. for S. B. 584 - "A Bill to amend and reenact §31-15A-10 and §31-15A-17c of the Code of West Virginia, 1931, as amended, all relating generally to the West Virginia Infrastructure and Jobs Development Council; modifying when available funds may be converted to grants; removing congressional district limitations; increasing the cap on annual spending for assistance with the pre-application process to project sponsors; increasing the amount that may be transferred annually to the critical needs and failing systems sub account; and increasing the cap relating to providing extensions to a water or wastewater facility from \$1 million to \$2 million provided overages not to exceed 10 percent of the total project cost are paid by certain persons."

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

On this question, the yeas and nays were taken (**Roll No. 500**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Graves, Hardy, Kessinger, Reed and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 584) takes effect from its passage.

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

Com. Sub. for S. B. 585, Creating administrative medicine license for physicians not practicing clinical medicine; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 501**), and there were—yeas 92, nays 2, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Steele and Young.

Absent and Not Voting: Booth, Bridges, Graves, Hardy, Kessinger and Reed.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 585) passed.

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

S. B. 624, Making supplementary appropriation to DHHR, Division of Health, Laboratory Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 502**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Graves, Kessinger and Reed.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 624) passed.

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

On this question, the yeas and nays were taken (**Roll No. 503**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Graves, Kessinger and Reed.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 624) takes effect from its passage.

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

Com. Sub. for S. B. 625, Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 504**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Kessinger, Longanacre and Reed.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 625) passed.

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

On this question, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Kessinger, Longanacre and Reed.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 625) takes effect from its passage.

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

At 12:45 p.m., on motion of Delegate Summers, the House of Delegates recessed until 1:45 p.m.

* * * * *

Afternoon Session

* * * * *

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

Special Calendar

Third Reading

- continued -

S. B. 633, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 75, nays none, absent and not voting 25, with the absent and not voting being as follows:

Absent and Not Voting*: Bridges, Clark, Dean, Fluharty, Foster, Garcia, Graves, Haynes, Kimble, Linville, Martin, Mazzocchi, McGeehan, Nestor, Pack, Paynter, Phillips, Rowe, Skaff, Toney, Walker, Wamsley, Westfall, Williams and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 633) passed.

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

On this question, the yeas and nays were taken (**Roll No. 507**), and there were—yeas 83, nays none, absent and not voting 17, with the absent and not voting being as follows:

Absent and Not Voting*: Fluharty, Foster, Graves, Kimble, Linville, Martin, Mazzocchi, McGeehan, Nestor, Pack, Phillips, Rowe, Skaff, Smith, Toney, Walker and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 633) takes effect from its passage.

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

S. B. 634, Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 508**), and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting*: Fluharty, Foster, Graves, Kimble, Martin, Mazzocchi, McGeehan, Nestor, Pack, Phillips, Reynolds, Skaff, Smith, Walker and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 634) passed.

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

On this question, the yeas and nays were taken (**Roll No. 509**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting*: Fluharty, Foster, Graves, Kimble, Mazzocchi, Nestor, Pack, Phillips, Skaff, Smith, Walker and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 634) takes effect from its passage.

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

Com. Sub. for S. B. 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting*: Foster, Graves, Mazzocchi, Nestor, Phillips, Skaff, Smith and Walker.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a “Yea”.)

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 641) passed.

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

Com. Sub. for S. B. 641 - “A Bill to amend and reenact §7-14D-7 of the Code of West Virginia, 1931, as amended, relating to the deputy sheriff retirement system; allowing the Consolidated Public Retirement Board to set employer contribution levels; requiring the level to be set actuarially; and providing an effective date.”

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

Com. Sub. for S. B. 643, Removing residency requirement of members appointed to county airport authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 511**), and there were—yeas 87, nays 6, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barrett, Kimble, Mallow, Queen, Riley and Young.

Absent and Not Voting*: Foster, Graves, Mazzocchi, Nestor, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a “Nay”.)

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 643) passed.

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

On this question, the yeas and nays were taken (**Roll No. 512**), and there were—yeas 88, nays 5, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barrett, Kimble, Mallow, Queen and Riley.

Absent and Not Voting*: Foster, Graves, Mazzocchi, Nestor, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a “Yea”.)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 643) takes effect from its passage.

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

Com. Sub. for S. B. 698, Relating to number and selection of members for Governor's Veterans Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 513**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting*: Foster, Graves, Mazzocchi, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 698) passed.

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

On this question, the yeas and nays were taken (**Roll No. 514**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting*: Foster, Graves, Mazzocchi, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 698) takes effect from its passage.

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

Com. Sub. for S. B. 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 515**), and there were—yeas 74, nays 26, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Booth, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowan, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 704) passed.

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

Com. Sub. for S. B. 704 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-27, relating to requiring each classroom teacher

to comply with any request by a parent, custodian, or guardian to inspect any instructional materials and books in the classroom that are available for students to read; requiring, as part of the inspection and upon request of the parent, custodian, or guardian, that the classroom teacher demonstrate how the instructional material relates to the content standards adopted by the State Board of Education; requiring the classroom teacher to include any book or books students will be required to read on a class syllabus; requiring the syllabus to be made available to the parent, custodian, or guardian upon request; allowing any parent, custodian, or guardian to file a complaint with the county superintendent if the classroom teacher fails to comply with this new section, and then with the state superintendent if the complaint is not resolved by the county superintendent within seven days; requiring reports on the number of complaints filed; and defining terms.”

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

S. B. 715, Decreasing and increasing existing items of appropriations from State Fund, General Revenue; on third reading, coming up in regular order, was read a third time.

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

Absent and Not Voting: Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 715) passed.

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

On this question, the yeas and nays were taken (**Roll No. 517**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 715) takes effect from its passage.

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

S. B. 716, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 518**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 716) passed.

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

On this question, the yeas and nays were taken (**Roll No. 519**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 716) takes effect from its passage.

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

S. B. 717, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 520**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster, Kimes, Paynter and Steele.

Absent and Not Voting: Burkhammer.

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

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

On this question, the yeas and nays were taken (**Roll No. 521**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster and Steele.

Absent and Not Voting: Brown.

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

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

S. B. 718, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund; on third reading, coming up in regular order, was read a third time.

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

Nays: Booth, Fluharty, Foster, Kimes, Longanacre, Pritt, Steele and Young.

Absent and Not Voting: Brown.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 718) passed.

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

On this question, the yeas and nays were taken (**Roll No. 523**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Longanacre, Steele and Young.

Absent and Not Voting: Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 718) takes effect from its passage.

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

S. B. 719, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 524**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster, Longanacre and Steele.

Absent and Not Voting: Brown.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 719) passed.

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

On this question, the yeas and nays were taken (**Roll No. 525**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 719) takes effect from its passage.

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

S. B. 720, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 526**), and there were—yeas 92, nays 7, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Conley, Foster, Horst, Kimble, Kimes, McGeehan and Paynter.

Absent and Not Voting: Pritt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 720) passed.

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

On this question, the yeas and nays were taken (**Roll No. 527**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Conley, Foster, Horst, Kimble and McGeehan.

Absent and Not Voting: Pritt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 720) takes effect from its passage.

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

S. B. 722, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 528**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries and Kimes.

Absent and Not Voting: Pritt and Walker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 722) passed.

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

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

Absent and Not Voting: Pritt and Walker.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 722) takes effect from its passage.

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

S. B. 723, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 530**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Pritt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 723) passed.

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

On this question, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Gearheart and Pritt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 723) takes effect from its passage.

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

S. B. 724, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 532**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 724) passed.

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

On this question, the yeas and nays were taken (**Roll No. 533**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 724) takes effect from its passage.

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

S. B. 725, Supplementing and amending appropriations to DHS, WV State Police; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 534**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: D. Kelly and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 725) passed.

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

On this question, the yeas and nays were taken (**Roll No. 535**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: D. Kelly and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 725) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 2, Relating to unemployment benefits program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“ARTICLE 2D. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACT.

§21A-2D-2. Unemployment insurance program integrity.

The commissioner shall, on a weekly basis, unless otherwise specified: ~~be required to~~

~~(a)~~ (1) Check the unemployment insurance rolls against the Division of Corrections and Rehabilitation’s list of imprisoned individuals to verify eligibility for unemployment benefits and ensure program integrity;

~~(b)~~ (2) Check new hire records against the National Directory of New Hires to verify eligibility for unemployment benefits; ~~and~~

~~(c)~~ (3) Check the unemployment insurance rolls against a commercially available database that provides cross-matching functions to verify eligibility for unemployment benefits;

(4) On a monthly basis, cross-check the unemployment insurance rolls against state death records; and

(5) Verify the identity of unemployment claimants by methods including, but not limited to, verifying the identity of an applicant prior to awarding benefits and requiring multi-factor authentication as part of online applications.

§21A-2D-2a. Automatic claim review.

The commissioner shall perform a full eligibility review of suspicious or potentially improper claims in cases including, but not limited to:

(1) Multiple or duplicative claims filed online originating from the same IP address;

(2) Claims filed online from foreign IP addresses;

(3) Multiple or duplicative claims filed that are associated with the same mailing address; and

(4) Multiple or duplicative claims filed that are associated with the same bank account.

§21A-2D-3. Data sharing.

The commissioner shall have the authority to ~~may~~ execute a memorandum of understanding exchange information with any department, agency, or division for information required to be shared between agencies outlined in this article as necessary to carry out the requirements of this article.

ARTICLE 3. UNEMPLOYMENT BENEFITS INDEXING.

§21A-3-1. Duration of benefits; calculation.

(a) For the purposes of this article, “state average unemployment rate” means the average of the seasonally adjusted unemployment rates for the months comprising the previous quarter of the most recent calendar year as published by Workforce West Virginia.

(b) For all valid unemployment compensation claims submitted during a calendar year, the maximum duration of benefits will be as follows:

(1) If the state average unemployment rate is below 5.5 percent, the maximum duration of benefits will be limited to 14 weeks;

(2) If the state average unemployment rate is at or above 5.5 percent, but below 6.0 percent, the maximum duration of benefits will be limited to 15 weeks;

(3) If the state average unemployment rate is at or above 6.0 percent, but below 6.5 percent, the maximum duration of benefits will be limited to 16 weeks;

(4) If the state average unemployment rate is at or above 6.5 percent, but below 7.0 percent, the maximum duration of benefits will be limited to 17 weeks;

(5) If the state average unemployment rate is at or above 7.0 percent, but below 7.5 percent, the maximum duration of benefits will be limited to 18 weeks;

(6) If the state average unemployment rate is at or above 7.5 percent, but below 8.0 percent, the maximum duration of benefits will be limited to 19 weeks;

(7) If the state average unemployment rate is at or above 8.0 percent, but below 8.5 percent, the maximum duration of benefits will be limited to 20 weeks;

(8) If the state average unemployment rate is at or above 8.5 percent, but below 9.0 percent, the maximum duration of benefits will be limited to 21 weeks; and

(9) If the state average unemployment rate is at or above 9.0 percent, the maximum duration of benefits will be limited to 22 weeks.

§21A-3-2. Rulemaking.

Workforce West Virginia shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code necessary to implement the provisions of this article.

§21A-3-3. Effective date.

The provisions of §21A-3-1 of this code shall take effect on January 1, 2023.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

§21A-6-1. Eligibility qualifications.

An unemployed individual shall be eligible to receive benefits only if the commissioner finds that:

(1) He or she has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the commissioner;

(2) He or she has made a claim for benefits in accordance with the provisions of ~~article seven of this chapter~~ §21A-7-1 et seq. of this code and has furnished his or her Social Security number, or numbers if he or she has more than one such number;

(3) He or she is able to work and is available for full-time work for which he or she is fitted by prior training or experience and is ~~doing that which a reasonably prudent person in his or her circumstances would do in seeking work~~ actively seeking work as defined in §21A-6-1d of this code;

(4) He or she has been totally or partially unemployed during his or her benefit year for a waiting period of one-week prior to the week for which he or she claims benefits for total or partial unemployment;

(5) He or she has within his or her base period been paid wages for employment equal to not less than \$2,200 and must have earned wages in more than one quarter of his or her base period or, if he or she is not eligible under his or her base period, has within his or her alternative base period been paid wages for employment equal to not less than \$2,200 and must have earned wages in more than one quarter of his or her alternative base period; and

(6) He or she participates in reemployment services as defined in §21A-6-1d of this code, such as job search assistance services, if the individual has been determined to be likely to

exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the commissioner, unless the commissioner determines that:

(A) The individual has completed such services; or

(B) There is justifiable cause for the claimant's failure to participate in such services.

§21A-6-1D. JOBS AND REEMPLOYMENT ACT.

(a) In addition to compliance with all other eligibility requirements, an individual shall be eligible and shall remain eligible for unemployment benefits only if he or she actively seeks, and continues to seek, work by conducting at least four work search activities weekly, defined as:

(1) Registering for work with the state's labor exchange system, placement firm, temporary work agencies, or educational institution with job placement offices;

(2) Logging on and looking for work in the state's labor exchange or other online job matching system;

(3) Using reemployment services in job centers or completing similar online or self-service activities, including, but not limited to, obtaining and using labor market and career information, participating in Reemployment Services and Eligibility Assessment (RESEA) activities, participating in skills assessment for occupational matching, instructional workshops, or other specialized activities;

(4) Completing job applications for employers that have, or are reasonably expected to have, job openings, or following through on job referrals or job development attempts, as directed by Workforce West Virginia staff;

(5) Applying for or participating in employment and training services provided by partner programs in job centers;

(6) Participating in work-related networking events, such as job clubs, job fairs, industry association events, or networking groups;

(7) Making contacts with, or in-person visits to, employers that have, or are reasonably expected to have, job openings;

(8) Taking a civil service examination;

(9) Going on interviews with employers, either in-person or virtually; or

(10) Performing any other work search activities prescribed or allowed by rules promulgated by Workforce West Virginia.

(b) The commissioner shall:

(1) Require an individual, at the time of application for unemployment benefits and weekly thereafter, to provide proof of all his or her work search activities;

(2) Verify submissions of proof of work search activities by individuals applying for or receiving unemployment benefits; and

(3) Determine any individual who fails to perform work search activities or provide proof of work search activities as required by this section ineligible to receive unemployment benefits unless the individual can reasonably explain his or her failure to do so or timely remedy the failure to provide proof of his or her work search activity.

(c) The commissioner shall have discretion to determine the sufficiency of the proof of work search activities submitted, the explanation of a failure to submit such proof, the provision of such proof after an inaccuracy in the proof provided is identified, and whether an individual has otherwise complied with the requirements of this section.

(d) The commissioner shall, utilizing existing resources:

(1) Establish a process by which Workforce West Virginia will share open positions submitted to or posted by the Division of Personnel or any other state-administered job board by employers directly with individuals applying for or receiving unemployment benefits; and

(2) Establish a process by which, for the purpose of helping individuals applying for or receiving unemployment benefits secure suitable work, Workforce West Virginia shall refer individuals applying for or receiving unemployment benefits to such open positions, including facilitating contact between employers and those individuals and monitoring whether those individuals are sufficiently responsive to a referral.

(e) An individual applying for or receiving unemployment benefits who receives referrals from Workforce West Virginia to a job or jobs considered to be suitable, as that term is defined in this chapter, shall apply for that job or those jobs within one-week of receiving the referrals and accept employment in suitable work if offered.

(f) Employers shall report the refusal of any individual who is receiving unemployment benefits and who receives job referrals from Workforce West Virginia to accept an offer of employment to the commissioner. The report shall be made in writing in a manner prescribed by the commissioner and shall be signed by the employer. The report shall become part of the file of the individual's claim for benefits.

(g) Individuals receiving unemployment benefits who accept a referral to a part-time open position or otherwise accept part-time employment for which the wages are less than his or her weekly benefit rate shall continue to receive unemployment benefits without reduction for those wages for the duration of his or her benefits period.

(h) With the exception of individuals who have received or been served with a summons for jury duty or are serving on a jury in any court of this state, the United States, or any state of the United States; are receiving vocational training as described in the provisions of §21A-6-4 of this code; or who are members in good standing of a union that refers its members to employment from a union hall, all individuals applying for or receiving unemployment benefits shall be subject to the requirements of this section, including, but not limited to, individuals who are seasonally unemployed or laid off subject to recall by their employer.

(i) Workforce West Virginia shall notify individuals seeking benefits, at the time an initial claim is filed and at any other time during the benefit year that the requirements substantively change, of the obligation to actively seek work. Delivery of the notification shall be made by the method selected by the individual seeking benefits, and may include United States mail, email, online mailbox, or text message. The notification shall include, at a minimum, the types of work search

activities that are acceptable; the number of work search activities that are required in any week; the requirement that work search activities be documented; and the requirement to apply, and accept if offered, suitable jobs referred by the agency.

(j) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code necessary to implement the provisions of this section.

(k) Except for the provisions of subsection (j) of this section, the provisions of this section shall become effective January 1, 2023.

§21A-6-3. Disqualification for benefits.

Upon the determination of the facts by the commissioner, an individual is disqualified for benefits:

(1) For the week in which he or she left his or her most recent work voluntarily without good cause involving fault on the part of the employer and until the individual returns to covered employment and has been employed in covered employment at least 30 working days.

For the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer if the individual leaves his or her most recent work with an employer and if he or she in fact, within a 14-day calendar period, does return to employment with the last preceding employer with whom he or she was previously employed within the past year prior to his or her return to work, and which last preceding employer, after having previously employed the individual for 30 working days or more, laid off the individual because of lack of work, which layoff occasioned the payment of benefits under this chapter or could have occasioned the payment of benefits under this chapter had the individual applied for benefits. It is the intent of this paragraph to cause no disqualification for benefits for an individual who complies with the foregoing set of requirements and conditions. Further, for the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer, if the individual was compelled to leave his or her work for his or her own health-related reasons and notifies the employer prior to leaving the job or within two business days after leaving the job or as soon as practicable and presents written certification from a licensed physician within 30 days of leaving the job that his or her work aggravated, worsened, or will worsen the individual's health problem.

For the purpose of this subdivision, an individual shall not be deemed to have left his or her most recent work voluntarily, without good cause involving fault on the part of the employer, if the individual leaves such employment as a result of being denied a religious or medical exemption to the COVID-19 vaccination by his or her employer.

(2) For the week in which he or she was discharged from his or her most recent work for misconduct and the six weeks immediately following that week; or for the week in which he or she was discharged from his or her last 30-day employing unit for misconduct and the six weeks immediately following that week. The disqualification carries a reduction in the maximum benefit amount equal to six times the individual's weekly benefit. However, if the claimant returns to work in covered employment for 30 days during his or her benefit year, whether or not the days are consecutive, the maximum benefit amount is increased by the amount of the decrease imposed under the disqualification; except that:

If he or she ~~were~~ was discharged from his or her most recent work for one of the following reasons, or if he or she ~~were~~ was discharged from his or her last 30 days employing unit for one of the following reasons: Gross misconduct consisting of willful destruction of his or her employer's property; assault upon the person of his or her employer or any employee of his or her employer; if the assault is committed at the individual's place of employment or in the course of employment; reporting to work in an intoxicated condition, or being intoxicated while at work; reporting to work under the influence of any controlled substance, as defined in ~~chapter 60A-§60A-1-1 et seq.~~ of this code without a valid prescription, or being under the influence of any controlled substance, as defined in ~~said chapter §60A-1-1 et seq. of this code~~ without a valid prescription, while at work; adulterating or otherwise manipulating a sample or specimen in order to thwart a drug or alcohol test lawfully required of an employee; refusal to submit to random testing for alcohol or illegal controlled substances for employees in safety-sensitive positions as defined in §21-1D-2 of this code; violation of an employer's drug-free workplace program; violation of an employer's alcohol-free workplace program; arson, theft, larceny, fraud, or embezzlement in connection with his or her work; or any other gross misconduct, he or she is disqualified for benefits until he or she has thereafter worked for at least 30 days in covered employment: *Provided*, That for the purpose of this subdivision, the words "any other gross misconduct" includes, but is not limited to, any act or acts of misconduct where the individual has received prior written warning that termination of employment may result from the act or acts.

