

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
FIFTY-SIXTH DAY

Charleston, West Virginia, Tuesday, March 8, 2022

The Senate met at 11:16 a.m.

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

Prayer was offered by Dr. D. W. Cummings, Senior Pastor, Bethlehem Apostolic Temple, Wheeling, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ron Stollings, a senator from the seventh district.

Pending the reading of the Journal of Monday, March 7, 2022,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 515, Supplementing and amending appropriations of public moneys to Department of Administration, Public Defender Services.

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

Eng. Senate Bill 517, Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund.

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

Eng. Senate Bill 525, Expiring funds from unappropriated balance in Lottery Net Profits.

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

Eng. Senate Bill 526, Supplementing and amending appropriations to Department of Commerce, Office of Secretary.

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

Eng. Senate Bill 527, Supplementing and amending appropriations to Department of Administration, Office of Technology.

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

Eng. Senate Bill 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV.

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

Eng. Senate Bill 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH.

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

Eng. Senate Bill 628, Supplementing and amending appropriations to Department of Commerce, DNR.

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

Eng. Senate Bill 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division.

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

Eng. Senate Bill 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account.

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

Eng. Senate Bill 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals.

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

Eng. Senate Bill 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8th day of 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:

(S. B. 499), Authorizing legislative rules for School Building Authority.

And,

(S. B. 713), Removing statutory limit for Environmental Laboratory Certification Fund.

Respectfully submitted,

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

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 731, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund.

Senate Bill 732, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.

And,

Senate Bill 733, Supplementing and amending appropriation to Executive, Governor's Office.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 3231, Public Utilities not required to pay interest on security deposits.

Eng. Com. Sub. for House Bill 4488, Relating to coal mining and changing fees for permitting actions.

Eng. House Bill 4496, Allowing interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested.

Eng. House Bill 4566, Creating the Economic Enhancement Grant Fund.

And,

Eng. House Bill 4568, To allow phased rehabilitations of certified historic structures.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4008, Relating to Higher Education Policy Commission funding formula.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4071, Mask and Quarantine Option For Parents and Faculty.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Education pending.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4419, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4636, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4845, Establishing the Katherine Johnson Academy.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Education pending.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4848, Relating to nonintoxicating beer, wine and liquor licenses.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

Senators Stollings and Takubo offered the following resolution:

Senate Resolution 51—Designating the month of February as National Cancer Prevention Month at the Legislature.

Whereas, The month of February is National Cancer Prevention Month; and

Whereas, Detecting cancer early, before it has spread throughout the body saves lives; and

Whereas, Cancers detected when still localized can be treated more effectively and have a five-year cancer specific survival of approximately 90 percent compared with approximately 20 percent for cancers found after metastasis has occurred; and

Whereas, Diagnosing and treating cancer earlier often results in less invasive treatments for patients, which are also less expensive; and

Whereas, The benefits of early cancer detection to Medicare beneficiaries in West Virginia has been limited to five cancers; and

Whereas, It is estimated that 4,580 West Virginia residents will have died of cancer in 2021, and that six of the top 10 causes of cancer deaths in West Virginia have no recommended screening test; and

Whereas, Age is the leading risk factor for cancer, placing Medicare beneficiaries in West Virginia at elevated risk. Americans who are 65 years of age and older are more than seven times as likely as Americans who are under 65 years of age to be diagnosed with cancer; and

Whereas, Several innovative private and academic efforts are engaged in research, including advanced clinical trials to develop multi-cancer early detection blood-based tests; and Whereas, Published data indicates that these tests can screen for many cancers at the same time, including rare cancers, with one example currently able to screen for more than 50 cancers; and

Whereas, Multi-cancer early detection tests can complement the covered early detection tests enacted by Congress, West Virginia, and extend the benefits of early detection to more cancers and more Americans; and

Whereas, West Virginia Congressional representatives Senator Shelley Moore Capito, Congressman David McKinley, Congressman Alex Mooney, and Congresswoman Carol Miller have joined a bipartisan list of over 180 members of Congress, 300 stakeholder organizations representing all 50 states; including many of the most respected cancer advocacy organizations in the country and West Virginia, in supporting the Medicare Multi-Cancer Early Detection Screening Coverage Act; therefore, be it

Resolved by the Senate:

That the Senate commends the bipartisan leadership and memorialize the United States Congress to enact [S. 1873 / H.R. 1946], the Medicare Multi-Cancer Early Detection Screening Coverage Act, or similar legislation to establish Medicare coverage for multi-cancer early detection tests, and to continue working across party lines to reduce cancer deaths in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the President of the United States, Governor James C. Justice, and each member of the West Virginia Congressional Delegation.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 56, Requesting Joint Committee on Government and Finance study effect of Kenney v. Liston.

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

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

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

Senate Concurrent Resolution 57, Requesting WV Insurance Commission study options for coverage and cost of dental procedures that result from cancer related dental and oral health procedures.

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

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2177) passed.

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

Eng. Com. Sub. for House Bill 2177—A Bill to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended, relating to identification cards without a photograph; authorizing the Division of Motor Vehicles to issue identification cards without a photograph; setting forth requirements for a form supplied by the division; and specifying requirements for applicants of an identification card without a photograph to obtain such a license.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2177) takes effect from passage.

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

Eng. Com. Sub. for House Bill 3223, Prohibit state, county, and municipal governments from dedicating or naming any public structure for a public official who is holding office at the time.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Caputo and Romano—2.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3223) passed with its title.

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

Eng. Com. Sub. for House Bill 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4003) passed with its title.

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

Eng. House Bill 4019, Relating to deadlines for public charter schools.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4019) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4019) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification Standards.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4141) passed.

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

Eng. Com. Sub. for House Bill 4141—A Bill to amend and reenact §64-6-1 et. seq. of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Homeland Security to promulgate legislative rules; authorizing the rules as filed and modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; relating to authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to law enforcement training and certification standards; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the Fire Code; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the State Building Code; relating to authorizing the Fire Commission to promulgate a legislative rule relating to volunteer fire department equipment and training grant funding disbursement; relating to authorizing the Fire Commission to promulgate a legislative rule relating to specialized membership; relating to authorizing the Fire Commission to promulgate a legislative rule relating to junior firefighters; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the certification of fire chiefs; relating to authorizing the Fire Commission to promulgate

a legislative rule relating to the use of aqueous film-forming foam (AFFF) for fire training program purposes; relating to authorizing the Fire Marshal to promulgate a legislative rule relating to the regulation of fireworks and related explosive materials; and relating to authorizing the State Police to promulgate a legislative rule relating to career progression.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4141) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4242, Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4242) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4242) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4418, Relating to the Small Business Supplier Certification Assistance Program.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4418) passed with its title.

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

Eng. Com. Sub. for House Bill 4420, To modify definitions of school bus operators.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4420 pass?”

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4420) passed with its title.

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

Eng. Com. Sub. for House Bill 4430, Relating to definitions of base salary and overtime for police and firemen pensions.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4430) passed with its title.

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

Eng. House Bill 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4438) passed.

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

Eng. House Bill 4438—A Bill to amend and reenact §3-4A-9 of the Code of West Virginia, 1931, as amended, relating to minimum requirements for electronic voting systems; and requiring electronic voting systems to be independent and nonnetworked with no component connected to the internet.

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

Eng. Com. Sub. for House Bill 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

On third reading, coming up in regular order, with the unreported Economic Development committee amendment pending, and with the right having been granted on yesterday, Monday, March 7, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Martin, as vice chair of the Committee on Economic Development, and by unanimous consent, the unreported Economic Development committee amendment to the bill was withdrawn.

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

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

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.

Engrossed Committee Substitute for House Bill 4479, as just amended, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4479 pass?”

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4479) passed.

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

Eng. Com. Sub. for House Bill 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.

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

Thereafter, at the request of Senator Caputo, and by unanimous consent, the remarks by Senator Stollings as to the passage of Engrossed Committee Substitute for House Bill 4479 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for House Bill 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4499) passed.

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

Eng. Com. Sub. for House Bill 4499—A Bill to amend and reenact §5A-3-1, §5A-3-3, §5A-3-4, §5A-3-10, §5A-3-10a, §5A-3-11, §5A-3-12, §5A-3-17, §5A-3-18, §5A-3-29, §5A-3-35, and §5A-3-45 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6D-1-2 of said code, all relating generally to making procurement process more efficient by modifying and updating outdated processes and requirements and encouraging earlier communication with and assistance from experts within Purchasing Division regarding manner and process of procurement of commodities and services by spending units of the state; authorizing open market procurement in emergencies; eliminating outdated references to audits of exempted agencies; allowing director to exempt certain transactions from the requirements of §5A-3-1 *et seq.*; allowing division resources to be made available to exempt spending units; clarifying that grant recipients need not pay registration fees as a vendor; establishing qualifications for state buyer and for director positions; authorizing other procurement methods in lieu of formal competitive bidding when determined to be in best interest of state; granting director discretion to increase delegated procurement limits; making procurement from nonprofit workshops optional; clarifying timing required on rebidding; changing requirement for affidavit verifying that no debt is owed to affirmation; granting director discretion to increase \$2,500 no bid limit; eliminating outdated information reporting requirements for vendor registration; clarifying procurement penalties and inventory submission language; removing surplus fees for inter-agency asset transfers; requiring inter-agency asset transfers be recorded in accordance with governmental accounting standards; shifting time for disclosure of interested party information from date of contract award to before work begins to make procurement process more efficient; and making technical changes throughout.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4499) takes effect from passage.