(3) For the week in which he or she failed without good cause to apply for available, suitable work, accept suitable work when offered, or return to his or her customary self-employment when directed to do so by the commissioner, and for the four weeks which immediately follow for such additional period as any offer of suitable work shall continue open for his or her acceptance. The disqualification carries a reduction in the maximum benefit amount equal to four times the individual's weekly benefit amount.

(4) For any week or portion thereof in which he or she did not work as a result of:

(a) A strike or other bona fide labor dispute which caused him or her to leave or lose his or her employment.

(b) A lockout is not a strike or a bona fide labor dispute and no individual may be denied benefits by reason of a lockout. However, the operation of a facility by nonstriking employees of the company, contractors, or other personnel is not a reason to grant employees of the company on strike unemployment compensation benefit payments. If the operation of a facility is with workers hired to permanently replace the employees on strike, the employees would be eligible for benefits.

(c) For the purpose of this subsection, an individual shall be determined to leave or lose his or her employment by reason of a lockout where the individual employee has established that: (i) The individual presented himself or herself physically for work at the workplace on the first day of such lockout or on the first day he or she is able to present himself or herself at the workplace ~~or herself~~; and (ii) the employer denied the individual the opportunity to perform work.

(d) For purposes of this subsection, an individual is determined to be permanently replaced where the individual employee establishes that: (i) He or she is currently employed by an employer who is the subject of a strike or other bona fide labor dispute; and (ii) the position of the employee has been occupied by another employee who has been notified they are permanently replacing the employee who previously occupied the position. Employees or contractors who are hired to perform striking employees' work on a temporary basis, such as the duration of a strike or other

bona fide labor dispute, or a shorter period of time, may not be determined to have permanently replaced a striking employee.

(5) For a week with respect to which he or she is receiving or has received:

(a) Wages in lieu of notice;

(b) Compensation for temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(c) Unemployment compensation benefits under the laws of the United States or any other state.

(6) For the week in which an individual has voluntarily quit employment to marry or to perform any marital, parental, or family duty, or to attend to his or her personal business or affairs and until the individual returns to covered employment and has been employed in covered employment at least 30 working days: *Provided*, That an individual who has voluntarily quit employment to accompany a spouse serving in active military service who has been reassigned from one military assignment to another is not disqualified for benefits pursuant to this subdivision: *Provided, however*, That the account of the employer of an individual who leaves the employment to accompany a spouse reassigned from one military assignment to another may not be charged.

(7) Benefits may not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the later of the seasons (or similar periods).

(8) (a) Benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act): *Provided*, That any modifications to the provisions of Section 3304(a)(14) of the federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date than stated in this subdivision for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act are applicable under the provisions of this section.

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status may be made except upon a preponderance of the evidence.

(9) For each week in which an individual is unemployed because, having voluntarily left employment to attend a school, college, university, or other educational institution, he or she is attending that school, college, university, or other educational institution, or is awaiting entrance thereto or is awaiting the starting of a new term or session thereof, and until the individual returns to covered employment.

(10) For each week in which he or she is unemployed because of his or her request, or that of his or her duly authorized agent, for a vacation period at a specified time that would leave the employer no other alternative but to suspend operations.

(11) In the case of an individual who accepts an early retirement incentive package, unless he or she: (i) Establishes a well-grounded fear of imminent layoff supported by definitive objective facts involving fault on the part of the employer; and (ii) establishes that he or she would suffer a substantial loss by not accepting the early retirement incentive package.

(12) For each week with respect to which he or she is receiving or has received benefits under Title II of the Social Security Act or similar payments under any Act of Congress, or remuneration in the form of an annuity, pension, or other retirement pay from a base period employer or chargeable employer or from any trust or fund contributed to by a base period employer or chargeable employer or any combination of the above, the weekly benefit amount payable to the individual for that week shall be reduced (but not below zero) by the prorated weekly amount of those benefits, payments, or remuneration: *Provided*, That if the amount of benefits is not a multiple of \$1, it shall be computed to the next lowest multiple of \$1: *Provided, however*, That there is no disqualification if in the individual's base period there are no wages which were paid by the base period employer or chargeable employer paying the remuneration, or by a fund into which the employer has paid during the base period: *Provided further*, That notwithstanding any other provision of this subdivision to the contrary, the weekly benefit amount payable to the individual for that week may not be reduced by any retirement benefits he or she is receiving or has received under Title II of the Social Security Act or similar payments under any Act of Congress. A claimant may be required to certify as to whether or not he or she is receiving or has been receiving remuneration in the form of an annuity, pension, or other retirement pay from a base period employer or chargeable employer or from a trust fund contributed to by a base period employer or chargeable employer.

(13) For each week in which and for 52 weeks thereafter, beginning with the date of the decision, if the commissioner finds the individual who within 24 calendar months immediately preceding the decision, has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this article: *Provided*, That disqualification under this subdivision does not preclude prosecution under §21A-10-7 of this code.

§21A-6-10. Benefit rate — Total unemployment; annual computation and publication of rates.

(a) Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in Column (C) in the benefit table in this section, on the line on which in Column (A) there is indicated the employee's wage class, except as otherwise provided under the term "total and partial unemployment" in §21A-1A-27 of this code. The employee's wage class shall be determined by his or her base period wages as shown in Column (B) in the benefit table. The right of an employee to receive benefits shall may not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either

the wages earned by the employee or the contribution due on such wages. An individual who is totally unemployed but earns in excess of \$60 as a result of odd job or subsidiary work, or is paid a bonus in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.

(b) (1) The maximum benefit for each wage class shall be equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1.

(2) The maximum benefit rate shall be 66 and two-thirds percent of the average weekly wage in West Virginia.

(c) On July 1 of each year, the commissioner shall determine the maximum weekly benefit rate upon the basis of the formula set forth above and shall establish wage classes as are required, increasing or decreasing the amount of the base period wages required for each wage class by \$150, establishing the weekly benefit rate for each wage class by rounded dollar amount to be 55 percent of one fifty-second of the median dollar amount of wages in the base period for such wage class and establishing the maximum benefit for each wage class as an amount equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1: *Provided*, That the commissioner shall ~~may~~ not increase or decrease the maximum weekly benefit rate for the period beginning on the effective date of the amendment and reenactment of this section in the regular session of the Legislature in 2009 until the threshold wage is reduced to \$9,000, as required by §21A-1A-28(d) of this code. The maximum weekly benefit rate, when computed by the commissioner, in accordance with the foregoing provisions, shall be rounded to the next lowest multiple of \$1.

(d) After he or she has established ~~such~~ the wage classes, the commissioner shall prepare and publish a table setting forth ~~such~~ that information.

(e) Average weekly wage shall be computed by dividing the number of employees in West Virginia earning wages in covered employment into the total wages paid to employees in West Virginia in covered employment, and by further dividing ~~said~~ the result by 52, and shall be determined from employer wage and contribution reports for the previous calendar year which are furnished to the department on or before June 1 following such calendar year. The average weekly wage, as determined by the commissioner, shall be rounded to the next higher dollar.

(f) The computation and determination of rates as aforesaid shall be completed annually before July 1 and any such new wage class, with its corresponding wages in base period, weekly benefit rate, and maximum benefit in a benefit year established by the commissioner in the foregoing manner effective on July 1 shall apply only to a new claim established by a claimant on and after July 1, and does not apply to continued claims of a claimant based on his or her new claim established before said July 1.

BENEFIT TABLE

A	B		C	
WAGE CLASS	WAGES IN BASE PERIOD		WEEKLY BENEFIT RATE	MAXIMUM BENEFIT RATE
	Under	\$ 2,200.00	Ineligible	
1	\$ 2,200.00	- 2,359.99	24.00	624.00

2	2,350.00	-	2,499.99	25.00	650.00
3	2,500.00	-	2,649.99	27.00	702.00
4	2,650.00	-	2,799.99	28.00	728.00
5	2,800.00	-	2,949.99	30.00	780.00
6	2,950.00	-	3,099.99	31.00	806.00
7	3,100.00	-	3,249.99	33.00	858.00
8	3,250.00	-	3,399.99	35.00	910.00
9	3,400.00	-	3,549.99	36.00	936.00
10	3,550.00	-	3,699.99	38.00	988.00
11	3,700.00	-	3,849.99	39.00	1,014.00
12	3,850.00	-	3,999.99	41.00	1,066.00
13	4,000.00	-	4,149.99	43.00	1,118.00
14	4,150.00	-	4,299.99	44.00	1,144.00
15	4,300.00	-	4,449.99	46.00	1,196.00
16	4,450.00	-	4,599.99	47.00	1,222.00
17	4,600.00	-	4,749.99	49.00	1,274.00
18	4,750.00	-	4,899.99	51.00	1,326.00
19	4,900.00	-	5,049.99	52.00	1,352.00
20	5,050.00	-	5,199.99	54.00	1,404.00
21	5,200.00	-	5,349.99	55.00	1,430.00
22	5,350.00	-	5,499.99	57.00	1,482.00
23	5,500.00	-	5,649.99	58.00	1,508.00
24	5,650.00	-	5,799.99	60.00	1,560.00
25	5,800.00	-	5,949.99	62.00	1,612.00
26	5,950.00	-	6,099.99	63.00	1,638.00
27	6,100.00	-	6,249.99	65.00	1,690.00
28	6,250.00	-	6,399.99	66.00	1,716.00
29	6,400.00	-	6,549.99	68.00	1,768.00
30	6,550.00	-	6,699.99	70.00	1,820.00
31	6,700.00	-	6,849.99	71.00	1,846.00
32	6,850.00	-	6,999.99	73.00	1,898.00
33	7,000.00	-	7,149.99	74.00	1,924.00
34	7,150.00	-	7,299.99	76.00	1,976.00
35	7,300.00	-	7,449.99	78.00	2,028.00
36	7,450.00	-	7,599.99	79.00	2,054.00
37	7,600.00	-	7,749.99	81.00	2,106.00
38	7,750.00	-	7,899.99	82.00	2,132.00
39	7,900.00	-	8,049.99	84.00	2,184.00
40	8,050.00	-	8,199.99	85.00	2,210.00
41	8,200.00	-	8,349.99	87.00	2,262.00
42	8,350.00	-	8,499.99	89.00	2,314.00
43	8,500.00	-	8,649.99	90.00	2,340.00
44	8,650.00	-	8,799.99	92.00	2,392.00

45	8,800.00	-	8,949.99	93.00	2,418.00
46	8,950.00	-	9,099.99	95.00	2,470.00
47	9,100.00	-	9,249.99	97.00	2,522.00
48	9,250.00	-	9,399.99	98.00	2,548.00
49	9,400.00	-	9,549.99	100.00	2,600.00
50	9,550.00	-	9,699.99	101.00	2,626.00
51	9,700.00	-	9,849.99	103.00	2,678.00
52	9,850.00	-	9,999.99	104.00	2,704.00
53	10,000.00	-	10,149.99	106.00	2,756.00
54	10,150.00	-	10,299.99	108.00	2,808.00
55	10,300.00	-	10,449.99	109.00	2,834.00
56	10,450.00	-	10,599.99	111.00	2,886.00
57	10,600.00	-	10,749.99	112.00	2,912.00
58	10,750.00	-	10,899.99	114.00	2,964.00
59	10,900.00	-	11,049.99	116.00	3,016.00
60	11,050.00	-	11,199.99	117.00	3,042.00
61	11,200.00	-	11,349.99	119.00	3,094.00
62	11,350.00	-	11,499.99	120.00	3,120.00
63	11,500.00	-	11,649.99	122.00	3,172.00
64	11,650.00	-	11,799.99	124.00	3,224.00
65	11,800.00	-	11,949.99	125.00	3,250.00
66	11,950.00	-	12,099.99	127.00	3,302.00
67	12,100.00	-	12,249.99	128.00	3,328.00
68	12,250.00	-	12,399.99	130.00	3,380.00
69	12,400.00	-	12,549.99	131.00	3,406.00
70	12,550.00	-	12,699.99	133.00	3,458.00
71	12,700.00	-	12,849.99	135.00	3,510.00
72	12,850.00	-	12,999.99	136.00	3,536.00
73	13,000.00	-	13,149.99	138.00	3,588.00
74	13,150.00	-	13,299.99	139.00	3,614.00
75	13,300.00	-	13,449.99	141.00	3,666.00
76	13,450.00	-	13,599.99	143.00	3,718.00
77	13,600.00	-	13,749.99	144.00	3,744.00
78	13,750.00	-	13,899.99	146.00	3,796.00
79	13,900.00	-	14,049.99	147.00	3,822.00
80	14,050.00	-	14,199.99	149.00	3,874.00
81	14,200.00	-	14,349.99	150.00	3,900.00
82	14,350.00	-	14,499.99	152.00	3,952.00
83	14,500.00	-	14,649.99	154.00	4,004.00
84	14,650.00	-	14,799.99	155.00	4,030.00
85	14,800.00	-	14,949.99	157.00	4,082.00
86	14,950.00	-	15,099.99	158.00	4,108.00
87	15,100.00	-	15,249.99	160.00	4,160.00

88	15,250.00	-	15,399.99	162.00	4,212.00
89	15,400.00	-	15,549.99	163.00	4,238.00
90	15,550.00	-	15,699.99	165.00	4,290.00
91	15,700.00	-	15,849.99	166.00	4,316.00
92	15,850.00	-	15,999.99	168.00	4,368.00
93	16,000.00	-	16,149.99	170.00	4,420.00
94	16,150.00	-	16,299.99	171.00	4,446.00
95	16,300.00	-	16,449.99	173.00	4,498.00
96	16,450.00	-	16,599.99	174.00	4,524.00
97	16,600.00	-	16,749.99	176.00	4,576.00
98	16,750.00	-	16,899.99	177.00	4,602.00
99	16,900.00	-	17,049.99	179.00	4,654.00
100	17,050.00	-	17,199.99	181.00	4,706.00
101	17,200.00	-	17,349.99	182.00	4,732.00
102	17,350.00	-	17,499.99	184.00	4,784.00
103	17,500.00	-	17,649.99	185.00	4,810.00
104	17,650.00	-	17,799.99	187.00	4,862.00
105	17,800.00	-	17,949.99	189.00	4,914.00
106	17,950.00	-	18,099.99	190.00	4,940.00
107	18,100.00	-	18,249.99	192.00	4,992.00
108	18,250.00	-	18,399.99	193.00	5,018.00
109	18,400.00	-	18,549.99	195.00	5,070.00
110	18,550.00	-	18,699.99	196.00	5,096.00
111	18,700.00	-	18,849.99	198.00	5,148.00
112	18,850.00	-	18,999.99	200.00	5,200.00
113	19,000.00	-	19,149.99	201.00	5,226.00
114	19,150.00	-	19,299.99	203.00	5,278.00
115	19,300.00	-	19,449.99	204.00	5,304.00
116	19,450.00	-	19,599.99	206.00	5,356.00
117	19,600.00	-	19,749.99	208.00	5,408.00
118	19,750.00	-	19,899.99	209.00	5,434.00
119	19,900.00	-	20,049.99	211.00	5,486.00
120	20,050.00	-	20,199.99	212.00	5,512.00
121	20,200.00	-	20,349.99	214.00	5,564.00
122	20,350.00	-	20,499.99	216.00	5,616.00
123	20,500.00	-	20,649.99	217.00	5,642.00
124	20,650.00	-	20,799.99	219.00	5,694.00
125	20,800.00	-	20,949.99	220.00	5,720.00
126	20,950.00	-	21,099.99	222.00	5,772.00
127	21,100.00	-	21,249.99	223.00	5,798.00
128	21,250.00	-	21,399.99	225.00	5,850.00
129	21,400.00	-	21,549.99	227.00	5,902.00
130	21,550.00	-	21,699.99	228.00	5,928.00

131	21,700.00	-	21,849.99	230.00	5,980.00
132	21,850.00	-	21,999.99	231.00	6,006.00
133	22,000.00	-	22,149.99	233.00	6,058.00
134	22,150.00	-	22,299.99	235.00	6,110.00
135	22,300.00	-	22,449.99	236.00	6,136.00
136	22,450.00	-	22,599.99	238.00	6,188.00
137	22,600.00	-	22,749.99	239.00	6,214.00
138	22,750.00	-	22,899.99	241.00	6,266.00
139	22,900.00	-	23,049.99	243.00	6,318.00
140	23,050.00	-	23,199.99	244.00	6,344.00
141	23,200.00	-	23,349.99	246.00	6,396.00
142	23,350.00	-	23,499.99	247.00	6,422.00
143	23,500.00	-	23,649.99	249.00	6,474.00
144	23,650.00	-	23,799.99	250.00	6,500.00
145	23,800.00	-	23,949.99	252.00	6,552.00
146	23,950.00	-	24,099.99	254.00	6,604.00
147	24,100.00	-	24,249.99	255.00	6,630.00
148	24,250.00	-	24,399.99	257.00	6,682.00
149	24,400.00	-	24,549.99	258.00	6,708.00
150	24,550.00	-	24,699.99	260.00	6,760.00
151	24,700.00	-	24,849.99	262.00	6,812.00
152	24,850.00	-	24,999.99	263.00	6,838.00
153	25,000.00	-	25,149.99	265.00	6,890.00
154	25,150.00	-	25,299.99	266.00	6,916.00
155	25,300.00	-	25,449.99	268.00	6,968.00
156	25,450.00	-	25,599.99	269.00	6,994.00
157	25,600.00	-	25,749.99	271.00	7,046.00
158	25,750.00	-	25,899.99	273.00	7,098.00
159	25,900.00	-	26,049.99	274.00	7,124.00
160	26,050.00	-	26,199.99	276.00	7,176.00
161	26,200.00	-	26,349.99	277.00	7,202.00
162	26,350.00	-	26,499.99	279.00	7,254.00
163	26,500.00	-	26,649.99	281.00	7,306.00
164	26,650.00	-	26,799.99	282.00	7,332.00
165	26,800.00	-	26,949.99	284.00	7,384.00
166	26,950.00	-	27,099.99	285.00	7,410.00
167	27,100.00	-	27,249.99	287.00	7,462.00
168	27,250.00	-	27,399.99	289.00	7,514.00
169	27,400.00	-	27,549.99	290.00	7,540.00
170	27,550.00	-	27,699.99	292.00	7,592.00
171	27,700.00	-	27,849.99	293.00	7,618.00
172	27,850.00	-	27,999.99	295.00	7,670.00
173	28,000.00	-	28,149.99	296.00	7,696.00

174	28,150.00	-	28,299.99	298.00	7,748.00
175	28,300.00	-	28,449.99	300.00	7,800.00
176	28,450.00	-	28,599.99	301.00	7,826.00
177	28,600.00	-	28,749.99	303.00	7,878.00
178	28,750.00	-	28,899.99	304.00	7,904.00
179	28,900.00	-	29,049.99	306.00	7,956.00
180	29,050.00	-	29,199.99	308.00	8,008.00
181	29,200.00	-	29,349.99	309.00	8,034.00
182	29,350.00	-	29,499.99	311.00	8,086.00
183	29,500.00	-	29,649.99	312.00	8,112.00
184	29,650.00	-	29,799.99	314.00	8,164.00
185	29,800.00	-	29,949.99	315.00	8,190.00
186	29,950.00	-	30,099.99	317.00	8,242.00
187	30,100.00	-	30,249.99	319.00	8,294.00
188	30,250.00	-	30,399.99	320.00	8,320.00
189	30,400.00	-	30,549.99	322.00	8,372.00
190	30,550.00	-	30,699.99	323.00	8,398.00
191	30,700.00	-	30,849.99	325.00	8,450.00
192	30,850.00	-	30,999.99	327.00	8,502.00
193	31,000.00	-	31,149.99	328.00	8,528.00
194	31,150.00	-	31,299.99	330.00	8,580.00
195	31,300.00	-	31,449.99	331.00	8,606.00
196	31,450.00	-	31,599.99	333.00	8,658.00
197	31,600.00	-	31,749.99	335.00	8,710.00
198	31,750.00	-	31,899.99	336.00	8,736.00
199	31,900.00	-	32,049.99	338.00	8,788.00
200	32,050.00	-	32,199.99	339.00	8,814.00
201	32,200.00	-	32,349.99	341.00	8,866.00
202	32,350.00	-	32,499.99	342.00	8,892.00
203	32,500.00	-	32,649.99	344.00	8,944.00
204	32,650.00	-	32,799.99	346.00	8,996.00
205	32,800.00	-	32,949.99	347.00	9,022.00
206	32,950.00	-	33,099.99	349.00	9,074.00
207	33,100.00	-	33,249.99	350.00	9,100.00
208	33,250.00	-	33,399.99	352.00	9,152.00
209	33,400.00	-	33,549.99	354.00	9,204.00
210	33,550.00	-	33,699.99	355.00	9,230.00
211	33,700.00	-	33,849.99	357.00	9,282.00
212	33,850.00	-	33,999.99	358.00	9,308.00
213	34,000.00	-	34,149.99	360.00	9,360.00
214	34,150.00	-	34,299.99	361.00	9,386.00
215	34,300.00	-	34,449.99	363.00	9,438.00
216	34,450.00	-	34,599.99	365.00	9,490.00

217	34,600.00	-	34,749.99	366.00	9,516.00
218	34,750.00	-	34,899.99	368.00	9,568.00
219	34,900.00	-	35,049.99	369.00	9,594.00
220	35,050.00	-	35,199.99	371.00	9,646.00
221	35,200.00	-	35,349.99	373.00	9,698.00
222	35,350.00	-	35,499.99	374.00	9,724.00
223	35,500.00	-	35,649.99	376.00	9,776.00
224	35,650.00	-	35,799.99	377.00	9,802.00
225	35,800.00	-	35,949.99	379.00	9,854.00
226	35,950.00	-	36,999.99	381.00	9,906.00
227	36,100.00	-	36,249.99	382.00	9,932.00
228	36,250.00	-	36,399.99	384.00	9,984.00
229	36,400.00	-	36,549.99	385.00	10,010.00
230	36,550.00	-	36,699.99	387.00	10,062.00
231	36,700.00	-	36,849.99	388.00	10,088.00
232	36,850.00	-	36,999.99	390.00	10,140.00
233	37,000.00	-	37,149.99	392.00	10,192.00
234	37,150.00	-	37,299.99	393.00	10,218.00
235	37,300.00	-	37,449.99	395.00	10,270.00
236	37,450.00	-	37,599.99	396.00	10,296.00
237	37,600.00	-	37,749.99	398.00	10,348.00
238	37,750.00	-	37,899.99	400.00	10,400.00
239	37,900.00	-	38,049.99	401.00	10,426.00
240	38,050.00	-	38,199.99	403.00	10,478.00
241	38,200.00	-	38,349.99	404.00	10,504.00
242	38,350.00	-	38,499.99	406.00	10,556.00
243	38,500.00	-	38,649.99	408.00	10,608.00
244	38,650.00	-	38,799.99	409.00	10,634.00
245	38,800.00	-	38,949.99	411.00	10,686.00
246	38,950.00	-	39,099.99	412.00	10,712.00
247	39,100.00	-	39,249.99	414.00	10,764.00
248	39,250.00	-	39,399.99	415.00	10,790.00
249	39,400.00	-	39,549.99	417.00	10,842.00
250	39,550.00	-	39,699.99	419.00	10,894.00
251	39,700.00	-	39,849.99	420.00	10,920.00
252	39,850.00	-	39,999.99	422.00	10,972.00
253	40,000.00	-	40,149.99	423.00	10,998.00
254	40,150.00	-	and above	424.00	11,024.00

The bill was then ordered to third reading.

S. B. 10, Relating to WVU Rifle Team electronic application donation program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Committee on Finance, was reported by the Clerk on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“ARTICLE 2. WILDLIFE RESOURCES.

§20-2-33c. Electronic application donation to West Virginia University Rifle Team; special fund created; authorized disbursements.

(a) Every electronic application for a hunting or fishing license shall include a solicitation for a voluntary donation to the West Virginia University Rifle Team.

(b) The license applicant will be offered an opportunity to designate a donation in any amount to the West Virginia University Rifle Team. The Director of the Division of Natural Resources shall deposit any donations made by an applicant to the special revenue account created in subsection (c) of this section.

(c) There is created in the State Treasury a special revenue fund known as the West Virginia University Rifle Team Program Fund. The fund shall be comprised of all moneys donated through an electronic application for a hunting or fishing license as authorized by this section, any moneys appropriated by the Legislature, and any income from the investment of money held in the fund. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(d) Expenditures from the West Virginia University Rifle Team Program Fund shall be for the purposes set forth in this section. The moneys in the West Virginia University Rifle Team Program Fund will be paid out at least annually by the Director of the Division of Natural Resources to the West Virginia University Foundation Rifle Team Account: *Provided*, That the Division of Natural Resources shall deduct no more than five percent of donations derived under this section as an administrative fee to recover processing costs prior to transferring any money to the West Virginia University Foundation Rifle Team Account: *Provided, however*, That the Division of Natural Resources is absolved of all responsibilities established pursuant to this section if the West Virginia University Rifle Team ceases to exist.

(e) The Division of Natural Resources shall, following the close of each fiscal year, prepare an annual report detailing the categories of expenditures from the West Virginia University Rifle Team Program Fund and listing all sources of revenue as well as a closing balance for the year. The report shall be submitted in an electronic format to the Joint Committee on Government and Finance no later than eight weeks after the close of the fiscal year.”

On motion of Delegate Statler, the committee amendment was amended on page 1, section §20-2-33c, line 17, following the word “University” by striking the word “Foundation”

And,

On page 2, section §20-2-33c, line 20, following the word “University” by striking the word “Foundation”

The amendment recommended by the Committee on Finance, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 138, Relating to Board of Medicine composition; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal.

The West Virginia Board of Medicine has assumed, carried on, and succeeded to all the duties, rights, powers, obligations, and liabilities heretofore belonging to or exercised by the Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates, permits, and other acts and undertakings of the Medical Licensing Board of West Virginia as heretofore constituted have continued as those of the West Virginia Board of Medicine until they expired or were amended, altered, or revoked. The board remains the sole authority for the issuance of licenses to practice medicine and surgery, to practice podiatry, and to practice as physician assistants in this state under the supervision of physicians licensed under this article. The board shall continue to be a regulatory and disciplinary body for the practice of medicine and surgery, the practice of podiatry, and for physician assistants in this state.

The board shall consist of ~~sixteen~~ 15 members. One member shall be the state health officer ex officio, with the right to vote as a member of the board. The other ~~fifteen~~ 14 members shall be appointed by the Governor, with the advice and consent of the Senate. Eight of the members shall be appointed from among individuals holding the degree of doctor of medicine, and ~~two~~ one shall hold the degree of doctor of podiatric medicine. Two members shall be physician assistants licensed by the board. Each of these members must be duly licensed to practice his or her profession in this state on the date of appointment and must have been licensed and actively practicing that profession for at least five years immediately preceding the date of appointment. Three lay members shall be appointed to represent health care consumers. Neither the lay members nor any person of the lay members' immediate families shall be a provider of or be employed by a provider of health care services. The state health officer's term shall continue for the period that he or she holds office as state health officer. Each other member of the board shall be appointed to serve a term of five years: *Provided*, That the members of the Board of Medicine holding appointments on the effective date of this section shall continue to serve as members of the Board of Medicine until the expiration of their term unless sooner removed. Each term shall begin on October 1 of the applicable year and a member may not be appointed to more than two consecutive full terms on the board.

A person is not eligible for membership on the board who is a member of any political party executive committee or, with the exception of the state health officer, who holds any public office or public employment under the federal government or under the government of this state or any political subdivision thereof.

In making appointments to the board, the Governor shall, so far as practicable, select the members from different geographical sections of the state. When a vacancy on the board occurs

and less than one year remains in the unexpired term, the appointee shall be eligible to serve the remainder of the unexpired term and two consecutive full terms on the board.

No member may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality: *Provided*, That the expiration, surrender, or revocation of the professional license by the board of a member of the board shall cause the membership to immediately and automatically terminate.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 205, Expanding PEIA Finance Board membership; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 228, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 230, Relating generally to public employees grievance procedure; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 13, section 6, line 6, by striking the words “actual attorney’s fees and costs not to exceed \$1,000” and inserting in lieu thereof “attorney’s fees and costs not to exceed a combined total of \$1,000”

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill, as follows:

on page 5, section 3, lines 2 and 3, by striking the words “and notarized”

and

on page 5, section 3, line 4, by striking the words “and notarized”

and

on page 5, section 3, line 5, by striking the words “and notarized”

and

on page 5, section 3, line 6, by striking the words “and notarize”

The bill was then ordered to third reading.

Com. Sub. for S. B. 232, Relating to punishment for third offense felony; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 242, Restricting authority to prevent or limit owner’s use of natural resources or real property in certain agricultural operations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 246, Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section two, line seven, following the word “furnishings” and the semicolon, by inserting the word “and”;

On page two, section two, line nine, following the word “operational”, by striking out the semicolon and inserting in lieu thereof a period;

On page two, section two, line ten, by striking out the paragraph designation “(D)”;

And,

On page three, section three, line twenty-six, following the words “boards shall”, by inserting the words “adopt a policy to”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 247, Relating to certified community behavioral health clinics; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 262, Relating generally to financial institutions engaged in boycotts of energy companies; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 1C. FINANCIAL INSTITUTIONS ENGAGED IN BOYCOTTS OF ENERGY COMPANIES.

§12-1C-1. DEFINITIONS.

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

‘Banking contract’ means a contract entered into by the Treasurer and a financial institution pursuant to this chapter, to provide banking goods or services to a spending unit.

‘Boycott of energy companies’ means without a reasonable business purpose, refusal to deal with a company, termination of business activities with a company, or another action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

(A) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy;

(B) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or

(C) Does business with a company that engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy.

'Company' means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exist for the purpose of making profit.

'Financial institution' means a bank, national banking association, non-bank financial institution, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union, or a savings bank.

'Reasonable business purpose' includes any purpose directly related to:

(A) Promoting the financial success or stability of a financial institution;

(B) Mitigating risk to a financial institution;

(C) Complying with legal or regulatory requirements; or

(D) Limiting liability of a financial institution.

'Restricted financial institution' means a financial institution included in the most recently updated restricted financial institution list.

'Restricted financial institution list' means the list of financial institutions prepared, maintained, and published pursuant to this article.

'Treasurer' refers to the West Virginia State Treasurer.

§12-1C-2. Restricted financial institutions list.

(a) The Treasurer is authorized to prepare and maintain a list of financial institutions that are engaged in a boycott of energy companies.

(b) The Treasurer must publicly post the restricted financial institution list on the Treasurer's website and submit a copy of the list to the Governor, the President of the Senate, and the Speaker of the House of Delegates.

(c) A citation to this article and a brief summary of the purpose of the list must appear at the top of the list, including a statement that inclusion on the list is not an indication of unsafe or unsound operating conditions of any financial institution nor any risk to consumer deposits.

(d) The Treasurer must update the restricted financial institution list annually, or more often as the Treasurer considers necessary.

§12-1C-3. Notice to financial institutions.

(a) Forty-five days prior to including a financial institution on the restricted financial institution list, the Treasurer must send a written notice to the institution containing the following information:

(1) That the Treasurer has determined that the financial institution is a restricted financial institution;

(2) That the financial institution will be placed on the restricted financial institution list in 45 days unless, within 30 days following the receipt of the written notice, the restricted financial institution demonstrates that it is not engaged in a boycott of energy companies;

(3) That the restricted financial institution list is published on the Treasurer's website; and

(4) That the institution's placement on the list may render the institution ineligible to enter into, or remain in, banking contracts with the State of West Virginia.

(b) Following a restricted financial institution's inclusion on the restricted financial institution list, the Treasurer will remove the institution from the list if the institution demonstrates that it has ceased all activity that boycotts energy companies.

§12-1C-4. Sources of Information.

(a) In determining whether to include a financial institution on the restricted financial institution list, the Treasurer shall consider and may rely upon the following information:

(1) A financial institution's certification that it is not engaged in a boycott of energy companies;

(2) Publicly available statements or information made by the financial institution, including statements by a member of a financial institution's governing body, an executive director of a financial institution, or any other officer or employee of the financial institution with the authority to issue policy statements on behalf of the financial institution; or

(3) Information published by a state or federal government entity.

(b) In determining whether to include a financial institution on the restricted financial institution list, the Treasurer may not rely solely on the following information:

(1) Statements or complaints by an energy company; or

(2) Media reports of a financial institution's boycott of energy companies.

(c) A financial institution may not be compelled to produce or disclose any data or information deemed confidential, privileged, or otherwise protected from disclosure by state or federal law.

§12-1C-5. Restricted financial institutions.

(a) In selecting a financial institution to enter into a banking contract, the Treasurer is authorized to disqualify restricted financial institutions from the competitive bidding process or from any other official selection process.

(b) The Treasurer is authorized to refuse to enter into a banking contract with a restricted financial institution based on its restricted financial institution status.

(c) The Treasurer is authorized to require, as a term of any banking contract, an agreement by the financial institution not to engage in a boycott of energy companies for the duration of the contract.

§12-1C-6. Limitation on Liability.

With respect to actions taken in compliance with this article, a public agency, public official, public employee, or member or employee of a financial institution is immune from liability.

§12-1C-7. Exemptions.

The provisions of this section do not apply to the duties, actions, and transactions of the West Virginia Investment Management Board as set forth in §12-6-1 et seq. of this code.

The bill was then ordered to third reading.

Com. Sub. for S. B. 264, Relating to conservation districts law of WV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 268, Creating exemption from compulsory school attendance for child who participates in learning pod or micro school; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Education, was reported by the Clerk on page 7, section 1, line 159 after the word “together” by striking out the words “in a group of up to 100 students”

And,

On page 7, section 1, line 163, after the word “school” by striking out the words “of up to 100 students”

And,

On page 7, section 1, line 164, after the word “school” by striking out the words “of up to 100 students”

And,

On page 10, section 1, line 232, after the words “provisions of” by striking out the words “section eleven, article twenty, chapter eighteen” and inserting in lieu thereof “§18-20-11”.

Delegates Thompson, Hornbuckle, Walker, Evans and Doyle moved to amend the amendment on line 2, following the words “word “together”” by striking out the remainder of the amendment and inserting in lieu thereof, the following:

“by striking out the number “100” and inserting in lieu thereof, the number “25”;

And,

On page 8, section 1, line 163, after the words “school of up to” by striking out the number “100” and inserting in lieu thereof, the number “25”;

And,

On page 8, section 1, line 164, after the words “school of up to” by striking out the number “100” and inserting the number “25”;

And,

On page 10, section 1, line 232, after the words “provisions of” by striking out the words “section eleven, article twenty, chapter eighteen” and inserting in lieu thereof “§18-20-11”.

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 536**), and there were— yeas 27, nays 68, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barach, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Forsht, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowan, Rowe, Thompson, Tully, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Barrett, Booth, Pack, Reynolds and Skaff.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

On the adoption of the amendment recommended by the Committee on Education, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 537**), and there were— yeas 49, nays 47, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Barnhart, Boggs, Brown, Capito, Conley, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen, Holstein, Honaker, Hornbuckle, D. Kelly, J. Kelly, Lovejoy, Mandt, Martin, Paynter, Pethtel, Pushkin, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Smith, Statler, Storch, Thompson, Toney, Tully, Walker, Wamsley, Westfall, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Barrett, Booth, Pack and Skaff.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

Delegates Evans, Hornbuckle, Thompson, Walker and Doyle moved to amend the bill on page 10, section 1, line 235, following the period by inserting a new subsection to read as follows:

“(10) To assure the health and safety standards are met for facilities where students attend school, each micro-school, as a condition of authorization by the county board of education, shall receive certification that the facility meets minimum health and safety, special education services, and any applicable state or federal school requirements. Upon receipt of an application for the establishment of a micro-school, a County Board of Education shall establish a “Micro-school Safety Board” to certify that any facility used as a micro school meets applicable standards. The

Board shall be appointed by the County Board of Education and consist of three members. (1) A parent or guardian of a student attending the school; (2) A representative of the state Fire Marshal's office, and (3) A member of the county school board. This Board shall inspect each facility and assure that all applicable state and federal laws relating to its operation are met. Upon certification by the Micro -School Safety Board the county board of education shall issue authorization for the micro school's operation."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 538**), and there were— yeas 24, nays 73, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen, Hornbuckle, J. Kelly, Lovejoy, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Martin, Pack and Skaff.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegates Doyle, Hornbuckle, Evans, Thompson, Griffith and Walker moved to amend the bill on page 8, section 1, line 166, following the words "learning pod" by striking out the period, inserting a semi-colon and the following proviso:

"*Provided*, That no entity that previously was rejected for authorization as a charter school may apply to be a micro-school."

The question being on the adoption of the amendment, the same was put and did not prevail.

The bill was then ordered to third reading.

Com. Sub. for S. B. 312, Authorization for Department of Revenue to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

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

"ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Alcohol Beverage Control Commission.