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

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

On third reading, coming up in regular order, with the unreported Education committee amendments pending, and with the right having been granted on March 4, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendments to the bill were withdrawn.

On motion of Senator Karnes, the following amendment to the bill (Eng. H. B. 4535) was reported by the Clerk:

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

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSE.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-3a. Graduated driver's license.

(a) A person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to §17C-5-2 and §17C-5A-2 of this code. ~~Any person under the age of 18, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of this code.~~

(c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) *Eligibility.* — The division may not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code; and

~~(D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code; and~~

~~(E)~~ (D) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable: *Provided*, That for an applicant who is an active member of any branch of the United States military, a level one instruction permit issued under the provisions of this section is valid until 180 days after the date the applicant attains the age of 18. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction permit who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

(C) All occupants use safety belts in accordance with §17C-15-49 of this code; and

(D) The permit holder is operating the vehicle without any measurable blood alcohol content, in accordance with §17C-5-2(h) of this code. ~~and~~

~~(E) The permit holder maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code~~

(d) *Level two intermediate driver's license.* — An applicant 16 years of age or older, meeting all other requirements of this code, may be issued a level two intermediate driver's license.

(1) *Eligibility.* — The division may not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in §17B-2-6 of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the State Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph may be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

~~(D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code~~

~~(E)~~ (D) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of a level two intermediate driver's license.* — A level two intermediate driver's license issued under the provisions of this section expires 30 days after the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. A holder of a level two intermediate driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10 p.m.;

(B) The licensee operates a vehicle only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying

more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) The licensee operates a vehicle without any measurable blood alcohol content in accordance with §17C-5-2(h) of this code;

~~(F) The licensee maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code~~

~~(G)~~ Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under ~~§17B-2-3a(d)(2)(H)~~ §17B-2-3a(d)(2)(G) of this code; and

~~(H)~~ (G) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may reapply for an instruction permit, then a driver's license in accordance with §17B-2-5, §17B-2-6 and §17B-2-7 of this code.

(e) *Level three, full Class E license.* — The level three license is valid until 30 days after the date the licensee attains his or her 21st birthday. A holder of a level three driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

(1) Has reached the age of 17 years; ~~and~~

~~(A)~~ (2) Presents a completed application as prescribed by §17B-2-6 of this code;

~~(B)~~ (3) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;

~~(C)~~ (4) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G) of this code; and

~~(D) (5) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.~~

~~(E) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11 of this code; or~~

~~(2) Reaches the age of 18 years; and~~

~~(A) Presents a completed application as prescribed by §17B-2-6 of this code; and~~

~~(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code~~

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.

ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES.

§17B-3-6. Authority of division to suspend, restrict, or revoke license; hearing.

(a) The division is hereby authorized to suspend, restrict, or revoke the driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction;

(2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;

(3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) Is an habitually reckless or negligent driver of a motor vehicle;

(5) Is incompetent to drive a motor vehicle;

(6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;

(7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures, or penalties imposed by a magistrate court or municipal court within 90 days, as required by

~~section two-a, article three, chapter fifty §50-3-2a~~ of this code or ~~section two-a, article ten, chapter eight §8-10-2a~~ of this code;

(8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article;

(9) Is under the age of ~~eighteen~~ 17 and has withdrawn either voluntarily or involuntarily due to misconduct from a secondary school or has failed to maintain satisfactory academic progress, as provided in ~~section eleven, article eight, chapter eighteen §18-8-11~~ of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in ~~article five-a, chapter forty-eight-a §48A-5A-1 et seq.~~ of this code and the Child Support Enforcement Division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:

(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures, or penalties imposed by the applicable court has been made;

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or

(3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section and the division has received a court order restoring the license or a certification by the Child Support Enforcement Division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due.