(a) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §60-2-16 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Alcohol Beverage Control Commission (Private Club Licensing, 175 CSR 02), is authorized; with the following amendments:

On page six, subsection 2.22.5a after the words “wine that a member purchased” by removing the following new language “from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper” and,

On page 17, subsection 3.1.7 by striking the language “being a suitable person, being of good morals and character” and inserting in lieu thereof the following:

“not have been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years” and,

On page 18, subsection 3.2.1.e. by striking the words “suitable persons” and inserting in lieu thereof the following:

“persons that have not been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years” and,

On page 18, subsection 3.2.2.a, by striking the language “Is not a person of good moral character or repute” and inserting in lieu thereof the following:

“Has not been convicted of a felony in the previous five years before the date of application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years” and

On page 18, subdivision 3.2.2.d, by striking “has the general reputation of drinking alcoholic beverages or nonintoxicating to excess, or is addicted to the use of controlled substances;” in its entirety and renumbering the remaining subdivisions as appropriate, and

On page 18, subdivision 3.2.3.b, by striking out the words “moral turpitude” and inserting in lieu thereof the following:

“fraud, dishonesty, or deceit” and,

On page 20, subsection 3.2.6, by striking the words “or its officers and directors who have been convicted of a felony or a crime involving moral turpitude” and,

On page 23, subdivision 3.4.6.c.1, by striking the following: “(which does not include a metal crowler that is canned)” and,

On page 23, subdivision 3.4.6.c.2.B, by striking the new language “110%” and inserting in lieu thereof the “the required” and,

On page 26, subdivision 3.4.6.e.5, by adding after the word “requirements” the following:

“ – The delivery person must permit only the person who placed the delivery order through telephone order, mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery. The delivery person must verify the person’s age

using the person's legal identification. The delivery must otherwise comply with W. Va. Code §60-7-8f(f)." And,

On page 26, by striking out subdivision 3.4.6.e.5.A in its entirety, and,

On page 26, by striking out subdivision 3.4.6.e.5.A.i in its entirety, and,

On page 26, by striking out subdivision 3.4.6.e.5.A.ii in its entirety, and,

On page 26 and continuing through page 27, by striking out subdivision 3.4.6.e.5.A.iii in its entirety, and,

On page 27, by striking out subdivision 3.4.6.e.5.B in its entirety, and,

On page 27, subdivision 3.4.6.e.6.B, after the words "transportation permit" by striking out "and pay the transportation permit fee, \$10 for the first transporting vehicle and a one dollar for every transporting vehicle thereafter," and

On page 28, subdivision 3.4.11.a, by striking out the word "limited" and striking out the words "(ex. Recorded music or limited live music, such as a solo musician, for ambiance)" and

On page 28, subdivision 3.4.11.a, by striking out after the words "outdoor dining area" the comma and "however, in the Commissioner's determination, any entertainment or alcohol beverage service that has the appearance or function as a festival, event, concert, or in any other manner exceeds what is necessary for private outdoor dining, then such entertainment or alcoholic beverage service shall be denied" and inserting in lieu thereof the following:

"The Commissioner may determine not to authorize entertainment but must provide a written statement indicating why such entertainment is not authorized" and,

On page 28, subdivision 3.4.11.b, by striking out the word "limited" and striking out the words "(ex. Recorded music or limited live music, such as a solo musician, for ambiance)" and,

On page 28, subdivision 3.4.11.b, by striking out after the words "outdoor street dining area" the comma and "however, in the Commissioner's determination, any entertainment or alcohol beverage service that has the appearance or function as a festival, event, concert, or in any other manner exceeds what is necessary for private outdoor dining, then such entertainment or alcoholic beverage service shall be denied" and inserting in lieu thereof the following:

"The Commissioner may determine not to authorize entertainment but must provide a written statement indicating why such entertainment is not authorized."

(b) The Legislature directs the Alcohol Beverage Control Commission to amend the legislative rule filed in the State Register on June 23, 2008, authorized under the authority of §60-2-16 of this code, relating to the Alcohol Beverage Control Commission (Bailment Policies and Procedures, 175 CSR 06) with the amendment set forth below:

On page nine, subsection 11.1, by striking "The amount of such charges will be imposed by administrative notices filed in the State Register."; and inserting in lieu thereof the following:

“The amount of such charges will be approved by the Legislature, pursuant to W. Va. Code §29A-3-1, then filed in the State Register.”

(c) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §11-16-22 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Alcohol Beverage Control Commission (Nonintoxicating Beer Licensing and Operations Procedures, 176 CSR 01), is authorized with the following amendments:

On page 8, subdivision 3.1.b, by striking out the word “credit” and

On page 8, subdivision 3.1.e, by striking out the words “being a suitable person, being of good morals and character” and inserting in lieu thereof:

“not have been convicted of a felony in the previous five years before application, not have been convicted of a crime involving fraud, dishonesty, and deceit in the previous five years before application, not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years before application” and

On page 12, section 3.4, by striking the section heading “3.4.a” and the section headings for “3.4.b” and “3.4.c” and renumbering those section accordingly, and

On page 13 and continuing to page 14, subdivision 3.6.b.1, after the word “citizen”, by striking, “and a person of good moral character” and inserting in lieu thereof:

“and has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, and deceit in the previous five years before application, and has not been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years before application.” And

On page 14, subdivision 3.6.3.e.3.B by adding the word “and” at the end of the sentence and entering down to create a new subdivision as follows:

“3.6.e.3.C. that this requirement does not apply to a school or church that has notified the Commissioner, in writing, that it has not objection to the location of a proposed business;” and,

On page 15, subsection 3.6.j, by striking out the words “are suitable persons of good reputation and morals to be licensed” and inserting in lieu thereof:

“have not been convicted of a felony in the previous five years before application, have not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and have not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application to be licensed;” and,

On page 15, subdivision 3.8.c by striking out the words “is an unsuitable person to be licensed” and inserting in lieu thereof the following:

“has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before

application, and has not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application to be licensed” and

On page 19, subdivision 3.11.f.6, by adding after the colon the following:

“The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the delivery of food and nonintoxicating beer or nonintoxicating craft beer and the delivery driver must verify the person’s legal identification to ensure the person accepting the delivery is at least 21 years of age. A record of the delivery and of verifying the person’s identification must be created and retained for at least 3 years.” And,

On page 19 by deleting subdivision 3.11.f.6.A in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.i in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.ii in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.iii in its entirety, and

On page 19, by deleting subdivision 3.11.f.6.B in its entirety, and

On page 19, by deleting subdivision 3.11.f.6.C in its entirety, and

On page 19 and page 20 by renumbering subdivision 3.11.f.6.D and subdivision 3.11.f.6.E, to 3.11.f.6.A and 3.11.f.6.B respectively.

On page 21, subdivision 3.11.g.6. by adding after the colon the following:

“The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the delivery of food and nonintoxicating beer or nonintoxicating craft beer and the delivery driver must verify the person’s legal identification to ensure the person accepting the delivery is at least 21 years of age. A record of the delivery and of verifying the person’s identification must be created and retained for at least 3 years.” And,

On page 21, by deleting subdivision 3.11.g.6.A in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.i in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.ii in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.iii in its entirety, and

On page 21, by renumbering subdivision 3.11.g.6.B and 3.11.g.6.C to 3.11.g.6.A and 3.11.g.6.B, respectively, and

On page 22, subdivision 3.11.h.3, by striking the word “limited” and striking, after the comma “like recorded music for ambiance” and inserting, after the comma, in lieu thereof the following:

“however, if the Commissioner denies entertainment the Commissioner must provide an explanation for denying such entertainment.” And

On page 22, subdivision 3.11.i.3, by striking the word “limited” and striking, after the comma, “like recorded music for ambiance” and inserting, after the comma, in lieu thereof the following:

“however, if the Commissioner denies entertainment the Commissioner must provide an explanation for denying such entertainment.” And

On page 23, subdivision 3.11.k.3.B, by adding after the words “or home brewer’s license” a comma and the following “if applicable” and,

On page 24, subdivision 3.11.k.4.C by adding after the word Commissioner a comma and the following: “except that if an unlicensed brewer is licensed in its domicile state and is in good standing, no criminal background checks may be required for the temporary one-day license.”

On page 24, subdivision 3.12.d, by striking the word “suitable” and,

On page 25, subdivision 3.12.d.6 by striking everything and inserting in lieu thereof:

“has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application;” and,

On page 26, subdivision 3.14.b by adding, after the words “bond forfeiture” a comma and the words “if applicable,” and

On page 31, subdivision 6.1.b, by striking the words “known to be insane or known to be a habitual drunkard” and inserting in lieu thereof: “known to be mentally incompetent”

§64-7-2. Insurance Commission.

(a) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §33-12B-12 of this code, relating to the Insurance Commission (Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters, 114 CSR 42), is authorized.

(b) The legislative rule filed in the State Register on March 31, 2021, authorized under the authority of §33-7-9 of this code, relating to the Insurance Commission (Adoption of Valuation Manual, 114 CSR 98), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §33-51-8 of this code, relating to the Insurance Commission (Pharmacy Auditing Entities and Pharmacy Benefit Managers, 114 CSR 99), is authorized.

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §33-4-15a of this code, relating to the Insurance Commission (Term and Universal Life Insurance Reserve Financing, 114 CSR 102), is authorized.

(e) The legislative rule filed in the State Register on July 9, 2021, authorized under the authority of §51-10-8 of this code, modified by the Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 24, 2021,

relating to the Insurance Commission (Bail Bondsmen in Criminal Cases, 114 CSR 103), is authorized.

§64-7-3. Lottery Commission

(a) The legislative rule filed in the State Register on July 7, 2021, authorized under the authority of §29-22-5 of this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2021, relating to the Lottery Commission (West Virginia Lottery State Lottery Rules, 179 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §29-22B-402 of this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2021, relating to the Lottery Commission (West Virginia Lottery Limited Video Lottery Rule, 179 CSR 05), is authorized.

§64-7-4. Racing Commission.

(a) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-23-6 of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 8, 2021, relating to the Racing Commission (Thoroughbred Racing, 178 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on April 30, 2021, authorized under the authority of §19-23-6 of this code, relating to the Racing Commission (Pari-Mutuel Wagering, 178 CSR 05), is authorized.

§64-7-5. Tax Department.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §11-1C-10 of this code, relating to the Tax Department (Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes, 110 CSR 01J), is not authorized.

(b) The legislative rule filed in the State Register on July 8, 2021 authorized under the authority of §11-13KK-13 of this code, modified by the State Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 7, 2021 relating to the State Tax Department (West Virginia Tax Credit for Federal Excise Tax Imposed Upon Small Arms and Ammunition Manufacturers, 110 CSR 13KK), is authorized.

(c) The legislative rule filed in the State Register on June 30, 2021, authorized under the authority of §11-15-9s of this code, modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2021, relating to the Tax Department (Sales Tax Holiday, 110 CSR 15F), is authorized.

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15-9t of this code, modified by the State Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September

7, 2021, relating to the State Tax Department (Exemption for Repair, Remodeling, and Maintenance of Aircraft, 110 CSR 15L), is authorized.

(e) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15A-8 of this code, relating to the Tax Department (Vendor Absorption or Assumption of Sales and Use Tax, 110 CSR 15M), is authorized.

(f) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15A-8 of this code, relating to the Tax Department (On-line Bingo and Raffles, 110 CSR 16A), is authorized with the following amendments:

On page four, subsection 8.1, by striking out the words “A licensee may only use bingo equipment or raffle equipment,” and inserting in lieu thereof the words “A bingo licensee may use only bingo equipment,”;

On page four, after subsection 8.1, by adding a new subsection 8.2 to read as follows:

8.2. A raffle licensee may use only raffle equipment, including software or programming for conducting raffles on-line over the Internet, which the licensee owns or which it borrows without compensation, or leases for a reasonable and customary amount from a wholesaler or distributor of raffle boards and games licensed under W. Va. Code §47-23-3.

And,

By renumbering the remaining subsections.

(g) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §11-24-6b of this code, modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2021, relating to the Tax Department (Corporation Net Income Tax, 110 CSR 24), is authorized

The bill was then ordered to third reading.

Com. Sub. for S. B. 334, Authorizing miscellaneous agencies and boards to promulgate rules; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §19-9A-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Feeding of Untreated Garbage to Swine, 61 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §19-14-3 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Commissioner of Agriculture (Commercial Feed, 61 CSR 05), is authorized with the amendment set forth below:

On page 14, subsection 11.4, after the word “may” by deleting the word “NOT”.

(c) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-11A-10 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 31, 2021, relating to the Commissioner of Agriculture (Enrichment of Flour and Bread Law Regulations, 61 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-16-7 of this code, relating to the Commissioner of Agriculture (Fruits and Vegetables: Certification of Potatoes for Seedling Purposes, 61 CSR 08C), is authorized.

(e) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-37-3 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Fresh Food Act, 61 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-2C-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Auctioneers, 61 CSR 11B), is authorized, with the following amendments:

On page 8, subdivision 16.1, by striking “two hundred dollars (\$200)” and inserting in lieu thereof “\$60” and,

On page 8 subdivision 16.3, by striking “two hundred dollars (\$200)” and inserting in lieu thereof “\$60” and,

On page 9, subdivision 16.6 by striking “two hundred dollars (\$200)” and inserting in lieu thereof “\$60” and,

On page 9, subdivision 16.7, by striking “two hundred dollars (\$200)” and inserting in lieu thereof “\$60”

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Hemp Products, 61 CSR 30), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-1C-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

January 3, 2022, relating to the Commissioner of Agriculture (Livestock Care Standards , 61 CSR 31), is authorized with the amendments set forth below:

On page 2, subsection 2.15, by striking out “2018” and inserting in lieu thereof “2020”;

On page 6, subdivision 13.2.a., by striking out the “5” and inserting in lieu thereof a “9”;

On page 7, subsection 13.12., by striking out the word “and”;

On page 7, subsection 13.13., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page 7, after subsection 13.13, by adding a new subsection 13.14. to read as follows:

“13.14. Any other widely accepted practices.”;

On page 9, subdivision 14.4.p., by striking out the word “and”;

On page 9, subdivision 14.4.q., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page 9, after subdivision 14.4.q., by adding a new subdivision 14.q.r. to read as follows:

“14.q.r. Any other widely accepted practices.”;

On page 11, subdivision 15.6.j., by striking out the word “and”;

On page 11, subdivision 15.6.k., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page 11, after subdivision 15.6.k. by adding a new subdivision 16.6.l. to read as follows:

“16.6.l. Any other widely accepted practices.”;

On page 12, paragraph 16.2.a.6., by striking out the word “and”;

On page 12, paragraph 16.2.a.7., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page 12, after paragraph 14.2.a.7., by adding a new paragraph 16.2.a.8. to read as follows:

“16.2.a.8. Any other widely accepted practices.”;

On page 12, paragraph 16.2.b.7., by striking out the word “and”;

On page 12, paragraph 16.2.b.8., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page twelve, after paragraph 16.2.b.8. by adding a new paragraph 16.2.b.9. to read as follows:

“16.2.b.9. Any other widely accepted practices.”;

On page 12, paragraph 16.2.c.2., by striking out the word “and”;

On page 12, paragraph 16.2.c.3., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page 12, after paragraph 16.2.c.3., by adding a new paragraph 16.2.c.4. to read as follows:

“16.2.c.4. Any other widely accepted practices.”;

On page 13, subdivision 17.3.j., by striking out the word “and”;

On page 13, subdivision 17.3.k., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

On page 13, after subdivision 17.3.k., by adding a new subdivision 17.3.l. to read as follows:

“17.3.l. Any other widely accepted practices.”;

On page 14, paragraph 18.3.d.2., by striking out the word “and”;

On page 14, subdivision 18.3.e., by striking out the period and inserting in lieu thereof a semicolon and the word “or”;

And,

On page 14, after subdivision 18.3.e., by adding a new subsection 18.3.f., to read as follows:

“18.3.f. Any other widely accepted practices.”

(i) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §19-1-11 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Rural Rehabilitation Program, 61 CSR 33), is authorized.

(j) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §11-13DD-5 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Farm-to-Food Bank Tax Credit, 61 CSR 36), is authorized.

(k) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-35-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Farmers Markets, 61 CSR 38), is authorized with the amendments set forth below:

On page 11, subdivision 8.1.d by striking out the words “holding a Food Handler’s Card”;

And,

On page 11, subdivision 8.1.d, after the word “completed” by inserting the words “Better Process Control School or”.

(l) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-16-6 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2021, relating to the Commissioner of Agriculture (Seed Certification, 61 CSR 39), is authorized.

§64-9-2. State Auditor.

(a) The legislative rule filed in the State Register on January 3, 2022, authorized under the authority of §11-8-9 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 10, 2022, relating to the Auditor (Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body, 155 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on September 13, 2021, authorized under the authority of §12-4-14 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Auditor (Accountability Requirements for State Funds and Grants, 155 CSR 09), is authorized.

§64-9-3. West Virginia Board of Chiropractic Examiners.

(a) The Legislature directs the West Virginia Board of Chiropractic Examiners to amend the legislative rule filed in the State Register on April 1, 2014, authorized under the authority of §30-16-5 of this code, relating to the West Virginia Board of Chiropractic Examiners (Fees Established by the Board, 4 CSR 06) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

“1.5. Sunset Provision. — This rule shall terminate and have no further force or effect on August 1, 2027.”;

On page one, subdivision 6.2.1, after the words “in West Virginia is,” by striking out “\$300”, and inserting in lieu thereof “\$261”;

On page one, subdivision 6.2.1., after the words “chiropractors is,” by striking out “\$150” and inserting in lieu thereof “\$130”;

On page one, subdivision 6.2.2 by striking out “\$200”, and inserting in lieu thereof “\$175”;

On page one, subdivision 6.2.3 by striking out “\$200”, and inserting in lieu thereof “\$175”;

On page one, subdivision 6.2.4, after the words “articles of incorporation,” by striking out “\$150”, and inserting in lieu thereof “\$130”;

On page one, subdivision 6.2.4., after the words “limited liability company is,” by striking out “\$150”, and inserting in lieu thereof “\$130”;

One page one, subdivision 6.2.4., after the words “annual renewal fee of,” by striking out “\$150”, and inserting in lieu thereof “\$130”;

On page one, subdivision 6.2.5, after the words “examination fee is,” by striking out “\$150”, and inserting in lieu thereof “\$130”;

On page one, subdivision 6.2.5., after the words “and a fee of,” by striking out “\$50” and inserting “\$45.”;

On page one, subdivision 6.2.6 by striking out “\$50”, and inserting in lieu thereof “\$45”;

On page one, subdivision 6.2.7 by striking out “\$100”, and inserting in lieu thereof “\$87”;

On page one, subdivision 6.2.8 by striking out “\$50”, and inserting in lieu thereof “\$45”;

And,

On page one, subdivision 6.2.2 by striking out “\$250”, and inserting in lieu thereof “\$218”;

(b) The legislative rule filed in the State Register on July 13, 2021, authorized under the authority of §30-16-5 of this code, modified by the West Virginia Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the West Virginia Board of Chiropractic Examiners (Chiropractic Telehealth Practice, 4 CSR 09), is authorized.

§64-9-4. West Virginia Contractor Licensing Board.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-42-5 of this code, modified by the West Virginia Contractor Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 9, 2021, relating to the West Virginia Contractor Licensing Board (Contractor Licensing Act, 28 CSR 02), is authorized with the amendment set forth below:

On page 1, subsection 3.2, after the word “public.” by adding a new sentence to read as follows: “If a contractor maintains an internet website, any advertisement by the contractor may direct potential customers to the contractor’s online landing page for a link to the information required by W. Va. Code §30-42-6(b).”

§64-9-5. West Virginia Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensing Rule, 27 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensed Professional Counselors Fees Rule, 27 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Licensing Rule, 27 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Fees Rule, 27 CSR 09), is authorized.

§64-9-6. Dangerous Wild Animal Board.

The legislative rule filed in the State Register on April 5, 2021, authorized under the authority of §19-34-3 of this code, relating to the Dangerous Wild Animal Board (Dangerous Wild Animal, 74 CSR 01), is authorized.

§64-9-7. West Virginia Board of Dentistry.

(a) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the amendments set forth below:

On page 2, subsection 3.3, after the words “certification of the dean of the dental school” by inserting the words “or program director of a dental residency program”;

On page 2, subsection 3.3, after the word “staff at that school” by inserting the words “or program”;

On page 2, subsection 3.3, after the words “dental school dean” by inserting the words “or program director of a dental residency program”;

On page 2, subsection 3.3, after the words “location of the dental school” by inserting the words “or program”;

And,

On page 2, subsection 3.3, after the word “functions in the dental school” by inserting the words “or program”.

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §31B-13-1304 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Professional Limited Liability Companies, 5 CSR 02), is authorized.

(c) The Legislature directs the West Virginia Board of Dentistry to amend the legislative rule filed in the State Register on May 1, 2014, authorized under the authority of §30-4-6 of this code,

relating to the West Virginia Board of Dentistry (Fees Established by the Board, 5 CSR 03) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

“1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2027.”;

On page one, subsection 2.1 by striking out “\$185.00”, and inserting in lieu thereof “\$167.00”;

On page one, subsection 2.2 by striking out “\$20.00”, and inserting in lieu thereof “\$18.00”;

On page one, subsection 2.3 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”;

On page one, subsection 2.4 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”;

On page one, subsection 2.5 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”;

On page one, subsection 2.6 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

On page one, subsection 2.7 by striking out “\$185.00”, and inserting in lieu thereof “\$167.00”;

On page one, subsection 3.1 by striking out “\$300.00”, and inserting in lieu thereof “\$270.00”;

On page one, subsection 4.1 by striking out “\$75.00”, and inserting in lieu thereof “\$68.00”;

On page one, subsection 4.2 by striking out “\$20.00”, and inserting in lieu thereof “\$18.00”;

On page one, subsection 4.3 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page one, subsection 4.4 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page one, subsection 4.5 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page two, subsection 4.6 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

On page two, subsection 4.7 by striking out “\$75.00”, and inserting in lieu thereof “\$68.00”;

On page two, subsection 4.8 by striking out “\$65.00”, and inserting in lieu thereof “\$59.00”;

On page two, subsection 4.9 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

On page two, subsection 4.10 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

On page two, subsection 4.11 by striking out “\$25.00”, and inserting in lieu thereof “\$23.00”;

On page two, subsection 4.12 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page two, subsection 4.13 by striking out “\$25.00”, and inserting in lieu thereof “\$23.00”;

On page two, subsection 4.14 by striking out “\$25.00”, and inserting in lieu thereof “\$23.00”;

On page two, subsection 4.15 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 4.16 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 5.1 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 5.2 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 6.1 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page two, subsection 6.2 by striking out "\$150.00", and inserting in lieu thereof "\$135.00";

On page two, subsection 6.3 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 7.1 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 7.2 by striking out "\$15.00", and inserting in lieu thereof "\$14.00";

On page two, subsection 7.3 by striking out "\$900.00", and inserting in lieu thereof "\$810.00";

On page two, subsection 7.4 by striking out "\$300.00", and inserting in lieu thereof "\$270.00";

On page two, subsection 7.5 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page three, subsection 7.6 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page three, subsection 7.7 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page three, subsection 8.1 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 8.2 by striking out "\$175.00", and inserting in lieu thereof "\$158.00";

On page three, subsection 8.3 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page three, subsection 9.1 by striking out "\$1,500.00", and inserting in lieu thereof "\$1,350.00";

On page three, subsection 9.2 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 9.3 by striking out "\$1,000.00", and inserting in lieu thereof "\$900.00";

On page three, subsection 9.4 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 9.5 by striking out "\$500.00", and inserting in lieu thereof "\$450.00";

On page three, subsection 9.6 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page three, subsection 9.7 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 9.8 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page three, subsection 10.1 by striking out “\$25.00”, and inserting in lieu thereof “\$23.00”;

On page three, subsection 10.2 by striking out “\$25.00”, and inserting in lieu thereof “\$23.00”;

On page three, subsection 10.3 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page three, subsection 10.6 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

And,

On page three, subsection 10.7 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”.

(d) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Dental Corporation and Dental Practice Ownership, 5 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Continuing Education Requirements, 5 CSR 11), is authorized.

(f) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Administration of Anesthesia by Dentists, 5 CSR 12), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Expanded Duties of Dental Hygienists and Dental Assistants, 5 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Dentistry (Teledentistry, 5 CSR 16), is authorized.

§64-9-8. West Virginia Board of Licensed Dietitians.

The Legislature directs the West Virginia Board of Licensed Dietitians to amend the legislative rule filed in the State Register on March 26, 2020, authorized under the authority of §30-35-4 of this code, relating to the West Virginia Board of Licensed Dietitians (Licensure and Renewal Requirements, 31 CSR 01) with the amendments set forth below:

On page one, subsection 1.5 by striking out “March 26, 2030”, and inserting in lieu thereof “August 1, 2030”

On page two, paragraph 4.1.2.1 by striking out “\$75.00”, and inserting in lieu thereof “\$69.00”;

On page two, paragraph 4.1.2.2 by striking out “\$75.00”, and inserting in lieu thereof “\$69.00”;

On page two, paragraph 4.1.2.3 by striking out “\$50.00”, and inserting in lieu thereof “\$46.00”;

And,

On page two, subsection 31.6.3 by striking out “\$50.00”, and inserting in lieu thereof “\$46.00”.

§64-9-9. West Virginia Board of Professional Engineers.

The Legislature directs the West Virginia Board of Professional Engineers to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-13-9 of this code, relating to the West Virginia Board of Professional Engineers (Examination, Licensure and Practice of Professional Engineers, 7 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking “April 1, 2030” and inserting in lieu thereof “August 1, 2030”;

On page eighteen, by striking all of subsection 13.4, and inserting in lieu thereof a new subsection 13.4 to read as follows:

“13.4. Fee Amounts. The fees for various services provided by Board are:

Engineering Intern

Application Fee	\$23.00
Examination Fee	As charged by NCEES

Professional Engineer

Application Fee	\$72.00
Examination Fee	As charged by NCEES
Re-examination Fee	As charged by NCEES
Certificate Fee	\$23.00
Comity Application Fee	\$135.00

Certificate of Authorization

Application Fee for Sole Proprietor with no employees	\$ 0.00
Application Fee for Firm with three or fewer Professional Engineers*	\$90.00
Application Fee for Firm with four or more Engineers*	\$135.00

Two-Year Renewal Fee

Professional Engineer	\$63.00
Professional Engineer-Retired	\$27.00
COA for Sole Proprietor with no Employees	\$ 0.00
COA for Firm with three Or fewer Professional Engineers*	\$ 90.00
COA for Firm with four or more Professional Engineers*	\$450.00
Late Fee	25% of fee

Reinstatement Applications

Professional Engineer	\$167.00
COA for Sole Proprietor with No employees	0.00
COA for Firm with three or fewer engineers	\$180.00
COA for Firm with four or more Professional Engineers*	\$630.00
PE or COA Roster **	\$ 23.00
Replacement Certificates	\$ 23.00
Returned Checks	\$ 23.00

*Regardless of the PE's state of registration or licensure

**Available for free download on the Board website"

§64-9-10. West Virginia Board of Funeral Service Examiners.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-6-6 of this code, modified by the West Virginia Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2021, relating to the West Virginia Board of Funeral Service Examiners (Fee Schedule , 6 CSR 07), is authorized.

§64-9-11. West Virginia Massage Therapy Licensure Board.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-37-6 of this code, modified by the West Virginia Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2021, relating to the West Virginia Massage Therapy Licensure Board (General Provisions, 194 CSR 01), is authorized with the amendment set forth below:

On page 4, subdivision 4.1.h, after the words “written medical directive” by inserting the words “prescribed by a medical doctor, doctor of osteopathy, physician assistant, or an advanced practice registered nurse”.

§64-9-12. West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.

The Legislature directs the West Virginia Board of Medical Imaging and Radiation Therapy Technology Board of Examiners to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-23-7 of this code, relating to the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Medical Imaging Technologists, 18 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking “March 30, 2035” and inserting in lieu thereof “August 1, 2035”;

On page 6, subdivision 4.7.a. by striking out “\$100.00” and inserting in lieu thereof “\$92.00”;

On page 6, subdivision 4.7.b. by striking out “\$65.00” and inserting in lieu thereof “\$60.00”;

On page 6, subdivision 4.7.c. by striking out “\$40.00” and inserting in lieu thereof “\$37.00”;

On page 6, subdivision 4.7.f. by striking out “\$40.00” and inserting in lieu thereof “\$37.00”;

On page 6, subdivision 4.7.j. by striking out “\$100.00” and inserting in lieu thereof “\$92.00”;

On page 6, subdivision 4.7.k. by striking out “\$100.00” and inserting in lieu thereof “\$92.00”;

On page 7, paragraph 4.8.a.1. by striking out “\$1000.00” and inserting in lieu thereof “\$920.00”;

On page 7, paragraph 4.8.a.2. by striking out “\$1000.00” and inserting in lieu thereof “\$920.00”;

On page 7, paragraph 4.8.a.3. by striking out “\$500.00” and inserting in lieu thereof “\$460.00”;

And,

On page 7, paragraph 4.8.a.4. by striking out “\$500.00” and inserting in lieu thereof “\$460.00”.

§64-9-13. West Virginia Board of Medicine.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Licensing and

Disciplinary Procedures: Physicians, Podiatric Physicians and Surgeons, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 2, 2021, relating to the West Virginia Board of Medicine (Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Dispensing of Prescription Drugs by Practitioners, 11 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Continuing Education for Physicians and Podiatric Physicians, 11 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database, 11 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities, 11 CSR 11), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Registration to Practice During Declared State of Emergency, 11 CSR 14), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the Board of Medicine (Telehealth and Interstate Telehealth Registration for Physicians, Podiatric Physicians and Physician Assistants, 11 CSR 15), is authorized with the amendment set forth below:

On page 7, subsection 7.4, after the words, “standard of care” by inserting the words, “with respect to an established patient”.

§64-9-14. West Virginia Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Licensing Procedures for Osteopathic Physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Osteopathic Medicine (Osteopathic Physician Assistants, 24 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Practitioner Requirements for Controlled Substances Licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database, 24 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the Board of Osteopathic Medicine (Telehealth Practice and Interstate Telehealth Registration for Osteopathic Physicians and Physician Assistants, 24 CSR 10), is authorized with the amendment set forth below:

On page 7, subsection 7.4, after the words, “standard of care” by inserting the words, “with respect to an established patient”.

§64-9-15. West Virginia Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Licensure and Practice of Pharmacist Care, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §60A-9-6 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR 08), is authorized.

(c) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Pharmacy (Regulations Governing Pharmacists, 15 CSR 16), is authorized.

§64-9-16. West Virginia Board of Psychologists.

The Legislature directs the West Virginia Board of Psychologists to amend the legislative rule filed in the State Register on April 25, 2018, authorized under the authority of §30-21-6 of this code, relating to the West Virginia Board of Psychologists (Fees, 17 CSR 01) with the amendments set forth below:

One page one, subsection 1.5. by striking out “July 1, 2028”, and inserting in lieu thereof “August 1, 2028”;

On page one, subsection 2.1 by striking out “\$133.00”, and inserting in lieu thereof “\$120.00”;

On page one, paragraph 2.2 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page one, subdivision 2.2.1 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page one, subdivision 2.3.1 by striking out “\$450.00”, and inserting in lieu thereof “\$405.00”;

On page one, subdivision 2.3.2 by striking out “\$133.00”, and inserting in lieu thereof “\$120.00”;

On page one, subdivision 2.2.3 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”;

On page two, subdivision 2.3.4 by striking out “\$300.00”, and inserting in lieu thereof “\$270.00”;

Strike the entirety of page two, subsection 2.5, and renumber the remaining subsections;

On page two, subsection 2.6 by striking out “\$78.00”, and inserting in lieu thereof “\$68.00”;

On page two, subdivision 2.7.1 by striking out “\$450.00”, and inserting in lieu thereof “\$405.00”;

On page two, subdivision 2.7.2 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”;

On page two, subsection 2.8 by striking out “\$133.00”, and inserting in lieu thereof “\$120.00”;

On page two, subsection 2.9 by striking out “\$300.00”, and inserting in lieu thereof “\$270.00”;

On page two, subsection 2.11 by striking out “\$100.00”, and inserting in lieu thereof “\$90.00”;

On page two, subdivision 2.12.1 by striking out “\$200.00”, and inserting in lieu thereof “\$180.00”;

On page two, subdivision 2.12.2 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

On page two, subsection 2.13 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

On page two, subsection 2.14 by striking out “\$50.00”, and inserting in lieu thereof “\$45.00”;

And,

On page two, subsection 2.15 by striking out "\$200.00", and inserting in lieu thereof "\$180.00".

§64-9-17. Public Service Commission.

The legislative rule filed in the State Register on August 6, 2021, authorized under the authority of §24-2E-3 of this code, modified by the Public Service Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 24, 2021, relating to the Public Service Commission (Rules Governing the Occupancy of Customer-Provided Conduit, 150 CSR 37), is authorized.

§64-9-18. West Virginia Real Estate Appraiser Licensing and Certification Board.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Requirements for Licensure and Certification, 190 CSR 02), is authorized with the amendments set forth below:

On page twenty-five, subdivision 10.2.a., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-five, subdivision 10.2.b., by striking out "two hundred sixty-five dollars (\$265)", and inserting in lieu thereof "\$210";

On page twenty-five, subdivision 10.2.c., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$80";

On page twenty-five, subdivision 10.2.d., following the words "temporary permit fee of" by striking out "two hundred fifty dollars (\$250)", and inserting in lieu thereof "\$200";

On page twenty-five, subdivision 10.2.d., following the words "non-residential appraisal and," and inserting in lieu thereof "\$200";

On page twenty-six, subdivision 10.2.e., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.f., by striking out "four hundred sixty-five dollars (\$465)", and inserting in lieu thereof "\$375";

On page twenty-six, subdivision 10.2.g., by striking out "three hundred fifteen dollars (\$315)", and inserting in lieu thereof "\$250";

On page twenty-six, subdivision 10.2.h., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$80";

On page twenty-six, subdivision 10.2.j., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.k., by striking out “one hundred fifty dollars (\$150)”, and inserting in lieu thereof “\$120”;

On page twenty-six, subdivision 10.2.l., by striking out “one hundred ninety dollars (\$190)”, and inserting in lieu thereof “\$150”;

On page twenty-six, subdivision 10.2.m., by striking out “twenty-five dollars (\$25)”, and inserting in lieu thereof “\$20”;

On page twenty-six, subdivision 10.2.n., by striking out “Copy fees: fifty cents (\$.50) per page”

On page twenty-six, subdivision 10.2.n., following the words Administrative fee of, striking “fifty cents (\$.50),” and inserting in lieu thereof “\$.40”

On page twenty-six, subdivision 10.2.o., by striking out “one hundred fifty dollars (\$150)”, and inserting in lieu thereof “\$120”;

On page twenty-six, subdivision 10.2.p., by striking out “one hundred fifty dollars (\$150)”, and inserting in lieu thereof “\$120”;

On page twenty-six, subdivision 10.2.q., after the words “One roster-fee of” by striking out “thirty-five dollars (\$35), and inserting in lieu thereof “\$28”;

On page twenty-six, subdivision 10.2.q., after the words roster subscription fee-of” by striking out “fifty dollars (\$50)”, and inserting in lieu thereof “\$40”;

On page twenty-six, subdivision 10.2.r., by striking out “fifty dollars (\$50)”, and inserting in lieu thereof “\$40”;

On page twenty-six, subdivision 10.2.s., by striking out “fifty dollars (\$550)”, and inserting in lieu thereof “\$40”;

On page twenty-six, subdivision 10.2.t., by striking out “seventy-five dollars (\$75)”, and inserting in lieu thereof “\$60”;

And,

On page twenty-six, subdivision 10.2.u., by striking out “twenty-five dollars (\$25)”, and inserting in lieu thereof “\$20”.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Renewal of Licensure or Certification, 190 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38A-2 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate

Appraiser Licensing and Certification Board (Requirements for Registration and Renewal of Appraisal Management Companies, 190 CSR 05), is authorized.

§64-9-19. West Virginia Board of Examiners for Registered Professional Nurses.

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §30-7-15a of this code, relating to the West Virginia Board of Examiners for Registered Professional Nurses (Limited Prescriptive Authority for Nurses in Advanced Practice, 19 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on August 31, 2021, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (Telehealth Practice, 19 CSR 16), is authorized with the amendments set forth below:

On page three, subdivision 3.3.2., by striking out the word “state” and inserting in lieu thereof the words “State of West Virginia”;

On page three, subdivision 3.3.2., by striking out the words “location or”;

On page five, subsection 5.9., by striking out the word “applicant” and inserting in lieu thereof the word “registrant”;

On page five, after subsection 5.12, by renumbering the remaining subsections;

On page six, subsection 5.11., by striking out the words “apply anew” and inserting in lieu thereof the word “reapply”;

On page seven, subsection 7.3., after the words “prescription if” by inserting in lieu thereof the words “the nurse”;

On page seven, subsection 7.4., after the words “standard of care” by inserting the words “with respect to an established patient”;

On page eight, subsection 7.8., after the word “practices” by striking out the word “to” and inserting in lieu thereof the words “while treating”;

On page eight, subsection 8.1, by striking out the words “of the provider’s profession in the State of West Virginia pursuant to qualified advanced practice registered nurses to prescribe prescription drugs in accordance with the” and inserting in lieu thereof the words “as set forth in the”;

On page eight, subsection 8.2, by striking out the words “Schedules III through V of”;

On page eight, subsection 8.3, by striking out the words “based solely upon a telemedicine encounter”;

On page nine, subdivision 10.2.1., by striking out the words “Shall not engage” and inserting in lieu thereof the word “Engaging”;

On page nine, subdivision 10.2.1., by inserting a period after the words “this rule”;

On page nine, subdivision 10.2.1., by striking out the words “or they” and inserting in lieu thereof the words “A registered nurse or advance practice registered nurse who engages in professional misconduct”;

And,

On page nine, subsection 11.2., by striking out the words “the following” and inserting in lieu thereof the word “that”.

§64-9-20. Secretary of State.

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-11 of this code, relating to the Secretary of State (Voter Registration at the Division of Motor Vehicles, 153 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-23a of this code, relating to the Secretary of State (Voter Registration List Maintenance by the Secretary of State, 153 CSR 05), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-2-12 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-3-3 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Use of Digital Signatures, 153 CSR 30), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-8-2c of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Regulation of Political Party Headquarters Finances, 153 CSR 43), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39-4-37 and §39-4-38 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Standards and Guidelines for Electronic Notarization, Remote Online Notarization, and Remote Ink Notarization, 153 CSR 45), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-4-4 of this code, relating to the Secretary of State (Real Property Electronic Recording Standards and Regulations, 153 CSR 48), is authorized with amendments set forth below:

On page 2, section 3.1, by striking out the words “as amended from time to time”;

On page 3, subdivision 3.3.1, by striking out the words “as amended from time to time”;

And,

On page 3, subdivision 3.3.2, by striking out the words “as amended from time to time”.

§64-9-21. West Virginia Board of Social Work Examiners.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Qualifications for the Profession of Social Work, 25 CSR 01), is authorized.

(b) The Legislature directs the West Virginia Board of Social Work Examiners to amend the legislative rule filed in the State Register on May 12, 2020, authorized under the authority of §30-30-6 of this code, relating to the West Virginia Board of Social Work Examiners (Fee Schedule, 25 CSR 03) with the amendments set forth below:

On page two, subdivision 3.1.2., by striking out “fifty dollars (\$50)”, and inserting in lieu thereof “\$45”;

On page two, subdivision 3.2.1., by striking out “(\$100)”, and inserting in lieu thereof “\$90”;

On page two, subdivision 3.2.2., following the words “biennial license renewal is” by striking out “eighty-five dollars (\$85)”, and inserting in lieu thereof “\$76”;

On page two, subdivision 3.2.2., following the words “provisional license renewal is” by striking out “ninety dollars (\$90)”, and inserting in lieu thereof “\$80”;

On page two, subdivision 3.2.3., by striking out “fifty dollars (\$50)”, and inserting in lieu thereof “\$45”;

On page two, subdivision 3.2.4., by striking out “one hundred fifteen dollars (\$115)”, and inserting in lieu thereof “\$104”;

On page two, subdivision 3.2.5., by striking out “twenty-five dollars (\$25)”, and inserting in lieu thereof “\$23”;

On page two, subdivision 3.2.6., by striking out “fifty dollars (\$50)”, and inserting in lieu thereof “\$45”;

On page two, subdivision 3.2.7., by striking out “thirty dollars (\$30)”, and inserting in lieu thereof “\$27”;

On page two, subdivision 3.2.8., by striking out “one hundred dollars (\$100)”, and inserting in lieu thereof “\$90”;

On page two, subdivision 3.2.9., by striking out “fifty-five dollars (\$55)”, and inserting in lieu thereof “\$50”;

On page two, subdivision 3.2.10., by striking out “twenty-five dollars (\$25)”, and inserting in lieu thereof “\$23”;

On page three, subdivision 3.4.1., by striking out “one hundred dollars (\$100)”, and inserting in lieu thereof “\$90”;

On page three, subdivision 3.4.2., by striking out “sixty dollars (\$60)”, and inserting in lieu thereof “\$54”;

And,

On page three, subdivision 3.5.1., by striking out “one hundred dollars (\$100)”, and inserting in lieu thereof “\$90”.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Continuing Education for Social Workers and Providers, 25 CSR 05), is authorized.