(c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending, or restricting the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his or her request shall afford him or her an opportunity for a hearing as early as practical within not to exceed 20 days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the division shall either rescind its order of suspension, or restriction or, good cause appearing therefor, may extend the suspension, or restriction of such license or revoke such license. The provisions of this subsection providing for notice and hearing are not applicable to a suspension under subdivision (10), subsection (a) of this section. Any person whose driver's license is

suspended, restricted, or revoked after hearing with the commissioner may seek judicial review of the final order or decision in accordance with §29A-5-4 of this code.

(e) Notwithstanding the provisions of legislative rule 91 CSR 5, the division may, upon completion of an approved defensive driving course, deduct three points from a licensee's point accumulation provided the licensee has not reached 14 points. If a licensee has been notified of a pending 30-day driver's license suspension based on the accumulation of 12 or 13 points, the licensee may submit proof of completion of an approved defensive driving course to deduct three points and rescind the pending license suspension: *Provided*, That the licensee submits proof of prior completion of the course and payment of the reinstatement fee in accordance with section nine, article three of this chapter to the division prior to the effective date of the suspension.

CHAPTER 18. EDUCATION.

ARTICLE 18. COMPULSORY SCHOOL ATTENDANCE.

§18-8-11. School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

~~(a) In accordance with the provisions of §17B-2-3a and §17B-2-5 of this code, the Division of Motor Vehicles shall deny a license or instruction permit for the operation of a motor vehicle to any person under the age of 18 who does not at the time of application present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state or documentation that the person: (1) is enrolled and making satisfactory progress in a course leading to a general education development certificate (GED) from a state approved institution or organization or has obtained the certificate; (2) is enrolled and is making satisfactory academic progress in a secondary school of this state or any other state; (3) is excused from the requirement due to circumstances beyond his or her control; or (4) is enrolled in an institution of higher education as a full-time student in this state or any other state.~~

~~(b) The attendance director or chief administrator shall, upon request, provide a driver's eligibility certificate on a form approved by the Department of Education to any student at least 15 but less than 18 years of age who is properly enrolled and is making satisfactory academic progress in a school under the jurisdiction of the official for presentation to the Division of Motor Vehicles on application for or reinstatement of an instruction permit or license to operate a motor vehicle: *Provided*, That a parent or legal guardian of a child who is being educated pursuant to §18-8-1(c) of this code may provide a signed statement in lieu of a driver's eligibility certificate issued by the attendance director or chief administrator affirming that the child is being educated in accordance with law, is making satisfactory academic progress, and meets the conditions to be eligible to obtain any permit or license under this section. The Division of Motor Vehicles may accept from a county board of education electronic notice of a student's compliance with the provisions of this section in lieu of any written form or written statement otherwise required from an applicant for an instruction permit or driver's license.~~

~~(c) (a) Whenever a student at least 15 but less than 18 17 years of age, except as provided in subsection (g) (e) of this section, withdraws from school, the attendance director or chief administrator shall notify the Division of Motor Vehicles of the student's withdrawal no later than five days from the date of the withdrawal. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license to operate a motor vehicle will be suspended restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of §17B-3-6 of this code on the 30th day~~

following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's withdrawal from school was due to a circumstance or circumstances beyond the control of the student. If ~~suspended~~ restricted, the division may not reinstate an instruction permit or license until the student returns to school and shows satisfactory academic progress or until the student attains ~~48~~ 17 years of age.

~~(d)~~ (b) Whenever a student at least 15 but less than ~~48~~ 17 years of age is enrolled in a secondary school and fails to maintain satisfactory academic progress, the attendance director or chief administrator shall follow the procedures set out in subsection ~~(e)~~ (a) of this section to notify the Division of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license will be ~~suspended~~ restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of §17B-3-6 of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. Once ~~suspension~~ the restriction is ordered, the division may not reinstate an instruction permit or license until the student shows satisfactory academic progress or until the student attains ~~48~~ 17 years of age.

~~(e)~~ (c) Upon written request of a student, within 10 days of receipt of a notice of ~~suspension~~ restriction as provided by this section, the Division of Motor Vehicles shall afford the student the opportunity for an administrative hearing. The scope of the hearing shall be limited to determining if there is a question of improper identity, incorrect age, or some other clerical error.

~~(f)~~ (d) For the purposes of this section:

(1) "Withdrawal" is defined as more than 10 consecutive or 15 total days unexcused absences during a school year, or suspension pursuant to §18A-5-1a(a) and §18A-5-1a(b) of this code.

(2) "Satisfactory academic progress" means the attaining and maintaining of grades sufficient to allow for graduation and course work in an amount sufficient to allow graduation in five years or by age 19, whichever is earlier.

(3) "Circumstances outside the control of the student" shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another.

(4) Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional facility is not a circumstance beyond the control of the student.