§64-9-22. West Virginia Board of Examiners for Speech-Language Pathology and Audiology.

The legislative rule filed in the State Register on June 9, 2021, authorized under the authority of §30-32-7 of this code, modified by the West Virginia Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the West Virginia Board of Speech-Language Pathology and Audiology (Licensure of Speech-Pathology and Audiology, 29 CSR 01), is authorized.

§64-9-23. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-4-11 of this code, relating to the Treasurer (Substitute Checks-Exceptional Items Fund, 112 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-2-2 of this code, relating to the Treasurer (Procedures for Deposit of Moneys with the State Treasurer’s Office by State Agencies, 112 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Disbursement Accounts Through Competitive Bidding, 112 CSR 06), is authorized.

(d) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Receipt Accounts, 112 CSR 07), is authorized.

(e) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-3-1 of this code, relating to the Treasurer (Procedures for Processing Payments from the State Treasury, 112 CSR 08), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-6A-7 of this code, relating to the Treasurer (Reporting Debt, 112 CSR 10), is authorized.

(g) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedure for Fees in Collections by Charge, Credit or Debit Card or by Electronic Payment, 112 CSR 12), is authorized.

(h) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedures for Providing Services to Political Subdivisions, 112 CSR 13), is authorized.”

On motion of Delegate Foster, the amendment was amended, on page 20, section 13, line 42, by striking out the entirety of the text on lines 42 and 43 and inserting in lieu thereof the following:

“On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words “based solely upon a telemedicine encounter”

And to amend the amendment on page 21, section 14, line 23 by striking out the entirety of the text on lines 23 and 24 and inserting in lieu thereof the following:

“On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words “based solely upon a telemedicine encounter”

And to amend the amendment on page 27, section 19, lines 18 and 19 by striking all the existing text and inserting in lieu thereof the following:

“On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;"

The question being on the adoption of the amendment, as amended, the same was put and adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 424, Relating generally to 2022 Farm Bill; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill at section 1 of Article 2C, on page 5, by deleting the second set of lines numbered 1 and 2;

And,

At section 1, on page 16, after the first use of line "7" by deleting Chapter 30, Article 43 in its entirety.

The bill was then ordered to third reading.

Com. Sub. for S. B. 434, Updating authority to airports for current operations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 438, Relating generally to WV Security for Public Deposits Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 3, section 4, line 12, following the word "of" by striking "chapter 12 of this code" and inserting in lieu thereof "this chapter";

On page 3, section 4, line 16, following the word "that" by striking "chose" and inserting in lieu thereof "choose";

On page 4, section 4, line 27, following the word "rules" by inserting "promulgated or proposed";

On page 4, section 4, line 34, following the word "enable" by striking "public depositories" and inserting "designated state depositories";

On page 5, section 7, line 8, following the word "on" by adding "the";

On page 5, section 7, line 21, following the word "method" by adding "or other approved method permitted in this code";

On page 5, following section 7, by striking "§12-1B-8. Authority to secure public deposits; acceptance of liabilities and duties by public depositories." and inserting in lieu thereof "§12-1B-8. Authority to secure public deposits; acceptance of liabilities and duties of designated state depositories."

On page 5, section 9, line 1, following “by” by striking “either the pooled method or the dedicated method”; and inserting in lieu thereof “the pooled method, the dedicated method or by any other method permitted in this code”; and

On page 7, section 10, line 1, following “any” by striking “public deposit” and inserting in lieu thereof “designated state depository”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 441, Providing confidentiality of video and other records of correctional juvenile facilities; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-8a. Facility video and security records confidential; exceptions.

(a) The contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to the commissioner’s agents, representatives, and designees, but such records are otherwise confidential and not subject to public disclosure or release except as set forth in this section.

(b) Notwithstanding any provision of this code to the contrary, the contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to an appropriate law-enforcement agency, when disclosure or release is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution: *Provided*, That, with respect to records relating to juvenile residents, the law-enforcement agency in receipt of any such records shall treat the records as confidential pursuant to the provisions set forth in §49-5-101(a) of this code.

(c) Disclosure or release may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal with the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed or released records: *Provided*, That the disclosure or release of records from a juvenile facility required for an employee grievance shall be made strictly in accordance with the provisions of §49-5-101 of this code

-

(d) The commissioner may authorize an attorney, licensed before the bar of this State and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division, but such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to institution of a suit

or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.

(e) The confidentiality provisions of this section shall extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record.

The bill was then ordered to third reading.

S. B. 442, Relating to WV Public Employee Retirement System; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-14. Service credit; retroactive provisions.

(a) The board of trustees shall credit each member with the prior service and contributing service to which he or she is entitled based upon rules adopted by the board of trustees and based upon the following:

(1) In no event may less than 10 days of service rendered by a member in any calendar month be credited as a month of service: *Provided*, That for employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who have been or are employed during regular sessions or during the interim between regular sessions in seven consecutive calendar years, service credit of one month shall be awarded for each 10 days employed in the interim between regular sessions, which interim days shall be cumulatively calculated so that any 10 days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit;

(2) Except for hourly employees, and those persons who first become members of the retirement system on or after July 1, 2015, 10 or more months of service credit earned in any calendar year shall be credited as a year of service: *Provided*, That no more than one year of service may be credited to any member for all service rendered by him or her in any calendar year and no days may be carried over by a member from one calendar year to another calendar year where the member has received a full-year credit for that year; and

(3) Service may be credited to a member who was employed by a political subdivision if his or her employment occurred within a period of 30 years immediately preceding the date the political subdivision became a participating public employer.

(b) The board of trustees shall grant service credit to ~~employees of boards of health, the Clerk of the House of Delegates and the Clerk of the State Senate~~ or to any former and present member of the State Teachers Retirement System who have been contributing members in the Public Employees Retirement System for more than three years, for service previously credited by the State Teachers Retirement System and shall require the transfer of the member's accumulated contributions to the system and shall also require a deposit, with reinstatement interest as set forth in the board's Rule, Refund, Reinstatement, Retroactive Service, Loan and Correction of

Error Interest Factors, 162 C. S. R. 7, of any withdrawals of contributions any time prior to the member's retirement: *Provided, That members of the State Teachers Retirement System who first became a member of the State Teachers Retirement System on or after July 1, 2022, may only transfer service credit to the Public Employees Retirement System if they first became a member of the Public Employees Retirement System on or after July 1, 2015.* Repayment of withdrawals shall be as directed by the Board of Trustees.

(c) Court reporters who are acting in an official capacity, although paid by funds other than the county commission or State Auditor, may receive prior service credit for time served in that capacity.

(d) Active members who previously worked in Comprehensive Employment and Training Act (CETA) may receive service credit for time served in that capacity: *Provided, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within 120 days following the termination of the member's CETA employment; (2) the board must receive evidence that establishes to a reasonable degree of certainty as determined by the board that the member previously worked in CETA; and (3) the member shall pay to the board an amount equal to the employer and employee contribution plus interest at the amount set by the board for the amount of service credit sought pursuant to this subsection: *Provided, however, That the maximum service credit that may be obtained under the provisions of this subsection is two years: *Provided further, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: And provided further, That the board shall exercise due diligence to notify affected employees of the provisions of this subsection.***

(e) (1) Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions shall receive service credit for the time served in that capacity in accordance with the following: For purposes of this section, the term "regular session" means day one through day 60 of a 60-day legislative session or day one through day 30 of a 30-day legislative session. Employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions and who have been or are employed during regular sessions or during the interim time between regular sessions in seven consecutive calendar years, as certified by the clerk of the house in which the employee served, shall receive service credit of six months for all regular sessions served, as certified by the clerk of the house in which the employee served, or shall receive service credit of three months for each regular 30-day session served prior to 1971: *Provided, That employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions and who have been or are employed during the regular sessions in 13 consecutive calendar years as either temporary employees or full-time employees or a combination thereof, as certified by the clerk of the house in which the employee served, shall receive a service credit of 12 months for each regular session served, as certified by the clerk of the house in which the employee served: *Provided, however, That the amendments made to this subsection during the 2002 regular session of the Legislature only apply to employees of the Legislature who are employed by the Legislature as either temporary employees or full-time employees as of January 1, 2002, or who become employed by the Legislature as temporary or full-time employees for the first time after January 1, 2002. Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to**

perform services required by the Legislature during the interim time between regular sessions shall receive service credit of one month for each 10 days served during the interim between regular sessions, which interim days shall be cumulatively calculated so that any 10 days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit: *Provided further*, That no more than one year of service may be credited to any temporary legislative employee for all service rendered by that employee in any calendar year and no days may be carried over by a temporary legislative employee from one calendar year to another calendar year where the member has received a full year credit for that year. Service credit awarded for legislative employment pursuant to this section shall be used for the purpose of calculating that member's retirement annuity, pursuant to §5-10-22 of this code, and determining eligibility as it relates to credited service, notwithstanding any other provision of this section. Certification of employment for a complete legislative session and for interim days shall be determined by the clerk of the house in which the employee served, based upon employment records. Service of 55 days of a regular session constitutes an absolute presumption of service for a complete legislative session and service of 27 days of a 30-day regular session occurring prior to 1971 constitutes an absolute presumption of service for a complete legislative session. Once a legislative employee has been employed during regular sessions for seven consecutive years or has become a full-time employee of the Legislature, that employee shall receive the service credit provided in this section for all regular and interim sessions and interim days worked by that employee, as certified by the clerk of the house in which the employee served, regardless of when the session or interim legislative employment occurred: *And provided further*, That regular session legislative employment for seven consecutive years may be served in either or both houses of the Legislature.

(2) For purposes of this section, employees of the Joint Committee on Government and Finance are entitled to the same benefits as employees of the House of Delegates or the Senate: *Provided*, That for joint committee employees whose terms of employment are otherwise classified as temporary, employment in preparation for regular sessions, certified by the legislative manager as required by the Legislature for its regular sessions, shall be considered the same as employment during regular sessions to meet service credit requirements for sessions served.

(f) Any employee may purchase retroactive service credit for periods of employment in which contributions were not deducted from the employee's pay. In the purchase of service credit for employment prior to 1989 in any department, including the Legislature, which operated from the General Revenue Fund and which was not expressly excluded from budget appropriations in which blanket appropriations were made for the state's share of public employees' retirement coverage in the years prior to 1989, the employee shall pay the employee's share. Other employees shall pay the state's share and the employee's share to purchase retroactive service credit. Where an employee purchases service credit for employment which occurred after 1988, that employee shall pay for the employee's share and the employer shall pay its share for the purchase of retroactive service credit: *Provided*, That no legislative employee and no current or former member of the Legislature may be required to pay any interest or penalty upon the purchase of retroactive service credit in accordance with the provisions of this section where the employee was not eligible to become a member during the years for which he or she is purchasing retroactive credit or had the employee attempted to contribute to the system during the years for which he or she is purchasing retroactive service credit and the contributions would have been refused by the board: *Provided, however*, That a current legislative employee purchasing retroactive credit under this section shall do so within 24 months of beginning contributions to the retirement system as a legislative employee or no later than December 31, 2016, whichever occurs later: *Provided further*, That once a legislative employee becomes a member of the retirement system, he or she may purchase retroactive service credit for any time he or she was

employed by the Legislature and did not receive service credit. Any service credit purchased shall be credited as six months for each 60-day session worked, three months for each 30-day session worked or 12 months for each 60-day session for legislative employees who have been employed during regular sessions in 13 consecutive calendar years, as certified by the clerk of the house in which the employee served, and credit for interim employment as provided in this subsection: *And provided further*, That this legislative service credit shall also be used for months of service in order to meet the 60-month requirement for the payments of a temporary legislative employee member's retirement annuity: *And provided further*, That no legislative employee may be required to pay for any service credit beyond the actual time he or she worked regardless of the service credit which is credited to him or her pursuant to this section: *And provided further*, That any legislative employee may request a recalculation of his or her credited service to comply with the provisions of this section at any time.

(g) (1) Notwithstanding any provision to the contrary, the seven consecutive calendar years requirement and the 13 consecutive calendar years requirement and the service credit requirements set forth in this section shall be applied retroactively to all periods of legislative employment prior to the passage of this section, including any periods of legislative employment occurring before the seven consecutive and 13 consecutive calendar years referenced in this section: *Provided*, That the employee has not retired prior to the effective date of the amendments made to this section in the 2002 regular session of the Legislature.

(2) The requirement of seven consecutive years and the requirement of 13 consecutive years apply retroactively to all legislative employment prior to the effective date of the 2006 amendments to this section.

(h) The board of trustees shall grant service credit to any former or present member of the State Police Death, Disability and Retirement Fund who has been a contributing member of this system for more than three years for service previously credited by the State Police Death, Disability and Retirement Fund if the member transfers all of his or her contributions to the State Police Death, Disability and Retirement Fund to the system created in this article, including repayment of any amounts withdrawn any time from the State Police Death, Disability and Retirement Fund by the member seeking the transfer allowed in this subsection: *Provided*, That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Public Employees Retirement System during the period of his or her membership in the State Police Death, Disability and Retirement Fund, excluding contributions on lump sum payment for annual leave, plus interest at a rate determined by the board.

(i) The provisions of §5-10-22h of this code are not applicable to the amendments made to this section during the 2006 regular session.

§5-10-30. Refund of accumulated contributions.

(a) In the event a member leaves the employ of a participating public employer prior to the date ~~he~~ the member becomes entitled to retire with an annuity payable by the retirement system, ~~he~~ the member shall be paid, upon ~~his~~ the member's written application filed with the board of trustees, ~~his~~ the member's accumulated contributions ~~standing to his credit in the members deposit fund, if his~~ the member's separation from the employ of a participating public employer occurs subsequent to a period of two years ~~from and after the date he last became a member of the system~~ of contributing service. If ~~his~~ the member's said separation from the employ of a participating public employer occurs ~~within a period of~~ prior to two years ~~from and after the date~~

~~he last became a member of the system of contributing service, he the member shall be paid his the member's accumulated contributions standing to his credit in the members deposit fund less the total regular interest credited to his the member's individual account therein; and the said total interest credit shall be transferred to the income fund.~~

(b) In the event a member dies and does not leave a beneficiary entitled to an annuity payable by the retirement system, ~~his the member's accumulated contributions standing to his credit in the members deposit fund~~ at the time of his ~~the member's~~ death shall be paid to such person or persons as he or she shall have nominated by written designation duly executed and filed with the board of trustees. If there be no such designated person or persons surviving the said member, ~~his the member's~~ said accumulated contributions shall be paid to his the member's estate.

~~(c) Refunds of a member's contributions or accumulated contributions, as the case may be, may be made in equal installments according to such rules and regulations as the board of trustees may from time to time adopt.~~

~~(d)~~(c) In the event a member dies and a refund of his the member's contributions is due to be made to an infant child or children by reason of being the person or persons nominated by written designation duly executed and filed with the retirement system, and the amount of said refund is less than \$1,000, then, and in said event, the board of trustees may make said refund, upon written application, to the closest relative or natural guardian for the use of said infant child or children. The board of trustees may, at its discretion, require that said relative or natural guardian post bond with the retirement system to insure that said money will be used for the benefit of said infant child or children. In any event, before said refund is made to said relative or natural guardian of the said infant or infants, said relative or natural guardian shall give the retirement system an indemnifying release of said sums so paid over.

(d) In the event a member leaves the employ of a participating public employer and is entitled to retire with an annuity payable by the retirement system, but will be subject to an annuity reduction at any time due to the 105 percent provision contained in §5-10-17(b) of this code, the member may be paid, upon the member's written application filed with the board of trustees, their accumulated contributions."

The bill was then ordered to third reading.

Com. Sub. for S. B. 463, Best Interests of Child Protection Act of 2022; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page 1, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

"ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) ~~Collaborative Parental~~ parental planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, and which is rebuttably presumed to be equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the rebuttable presumption of equal (50-50) custodial allocation.

§48-91-102a Presumption in favor of equal (50-50) custodial allocation.

There shall be a presumption, rebuttable by a preponderance of the evidence, that equal (50-50) custodial allocation is in the best interest of the child. If the presumption is rebutted, the court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

~~(3) The parents' work and child-care schedules for the preceding twelve~~ 12 months;

~~(4)~~(3) The parents' current work and child-care schedules; and

~~(5)~~(4) Any of the ~~circumstances~~ criteria set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence or residences for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the sworn testimony of the parents and their witnesses presented at the hearing.

(d) Upon request of either parent for an equal (50-50) allocation of physical custody, the presumption provided in §48-1-102a of this code applies.

(e) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon the sworn testimony presented at the hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision.

(f) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order: *Provided*, That no stay shall be granted pending resolution of the appeal, and the filing of an interlocutory appeal shall not be the basis of a continuance of any subsequent or final hearing.

~~(d)~~ (g) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~In making this determination, the court shall give particular consideration to:~~

~~(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and~~

~~(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a presumption in favor of equal (50-50) physical custody which is rebuttable by a preponderance of the evidence, to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

§48-9-205. Permanent parenting plan.

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children; and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

§48-9-206. Allocation of custodial responsibility at final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent may be expected to achieve any of the following objectives: shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

(c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall not be conducted ~~exclusively~~ by the presentation of evidence. ~~by preffer~~. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any criteria considerations as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

~~(4)~~ (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's legal parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment,~~ or by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~Provided, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or agreed to~~ by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

§48-9-208. ~~Criteria for parenting plan; Parental dispute resolution.~~

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201,~~ in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting factor as set forth in section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.

(a) ~~If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan: When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:~~

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of subsection (a) of this section,~~ of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

- (1) The factors set forth in subdivision (a) of this section;

(2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing; *Provided*, That the child reaching one year of age shall qualify as a substantial change in circumstances per §48-9-401 of this code; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

~~(A) Is in arrears or currently noncompliant with a previous order of the court regarding payment of child support payments for another child: *Provided*, That any arrearages or noncompliance that are the result of a mistake or miscalculation by the Bureau of Child Support Enforcement may not be used against the parent as a basis for rebutting the presumption for an equal ("50-50") allocation of physical custody and parenting time;~~

~~(B)~~(A) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

~~(C)~~(B) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

~~(D)~~(C) Has intentionally avoided or refused involvement or not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

~~(E) Has professional responsibilities which render him or her unable to devote adequate time to the child;~~

~~(F) Has a work schedule that causes the child or children to be in the care of a third party rather than the other available parent;~~

~~(G)~~(E)(D) Does not have a stable housing situation: *Provided*, That a parent's temporary residence with a child in a domestic violence violation shelter shall not constitute an unsafe housing situation; or

~~(H)~~(F)(E) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided*, That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

~~(E)~~(F) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical because of ~~due to~~ the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in ~~section 9-402 or 9-403, §48-9-402 or §48-9-403~~ of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein in the prior order~~, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in ~~subsection (a), section 9-209,~~ §48-9-209(a) of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to ~~section 9-209~~ §48-9-209 of this code, to protect the child or the child's parent.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such

federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children: *Provided*, That such claims to state and federal income tax deductions and exemptions for the child or children may alternate between parents year to year.

§48-9-603. Effect of enactment; operative dates.

(a) ~~The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) (a) The amendments to this chapter made enacted during the 2024² session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(b) The amendments to this chapter enacted during the 2022 Regular Legislative Session regular session of the Legislature, 2022, do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.~~

~~(e) (c) The amendments to this chapter enacted during the regular session of the Legislature, 2022, 2022 Regular Legislative Session shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) The amendments to this chapter enacted during the 2022 Regular Legislative Session regular session of the Legislature, 2022, shall be known as the 2022-Best Interest of the Child Act.”~~

Delegate Pritt moved to amend the amendment on page 3, section 203(e), After “decision” strike the period and insert the following: “; provided, that the doctrine of res judicata shall not be applied or construed to preclude the court from making new findings of fact that are different than or contrary to such findings of fact.”

Whereupon,

Delegate Pritt obtained unanimous consent to reform the amendment as follows:

On page 3, section 203(e), After “decision” strike the period and insert the following: “; provided, that the doctrine of res judicata or collateral estoppel shall not be applied or construed to preclude the court from making new findings of fact that are different than or contrary to such findings of fact.”

The question being on the adoption of the reformed amendment, the same was put and the amendment was adopted.

Delegate Pritt moved to amend the amendment on page 13, at the end of subsection (4), by striking “or” And inserting the following after “fraudulent.”:“(6) has threatened to ask for an equal (“50-50”) custodial responsibility allocation to obtain a better settlement on other issues or to otherwise influence the actions of the other parent; provided, that this provision shall be construed in accordance with West Virginia Rule of Evidence 408.”

On the question of the adoption of the amendment, division was called for and the Speaker declared the amendment lost.

Unanimous consent was then obtained to consider the following amendments, offered by Delegate Pritt, together and they were adopted:

On page 13, section 209(b), after the phrase “If a parent”, by inserting the following: “or another person regularly in the household of the parent”.

On page 14, section 209(c), After “If a parent”, by inserting the following: “or a person regularly in the home of the parent”.

And,

On page 17, after “Whether a parent, partner, or other person living”, by inserting the following: “or regularly”.

Delegate Pritt then moved to amend the bill on page 17, after the phrase: “Is unwilling or unable to perform”, by inserting the following: “an equal amount of”; and, after “of this code” by inserting the following: “or is otherwise not available to care for the child on an equal basis.”

The question being on the adoption of the amendment, the same was put and did not prevail.

Delegate Pritt moved to amend the bill on page 17, after the phrase: “mental illness;”, by inserting the following: “(G) Has verbally abused the child, denigrated the child, or denigrated a parent of the child in the child’s presence;”.

Speaker Pro Tempore Howell in the Chair

The question being on the adoption of the amendment, to the amendment, the same was put and did not prevail.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 486, Allowing PERS retirees to designate special needs trust as beneficiary; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Householder and Capito, the bill was amended on page 1, following the article heading, by striking section 2 in its entirety and inserting in lieu thereof the following:

“§5-10-2. Definitions.

Unless a different meaning is clearly indicated by the context, the following words and phrases as used in this article have the following meanings:

(1) ‘Accumulated contributions’ means the sum of all amounts deducted from the compensations of a member and credited to his or her individual account in the members’ deposit fund, together with regular interest on the contributions;

(2) ‘Accumulated net benefit’ means the aggregate amount of all benefits paid to or on behalf of a retired member;

(3) ‘Actuarial equivalent’ means a benefit of equal value computed upon the basis of a mortality table and regular interest adopted by the board of trustees from time to time: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, actuarial equivalent shall be computed using the mortality tables and interest rates required to comply with those requirements;

(4) ‘Annuity’ means an annual amount payable by the retirement system throughout the life of a person. All annuities shall be paid in equal monthly installments, rounding to the upper cent for any fraction of a cent;

(5) ‘Annuity reserve’ means the present value of all payments to be made to a retirant or beneficiary of a retirant on account of any annuity, computed upon the basis of mortality and other tables of experience, and regular interest, adopted by the board of trustees from time to time;

(6) ‘Beneficiary’ means any person (which shall include an irrevocable special needs trust, as that term is defined in §5-10-2 of this code, for the benefit of one individual beneficiary and which trust terminates upon the death of such individual with no further annuity benefits being payable), except a retirant, who is entitled to, or will be entitled to, an annuity or other benefit payable by the retirement system;

(7) ‘Board of Trustees’ or ‘board’ means the Board of Trustees of the West Virginia Consolidated Public Retirement ~~System~~ Board;

(8) ‘Compensation’ means the remuneration paid a member by a participating public employer for personal services rendered by the member to the participating public employer. In the event a member’s remuneration is not all paid in money, his or her participating public employer shall fix the value of the portion of the remuneration which is not paid in money: *Provided*, That members hired in a position for the first time on or after July 1, 2014, who receive nonmonetary remuneration shall not have nonmonetary remuneration included in compensation for retirement purposes and nonmonetary remuneration may not be used in calculating a member’s final average salary. Any lump sum or other payments paid to members that do not constitute regular salary or wage payments are not considered compensation for the purpose of withholding contributions for the system or for the purpose of calculating a member’s final average salary. These payments include, but are not limited to, attendance or performance bonuses, one-time flat fee or lump sum payments, payments paid as a result of excess budget, or employee recognition payments. The

board shall have final power to decide whether the payments shall be considered compensation for purposes of this article;

(9) 'Contributing service' means service rendered by a member within this state and for which the member made contributions to a public retirement system account of this state, to the extent credited him or her as provided by this article;

(10) 'Credited service' means the sum of a member's prior service credit, military service credit, workers' compensation service credit and contributing service credit standing to his or her credit as provided in this article;

(11) 'Employee' means any person who serves regularly as an officer or employee, full time, on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, in whole or in part, by any political subdivision, or an officer or employee whose compensation is calculated on a daily basis and paid monthly or on completion of assignment, including technicians and other personnel employed by the West Virginia National Guard whose compensation, in whole or in part, is paid by the federal government: *Provided*, That an employee of the Legislature whose term of employment is otherwise classified as temporary and who is employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who has been or is employed during regular sessions or during the interim between regular sessions in seven or more consecutive calendar years, as certified by the clerk of the house in which the employee served, is an employee, any provision to the contrary in this article notwithstanding, and is entitled to credited service in accordance with provisions of §5-10-14 of this code: *Provided, however*, That members of the legislative body of any political subdivision and ~~judges commissioners of the state Court of Claims~~ West Virginia Claims Commission are employees receiving one year of service credit for each one-year term served and prorated service credit for any partial term served, anything contained in this article to the contrary notwithstanding: *Provided further*, That only a compensated board member of a participating public employer appointed to a board of a nonlegislative body for the first time on or after July 1, 2014, who normally is required to work 12 months per year and 1040 hours of service per year is an employee. In any case of doubt as to who is an employee within the meaning of this article, the board of trustees shall decide the question;

(12) 'Employer error' means an omission, misrepresentation, or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required; ~~A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error~~

(13) 'Final average salary' means either of the following: *Provided*, That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401 (a) (17) of the Internal Revenue Code: *Provided, however*, That the provisions of §5-10-22h of this code are not applicable to the amendments made to this subdivision during the 2011 regular session of the Legislature;

(A) The average of the highest annual compensation received by a member, including a member of the Legislature who participates in the retirement system in the year 1971 or thereafter, during any period of three consecutive years of credited service contained within the member's

15 years of credited service immediately preceding the date his or her employment with a participating public employer last terminated: *Provided*, That for persons who were first hired on or after July 1, 2015, any period of five consecutive years of contributing service contained within the member's fifteen years of credited service immediately preceding the date his or her employment with a participating public employer last terminated; or

(B) If the member has less than five years of credited service, the average of the annual rate of compensation received by the member during his or her total years of credited service; and in determining the annual compensation, under either paragraph (A) or (B) of this subdivision, of a member of the Legislature who participates in the retirement system as a member of the Legislature in the year 1971, or in any year thereafter, his or her actual legislative compensation (the total of all compensation paid under §4-2A-2, §4-2A-3, §4-2A-4, and §4-2A-5 of this code), in the year 1971, or in any year thereafter, plus any other compensation he or she receives in any year from any other participating public employer including the State of West Virginia, without any multiple in excess of one times his or her actual legislative compensation and other compensation, shall be used: *Provided*, That final average salary for any former member of the Legislature or for any member of the Legislature in the year 1971 who, in either event, was a member of the Legislature on November 30, 1968, or November 30, 1969, or November 30, 1970, or on November 30 in any one or more of those three years and who participated in the retirement system as a member of the Legislature in any one or more of those years means: (i) Either, notwithstanding the provisions of this subdivision preceding this proviso, \$1,500 multiplied by eight, plus the highest other compensation the former member or member received in any one of the three years from any other participating public employer including the State of West Virginia; or (ii) final average salary determined in accordance with paragraph (A) or (B) of this subdivision, whichever computation produces the higher final average salary, and in determining the annual compensation under subparagraph (ii) of this paragraph, the legislative compensation of the former member shall be computed on the basis of \$1,500 multiplied by eight, and the legislative compensation of the member shall be computed on the basis set forth in the provisions of this subdivision immediately preceding this paragraph or on the basis of \$1,500 multiplied by eight, whichever computation as to the member produces the higher annual compensation;

(14) 'Internal Revenue Code' means the Internal Revenue Code of 1986, as amended, codified at Title 26 of the United States Code;

(15) 'Limited credited service' means service by employees of the West Virginia Educational Broadcasting Authority, in the employment of West Virginia University, during a period when the employee made contributions to another retirement system, as required by West Virginia University, and did not make contributions to the Public Employees Retirement System: *Provided*, That while limited credited service can be used for the formula set forth in §5-10-21(e) of this code, it may not be used to increase benefits calculated under §5-10-22 of this code;

(16) 'Member' means any person who has accumulated contributions standing to his or her credit in the members' deposit fund;

(17) 'Participating public employer' means the State of West Virginia, any board, commission, department, institution or spending unit and includes any agency created by rule of the Supreme Court of Appeals having full-time employees, which for the purposes of this article is considered a department of state government; and any political subdivision in the state which has elected to cover its employees, as defined in this article, under the West Virginia Public Employees Retirement System;

(18) 'Plan year' means the same as referenced in §5-10-42 of this code;

(19) 'Political subdivision' means the State of West Virginia, a county, city or town in the state; a school corporation or corporate unit; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: *Provided*, That any mental health agency participating in the Public Employees Retirement System before July 1, 1997, is considered a political subdivision solely for the purpose of permitting those employees who are members of the Public Employees Retirement System to remain members and continue to participate in the retirement system at their option after July 1, 1997: *Provided, however*, That the Regional Community Policing Institute which participated in the Public Employees Retirement System before July 1, 2000, is considered a political subdivision solely for the purpose of permitting those employees who are members of the Public Employees Retirement System to remain members and continue to participate in the Public Employees Retirement System after July 1, 2000;

(20) 'Prior service' means service rendered prior to July 1, 1961, to the extent credited a member as provided in this article;

(21) 'Regular interest' means the rate or rates of interest per annum, compounded annually, as the board of trustees adopts from time to time;

(22) 'Required beginning date' means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age ~~seventy and one-half years of age~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (B) the calendar year in which a member ~~who has attained the age seventy and one-half years of age and who ceases providing service covered under this retirement system to a participating employer;~~

(23) 'Retirant' means any member who commences an annuity payable by the retirement system;

(24) 'Retirement' means a member's withdrawal from the employ of a participating public employer and the commencement of an annuity by the retirement system;

(25) 'Retirement system' or 'system' means the West Virginia Public Employees Retirement System created and established by this article;

(26) 'Retroactive service' means: (1) Service between July 1, 1961, and the date an employer decides to become a participating member of the Public Employees Retirement System; (2) service prior to July 1, 1961, for which the employee is not entitled to prior service at no cost in accordance with 162 CSR 5-13 5.12; and (3) service of any member of a legislative body or employees of the State Legislature whose term of employment is otherwise classified as temporary for which the employee is eligible, but for which the employee did not elect to participate at that time;

(27) 'Service' means personal service rendered to a participating public employer by an employee of a participating public employer; ~~and~~

(28) 'Special needs trust' means a trust established pursuant to §44D-8B-13 of this code for an individual beneficiary with a disability and such special needs trust is or will become irrevocable

by the time the retiree names the special needs trust as the beneficiary of retirant's annuity benefits in place of the individual beneficiary and terminates upon the death of the individual beneficiary with no further annuity benefits being payable; and

(29) 'State' means the State of West Virginia."

The bill was then ordered to third reading.

Com. Sub. for S. B. 498, Creating Anti-Racism Act of 2022; on second reading, coming up in regular order, was read a second time.

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

"CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9b. Anti-Racism Act of 2022.

(a) A school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities, within the scope of his or her employment, may not require or otherwise compel a student, teacher, administrator, or other employee to affirm, adopt, or adhere to any of the following concepts:

(1) One race is inherently, morally, or intellectually superior to another race;

(2) An individual, by virtue of the individual's race, is inherently racist or oppressive, whether consciously or unconsciously;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;

(4) An individual's moral character is determined by the individual's race; or

(5) An individual, by virtue of the individual's race, bears responsibility for actions committed by other members of the same race.

(b) Nothing in subsection (a) of this section prohibits:

(1) The discussion of those concepts in theory as part of an academic course;

(2) The discussion, examination, or debate regarding race and its impact on historical or current events, including the causes of those current or historical events; or

(3) The right to freedom of speech protected by the First Amendment of the United States Constitution and the West Virginia Constitution.

(c) Any student, parent or guardian of a student, or employee aggrieved by an alleged violation of this section may file a complaint with the school principal. Upon an adverse ruling or no ruling within 10 business days by the school principal, any complainant may file an appeal to the county

superintendent. Upon an adverse ruling or no ruling within 10 business days by the county superintendent, any complainant may file an appeal to the state superintendent. The state superintendent shall make forms available for students, parents or guardians of a student, and employees to file complaints and appeals pursuant to this subsection.

(d) Each school principal shall report the number of complaints, the nature of each complaint, and the resolution of each complaint filed with him or her the previous school year, to the county superintendent by August 1 each year. The county superintendent shall report the number of complaints, the nature of each complaint, and the resolution of each complaint filed with him or her the previous school year, to the state superintendent by September 1 each year. The state superintendent, or his or her designee, shall report the number of complaints, the nature of each complaint, and the resolution of each complaint filed with him or her the previous school year, to the Legislative Oversight Commission on Education Accountability by October 1 each year.

(e) The Board of Education is authorized to promulgate rules consistent with this section pursuant to §29A-3B-1 et seq. of this code.”

Delegates Hornbuckle, Evans Doyle, Walker, Thompson and Griffith moved to amend the amendment on page 1, beginning at the section heading, by striking out the remainder of the amendment and inserting in lieu thereof, the following:

“§18-2-9b. American History Enrichment Act.

(a) Legislative findings - The West Virginia Legislature finds that African Americans, Native Americans, women, and other historic minorities have contributed greatly to our communities, the State of West Virginia and to our country. Because these citizens have in the past been excluded from the economic and social opportunities afforded other Americans, their ability to contribute and their role in our collective history has been diminished and denied, and many of their contributions have been under recognized. Many Americans have struggled reconciling the portion of our collective history that was racist and exclusionary with the broader narrative of the great beacon of democracy we as a country have strived to be and have become closer to realize. As time passes and our interpretation of our history turns into a longer view, it is appropriate to review how our collective story is told, particularly to our next generation of West Virginians and Americans, and to provide them a fair and accurate recounting that respects all of the citizens of the past and honors but also addresses painful truths about our history. Therefore, the purpose of this section is to establish a Commission on American History Enrichment, comprised of experts in state and national history and student curriculum, to be coordinated with the State Department of Education, to review, recommend, and revise lessons taught the students of the state that includes fair representations of all West Virginians and Americans, and particularly the underrepresented history of the African Americans, Native Americans, women, and other historic minorities in our communities, state, and nation to allow us to better understand our past so to help us to look to a brighter future.

(b) There is hereby created the Commission on American History Enhancement within the West Virginia Department of Education. The Commission shall consist of the following members:

(1) A faculty member from Marshall University recommended by the Carter G. Woodson Lyceum as recommended by the President of Marshall University;

(2) A faculty member from West Virginia University’s Center for Women and Gender Studies as recommended by the President of West Virginia University;

(3) A faculty member from West Virginia State University as appointed by the President of West Virginia State University;

(4) The Executive Director of the Bill and Bonnie Stubblefield Institute for Civil Political Communication at Shepard University, or his or her designee;

(5) A representative of the State Board of Education as appointed by the board, who shall serve as chair of the commission;

(6) Three public school teachers with an expertise in history or curriculum as appointed by the state board of education; and

(7) Three public school teachers representing historic minorities of this state or country appointed by the state board.

(c) The commission shall meet periodically at the call of the chair or by request of a majority of the members. The commission shall review existing course materials for any history lesson plans, books and material revisions and determine any appropriate revisions to content and design are appropriate due to a lack of balance and consideration of the role and treatment of historic minorities in the history of West Virginia and the United States. The commission shall develop recommendations for age-appropriate lesson plans for history courses for public schools. The commission shall at least annually provide a report to the state school board of its recommendations for any of these curriculum changes.

(d) All actual and necessary travel expenses and per diem pay of the members of the commission shall be reimbursed by the Department of Education. The per diem pay for commission members shall be the same as for members of the Legislature pursuant to §4-2A-7 of this code."

Delegate Ellington arose to inquire of the Chair as to the germaneness of the amendment to the amendment.

The Speaker Pro Tempore ruled that the amendment was not germane to the purpose of the bill.

Delegate Hornbuckle then challenged the ruling of the Chair.

Delegate Espinosa, Majority Whip, in the Chair

The appeal was sustained.

During debate, points of order were raised by Delegate Steele regarding remarks by Delegate Fleischauer, and by Delegate Hanna regarding remarks by Delegate Pushkin, and Delegate Espinosa ruled the points well taken.

Mr. Speaker, Delegate Hanshaw, in the Chair

On the question of sustaining the ruling by Speaker Pro Tempore Howell, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 75, nays 21, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Boggs, Cooper, Pack and Paynter.

So, a majority of the members present having voted in the affirmative, the ruling of Speaker Pro Tempore Howell was sustained.

To avoid a potential conflict between two amendments, the House proceeded to first consider an amendment offered by Delegate Capito and the amendment was amended on page 2, section 9b, line 19, by striking out the remainder of the amendment and inserting in lieu thereof the following:

“(c) Any student, parent or guardian of a student, or employee who believes that this act has been violated, may file a complaint pursuant to the state board policy on conflict resolution.

(d) The number, nature and resolution of each substantiated complaint for the previous year shall be reported as follows:

(1) Each school principal shall report to the county superintendent by August 1 each year;

(2) The county superintendent shall report to the state superintendent by September 1 each year; and

(3) The state superintendent, or his or her designee, shall report to the Legislative Oversight Commission on Education Accountability by October 1 each year.

(e) If necessary for the implementation of this section, the Board of Education is authorized to promulgate additional emergency and legislative rules pursuant to §29A-3B-1 et seq. of this code.”

Delegates Thompson, Hornbuckle, Evans, Doyle, Walker, and Griffith moved to amend the amendment on page 2, line 36, following the period by inserting a new subsection to read as follows:

“(e) Prior to initial attainment, or renewal, of a teaching certificate licensing a teacher in this state to teach in the public schools or public charter schools, each teacher shall obtain training in cultural competency. The state board shall approve curriculum for any program hosting cultural competency training for purposes of meeting the requirements of this section. The training shall include evaluations on standards of professional development to include cultural competency and culturally responsive teaching. The state board may consult with any agency or group which consults on issues of cultural competency to host trainings which may meet the requirements of this section. The state board shall partner with state universities and programs, including, West Virginia University, West Virginia State University, and Marshall University’s Carter G. Woodson Lyceum, to host workshops meeting the criteria of this section. For purposes of this section, the term “cultural competency” shall mean education on different cultural traditions, practices, world

views, and language usage that exist in our society based on ethnicity, race, or other factors that reflect the diversity of American society.”

In the absence of objection, the amendment was reformed as follows:

“(f) Prior to initial attainment, or renewal, of a teaching certificate licensing a teacher in this state to teach in the public schools or public charter schools, each teacher shall obtain training in cultural competency. The state board shall approve curriculum for any program hosting cultural competency training for purposes of meeting the requirements of this section. The training shall include evaluations on standards of professional development to include cultural competency and culturally responsive teaching. The state board may consult with any agency or group which consults on issues of cultural competency to host trainings which may meet the requirements of this section. The state board shall partner with state universities and programs, including, West Virginia University, West Virginia State University, and Marshall University’s Carter G. Woodson Lyceum, to host workshops meeting the criteria of this section. For purposes of this section, the term “cultural competency” shall mean education on different cultural traditions, practices, world views, and language usage that exist in our society based on ethnicity, race, or other factors that reflect the diversity of American society.”

On the adoption of this amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 540**), and there were— yeas 23, nays 73, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kessinger, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Tully, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Boggs, Cooper, Pack and Paynter.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 530, Encouraging public-private partnerships in transportation; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 4, section 4, lines 4-6 by unstriking the entire sentence and provisio starting with “The review shall... “ and adding in the word, after the words “review of” on line 6, “an unsolicited” and adding after the word “proposal” the following “or proposals” and,

To amend the bill on page 8, section 5, line 74, by adding the following: “*Provided*, That moneys used by the state road fund shall not exceed \$100 million.” And,

To amend the bill on page 14, section 9, line 65, before the period the following: "and the commissioner shall provide notice to the public"

The bill was ordered to third reading.

At 6:23 p.m., on motion of Delegate Summers, the House of Delegates recessed for fifteen minutes.

* * * * *

Evening Session

* * * * *

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

Reordering of the Calendar

During the recess, Com. Sub. for S. B. 533, Com. Sub. for S. B. 536, S. B. 548, Com. Sub. for S. B. 550, Com. Sub. for S. B. 552, Com. Sub. for S. B. 568, Com. Sub. for S. B. 573, Com. Sub. for S. B. 574, Com. Sub. for S. B. 582, Com. Sub. for S. B. 588, Com. Sub. for S. B. 590, Com. Sub. for S. B. 606, Com. Sub. for S. B. 609, Com. Sub. for S. B. 610, Com. Sub. for S. B. 611, S. B. 617, Com. Sub. for S. B. 647, Com. Sub. for S. B. 653, Com. Sub. for S. B. 656, Com. Sub. for S. B. 659, Com. Sub. for S. B. 662, Com. Sub. for S. B. 668, S. B. 685, S. B. 686, S. B. 711, S. B. 714 and S. B. 726 on Second Reading, Special Calendar, were transferred to the House Calendar by the Committee on Rules.

Special Calendar

Second Reading

- continued -

S. B. 729, Relating to funding for infrastructure and economic development projects in WV; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance was reported by the Clerk and adopted on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

"CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.

§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.

(a) ~~The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects~~

~~prohibit duplicative review by both the board and West Virginia Economic Development Authority Board.~~

(b) Subject to a liquidity determination, the West Virginia Board of Treasury Investments shall make a revolving loan available to the West Virginia Economic Development Authority in an amount of up to \$200 million. The revolving loan shall be used for business or industrial development projects authorized by §31-15-7 of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to §31-15-20 of this code which authorizes a \$150 million revolving loan and §31-18B-1 *et seq.* of this code which authorizes a \$50 million investment pool: *Provided*, That the West Virginia Economic Development Authority may not loan more than \$15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to 50 percent of the West Virginia Economic Development Authority's weighted average interest rate for outstanding loans in the Business and Industrial Development Loan Program authorized by §31-15-7 of this code. The rate may not be lower than 1.50 percent and must be reset on July 1 of each year. Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed 103 percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that 103 percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by §31-15-7 of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to §31-15-20 of this code or §31-18B-1 *et seq.* of this code.

(f) The directors of the West Virginia Board of Treasury Investments shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) *Inspection of records.* – Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to any loan issued by the board to the authority or any loan from the authority to a third party funded by a loan issued by the board. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan applications, loan agreements, board minutes, audit reports, and transaction records. Records of the authority held, from time to time, by the board pursuant to this subsection that are exempt from disclosure

pursuant to the provisions of §31-15-22 of this code or §29B-1-1 *et seq.* of this code shall remain so while held by the board.

(h) Notwithstanding any other provision of this code to the contrary, the West Virginia Economic Development Authority shall pay to the West Virginia Board of Treasury Investments the entire outstanding balance of the revolving loan authorized by this section within 30 days of the balance in the Economic Development Project Fund created in §31-15-23a of this code becoming \$600 million or more. Upon the repayment of the outstanding loan balance, the revolving loan authorized by this section shall terminate and no additional loan moneys shall be made available to the West Virginia Economic Development Authority pursuant to this section.

§12-6C-11b. Infrastructure investment reimbursement fund.

(a) The West Virginia Board of Treasury Investments shall make available to the Department of Transportation, subject to a liquidity determination, a revolving loan of up to \$200 million from the Consolidated Fund for the purposes authorized by this section. The loan moneys shall be deposited in a special revenue fund, known as the Infrastructure Investment Reimbursement Fund.

(b) The Board of Treasury Investments shall make the loan moneys authorized by this section available upon receipt of the following:

(1) A written request by the Secretary of the Department of Transportation that the board deposit a specific amount of loan moneys, subject to the limitations provided in this section, into the Infrastructure Investment Reimbursement Fund;

(2) A written statement by the Secretary of the Department of Transportation certifying that the Department of Transportation will use the loan moneys for expenditures meeting the requirements of subsection (c) of this section; and

(3) Copies of any available documents demonstrating that the planned expenditures of loan moneys meet the requirements of subsection (c) of this section, including but not limited to any agreement or contract entered into by the Department of Transportation and the federal government.

(c) The Secretary of the Department of Transportation may authorize expenditures from the Infrastructure Investment Reimbursement Fund that qualify for cost reimbursement according to an agreement with the federal government pursuant to the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (2021): *Provided*, That the Secretary may also authorize expenditures to political subdivisions of the state pursuant to agreements they may have with the federal government pursuant to the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (2021). If the federal reimbursement to the Department of Transportation or a political subdivision of the state pursuant to an agreement is less than one hundred percent of the amount that must be expended by the Secretary or political subdivision, the Secretary may only request an amount equal to the expected reimbursement.

(d) Upon receiving moneys from the federal government to reimburse for expenditures from the Infrastructure Investment Reimbursement Fund, the Secretary of the Department of Transportation or political subdivision shall immediately reimburse the Infrastructure Investment Reimbursement Fund in an amount equal to the pro rata amount the expenditure from the fund is to the whole reimbursement payment.

(e) Any balance remaining in the fund at the end of each fiscal year shall be transferred to the Consolidated Fund. If, at any time during a fiscal year, the secretary determines that the balance in the fund exceeds the amount required for expenditures authorized in subsection (c) of this section, the Secretary shall provide notice of said determination to the Board of Treasury Investments and the balance of the fund shall be transferred to the Consolidated Fund.

(f) The secretary shall prepare and submit a quarterly report to the Joint Committee on Government and Finance, the Board of Treasury Investments, and the Governor which shall include, at a minimum:

(1) The aggregate outstanding amount of the loan authorized by this section; and

(2) For each project for which loan moneys were expended, the status of the project, the estimated completion date of the project, the amount of loan moneys expended for the project, the amount of state road moneys expended for the project, the amount of federal reimbursement moneys received for the project, and the remaining amount of federal reimbursement moneys projected to be received for the project.

(g) Upon request of the Board of Treasury Investments, the Secretary of the Department of Transportation shall provide the board with the opportunity to inspect and copy any records in the custody of the Department related to any transaction involving the Infrastructure Investment Reimbursement Fund. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, contracts or agreements, audit reports, and transaction records.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-20. AUTHORITY OF THE BOARD OF INVESTMENTS.

[Repealed].

§31-15-23a. Economic Development Project Fund.

(a) For the purposes of this section, the term “high impact development project” means a project meeting the following criteria, according to a resolution adopted in a meeting of the authority:

(1) The project has been approved for financing by the authority in an amount of \$50 million or greater;

(2) The development agency or enterprise undertaking the project will privately invest an amount of \$50 million or greater in the project; and

(3) The project is reasonably projected to create 200 or more jobs in the state.

(b) There is hereby created a special revenue fund in the State Treasury known as the Economic Development Project Fund. Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of

this code. The fund shall consist of all moneys appropriated to the Economic Development Authority during the regular session of the Legislature, 2022, from available revenue surplus funds, transfers from the Industrial Development Loans (fund 9061), any earnings or interest accruing to said fund, and any other moneys appropriated to said fund by the Legislature.

(c) The Economic Development Authority shall transfer all funds in the Industrial Development Loans (fund 9061) to the Economic Development Project Fund created by this section and any loan repayments or other amounts that would otherwise have been paid into the Industrial Development Loans (fund 9061) shall be paid into the Economic Development Project Fund created by this section.

(d) The authority may use moneys in the Economic Development Project Fund to finance projects of industrial development agencies or enterprises according to the requirements of this article: *Provided*, That a minimum of \$400 million in the fund must be reserved to finance high impact development projects.

(e) The authority shall keep itemized records of all fund transactions and agreements entered into in furtherance of Economic Development Project Fund expenditures. In administering the fund, the authority shall adopt appropriate accounting practices and internal controls, including but not limited to, strict compliance with the requirements of §5A-8-9 of this code. Fund transactions shall be subject to an annual audit by an independent firm of certified public accountants.

(f) The authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor an annual report addressing the status of each project with outstanding financing issued pursuant to this section. The report shall, at a minimum, provide project-specific data addressing:

- (1) The outstanding amount of Authority financing for each project;
- (2) The total amount of private investment in each project;
- (3) The number of jobs created by each project since the project's inception; and
- (4) The number of jobs maintained by each project."

The bill was then ordered to third reading.

Miscellaneous Business

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Mazzocchi regarding Com. Sub. for S. B. 261

Delegate Miller noted to the Clerk that he was absent when the vote was taken on Com. Sub. for S. B. 528, and had he been present, he would have voted "Yea" thereon.

Delegate Summers objected to remarks being made by Delegate Barach during announcements, which objection was sustained by the Speaker.

At 6:52 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, March 11, 2022.

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

SPECIAL CALENDAR

Friday, March 11, 2022

59th Day

9:00 A. M.

THIRD READING

- S. B. 1 - Creating Mining Mutual Insurance Company (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE) [FINANCE COMMITTEE AMENDMENT PENDING] [AMENDMENTS PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 2 - Relating to unemployment benefits program (HOUSEHOLDER) (REGULAR)
- S. B. 10 - Relating to WVU Rifle Team electronic application donation program (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 138 - Relating to Board of Medicine composition (STEELE) (REGULAR)
- Com. Sub. for S. B. 205 - Expanding PEIA Finance Board membership (STEELE) (REGULAR)
- S. B. 228 - Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 230 - Relating generally to public employees grievance procedure (CAPITO) (REGULAR)
- Com. Sub. for S. B. 231 - Relating generally to broadband connectivity (CAPITO) (REGULAR) [RIGHT TO AMEND]
- Com. Sub. for S. B. 232 - Relating to punishment for third offense felony (CAPITO) (REGULAR)
- Com. Sub. for S. B. 242 - Restricting authority to prevent or limit owner's use of natural resources or real property in certain agricultural operations (CAPITO) (REGULAR)
- Com. Sub. for S. B. 246 - Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 247 - Relating to certified community behavioral health clinics (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 262 - Relating generally to financial institutions engaged in boycotts of energy companies (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 264 - Relating to conservation districts law of WV (STEELE) (REGULAR)

- Com. Sub. for S. B. 268 - Creating exemption from compulsory school attendance for child who participates in learning pod or micro school (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 312 - Authorization for Department of Revenue to promulgate legislative rules (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 334 - Authorizing miscellaneous agencies and boards to promulgate rules (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 424 - Relating generally to 2022 Farm Bill (CAPITO) (REGULAR)
- Com. Sub. for S. B. 434 - Updating authority to airports for current operations (CAPITO) (REGULAR)
- Com. Sub. for S. B. 438 - Relating generally to WV Security for Public Deposits Act (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 441 - Providing confidentiality of video and other records of correctional juvenile facilities (CAPITO) (REGULAR)
- S. B. 442 - Relating to WV Public Employee Retirement System (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 463 - Best Interests of Child Protection Act of 2022 (CAPITO) (REGULAR)
- Com. Sub. for S. B. 486 - Allowing PERS retirees to designate special needs trust as beneficiary (CAPITO) (REGULAR)
- Com. Sub. for S. B. 498 - Creating Anti-Racism Act of 2022 (CAPITO) (REGULAR)
- Com. Sub. for S. B. 530 - Encouraging public-private partnerships in transportation (STEELE) (REGULAR)
- S. B. 729 - Relating to funding for infrastructure and economic development projects in WV (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

SECOND READING

- Com. Sub. for S. B. 468 - Creating Unborn Child with Down Syndrome Protection and Education Act (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]

HOUSE CALENDAR

Friday, March 11, 2022

59th Day

9:00 A. M.

UNFINISHED BUSINESS

H. C. R. 42 - Urging U.S. universities to relocate Chinese language programs from mainland China to Taiwan

THIRD READING

Com. Sub. for H. B. 4066 - Distracted Driving Act (CAPITO) (REGULAR)

Com. Sub. for H. B. 4089 - Require certain coverage and reimbursement for a person diagnosed with hypertension (HOUSEHOLDER) (REGULAR)

H. B. 4314 - Exclude Solicitor from the definition of Investment Advisor (CAPITO) (REGULAR)

Com. Sub. for H. B. 4370 - Clarifying that the Statewide Interoperability Executive Committee is responsible to develop, update, and implement policies regarding the Statewide Interoperable Radio Network (HOUSEHOLDER) (REGULAR)

H. B. 4482 - Relating to removing the statutory limit of \$300,000.00 for the Environmental Laboratory Certification Fund (STEELE) (REGULAR)

Com. Sub. for H. B. 4691 - Provide a 45 day waiting period before a water and sewer rate increase may go into effect for any locally rate regulated municipality (STEELE) (REGULAR)

Com. Sub. for H. B. 4753 - Prohibiting locating certain homeless facilities near schools and certain daycares (CAPITO) (REGULAR)

H. B. 4761 - Authorizing the Secretary of the Department of Health and Human Resources to develop a submission procedures manual and adopt the same as a procedural rule (ROHRBACH) (EFFECTIVE FROM PASSAGE)

H. B. 4840 - Relating to Office of Miners Health, Safety and Training (STEELE) (REGULAR) [RIGHT TO AMEND]

SECOND READING

Com. Sub. for S. B. 7 - Relating to damages for medical monitoring (CAPITO) (REGULAR)

Com. Sub. for S. B. 71 - Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]

- Com. Sub. for S. B. 533 - Relating to funding for health sciences and medical schools in state (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 536 - Relating generally to controlled substance criminal offenses (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 548 - Authorizing Workforce WV employers to obtain employment classifications and work locations (STEELE) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 550 - Relating to funding for higher education institutions (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 552 - Relating to tax sale process (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 568 - Relating to health insurance loss ratio information (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 573 - Providing system where magistrates shall preside in certain instances outside normal court hours (CAPITO) (REGULAR)
- Com. Sub. for S. B. 574 - Relating to WV PEIA (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 582 - Creating WV Workforce Resiliency Act (STEELE) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 588 - Relating to WV Rails to Trails Program (STEELE) (REGULAR)
- Com. Sub. for S. B. 590 - Clarifying that tenancy includes persons who reside in sober living home (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 606 - Relating to WV Medical Practice Act (CAPITO) (REGULAR)
- Com. Sub. for S. B. 609 - Allowing DOH Commissioner to accept ownership of rented and leased equipment (STEELE) (REGULAR)
- Com. Sub. for S. B. 610 - Relating to duties, powers and responsibilities of DOT Secretary (CAPITO) (REGULAR)
- Com. Sub. for S. B. 611 - Removing cap on bidder's contract bond (STEELE) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- S. B. 617 - Relating to qualifications for members of boards, commissions, and other entities (STEELE) (REGULAR)
- Com. Sub. for S. B. 647 - Prohibiting discrimination in organ donation process (CAPITO) (REGULAR)

- Com. Sub. for S. B. 653 - Relating to public higher education governance (ELLINGTON) (EFFECTIVE FROM PASSAGE) [EDUCATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 656 - Providing tax credit for certain corporations with child-care facilities for employees (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 659 - Relating to nonintoxicating beer, wine, and liquor licenses and requirements (STEELE) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 662 - Relating to creation, expansion, and authority of resort area district (CAPITO) (REGULAR)
- Com. Sub. for S. B. 668 - Clarifying eligibility for probation and parole conditions for sex offenses (CAPITO) (REGULAR)
- S. B. 685 - Relating to WV Real Estate License Act (STEELE) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- S. B. 686 - Clarifying use of notes and bonds of WV Housing Development Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE) [FINANCE COMMITTEE AMENDMENT PENDING]
- S. B. 693 - Clarifying meeting voting requirements for political party executive committees (CAPITO) (REGULAR)
- S. B. 711 - Establishing alternative educational opportunities for elective course credit (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]
- S. B. 714 - Relating to tie votes by Coal Mine Safety and Technical Review Committee (STEELE) (EFFECTIVE FROM PASSAGE)
- S. B. 726 - Relating to pre-trial diversion agreements and deferred prosecution agreements (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for H. B. 2092 - Requiring each high school student to complete a full credit course of study in personal finance (STEELE) (REGULAR)
- H. B. 2882 - Relating to repealing a ban on construction of nuclear power plants (STEELE) (REGULAR)
- Com. Sub. for H. B. 4473 - To provide certain members of the State Police with locality pay to offset the high cost of living in certain counties (HOUSEHOLDER) (REGULAR)
- H. B. 4623 - Uniform Common Interest Ownership Act (CAPITO) (REGULAR)

Com. Sub. for H. B. 4625 - To remove Medicare or Medicaid-certified facilities from COVID-19 immunization exemption requirements (ROHRBACH) (EFFECTIVE FROM PASSAGE)

H. B. 4843 - Relating to locality pay for correctional officers (HOUSEHOLDER) (REGULAR)

FIRST READING

S. B. 728 - Requiring registered sex offenders pay annual fee (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]

Com. Sub. for H. B. 4483 - Relating to establishing term limits to certain real property interests and registration requirements associated with carbon offset agreements (ANDERSON) (REGULAR)

Com. Sub. for H. B. 4595 - Create camera assisted enforcement of speeding in active work zones (CAPITO) (REGULAR)

Com. Sub. for H. B. 4731 - To establish the Occupational Therapy Licensure Compact (STEELE) (REGULAR)

H. B. 4841 - Relating to open captioning for motion pictures (STEELE) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, MARCH 11, 2022

HOUSE CONVENES AT 9:00 A.M.

**COMMITTEE ON RULES
8:45 A.M. – BEHIND CHAMBER**

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