~~(g)~~ (e) Whenever the withdrawal from school of the student, the student's failure to enroll in a course leading to or to obtain a GED or high school diploma, or the student's failure to make satisfactory academic progress is due to a circumstance or circumstances beyond the control of the student, or the withdrawal from school is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of Motor Vehicles to ~~suspend~~ restrict the student's motor vehicle operator's license and if the student

is applying for a license, the attendance director or chief administrator shall provide the student with documentation to present to the Division of Motor Vehicles to excuse the student from the provisions of this section. The school district superintendent (or the appropriate school official of any private secondary school) with the assistance of the county attendance director and any other staff or school personnel shall be the sole judge of whether any of the grounds for ~~denial or suspension~~ restriction of a license as provided by this section are due to a circumstance or circumstances beyond the control of the student.

(h) (f) The state board shall promulgate rules necessary for uniform implementation of this section among the counties and as may otherwise be necessary for the implementation of this section. The rule may not include attainment by a student of any certain grade point average as a measure of satisfactory progress toward graduation.

Following discussion,

At the request of Senator Karnes, and by unanimous consent, further consideration of the bill and Senator Karnes pending amendment was deferred until the conclusion of bills on today's second reading calendar.

Eng. Com. Sub. for House Bill 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4562) passed.

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

Eng. Com. Sub. for House Bill 4562—A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating generally to the suspension and dismissal of school personnel by board and the appeals process; requiring upon commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, the affected employee to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils; requiring an employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition; and making it the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours.

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

Eng. Com. Sub. for House Bill 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4583) passed.

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

Eng. Com. Sub. for House Bill 4583—A Bill to amend and reenact §39B-1-106 of the Code of West Virginia, 1931, as amended, relating to declaring that neither being detained, including being incarcerated in a penal system, nor being outside the United States and unable to return, creates an inference of incapacity to execute a power of attorney.

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

Eng. Com. Sub. for House Bill 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4596) passed.

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

Eng. Com. Sub. for House Bill 4596—A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-29-1 of said code; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend said code by adding thereto a new section designated §62-11B-7b; and to amend and reenact §62-12-5 and §62-12-6 of said code all relating generally to recognizing additional professions qualifying for protections under the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state adult probation officers, state juvenile probation officers, and state parole officers are, by virtue of their duties, qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to applicable federal law; requiring annual firearm training pursuant to federal law; removing inconsistent language relating to probation officers; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing for training to enable home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers to fully qualify as law-enforcement officers if they have not previously done so; setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers, and removing a duplicative reference to probation officers in code.

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

Eng. House Bill 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4604) passed.

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

Eng. House Bill 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.

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

Eng. House Bill 4647, Relating to the Board of Funeral Service Examiners.

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

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

The nays were: Hamilton—1.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4647) passed with its title.

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

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

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

Eng. Com. Sub. for House Bill 4675, Relating to autonomous delivery vehicles.

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

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

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4675) passed with its title.

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

Eng. House Bill 4758, Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program.

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

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

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4758) passed with its title.

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

Eng. House Bill 4769, Eliminate the requirement to send recommended decisions by certified mail.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Lindsay, Romano, and Stover—3.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4769) passed with its title.

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

Eng. Com. Sub. for House Bill 4785, Relating to judicial vacancies.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4785 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Blair (Mr. President)—30.

The nays were: Brown, Caputo, and Woodrum—3.

Absent: Swope—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4785) passed.

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

Eng. Com. Sub. for House Bill 4785—A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to procedures for filling judicial vacancies; providing that a vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment if the unexpired term is for a period of not more than three years; clarifying that the amendment shall apply to judicial vacancies existing at the date of passage; clarifying timing of election to fill judicial vacancies before the close of candidate filing for the primary election; and clarifying timing of election to fill judicial vacancies after the close of the candidate filing for the primary election through 84 days before the general election.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Blair (Mr. President)—30.

The nays were: Brown, Caputo, and Woodrum—3.

Absent: Swope—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4785) takes effect from passage.

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

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 12:42 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:28 p.m. and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4797, To create an EV Infrastructure Deployment Plan for West Virginia that describes how our state intends to use its share of NEVI Formula Program funds.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Swope, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4797) passed with its title.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2096, Reinstating the film investment tax credit.

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

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

Eng. Com. Sub. for House Bill 4113, Public Health definitions and powers of secretary and commissioner.

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

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

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

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;

~~(c)~~ (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~~

~~(s) (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~~

~~(t)~~ (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) 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) 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~~

~~(40)~~ (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 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 (Eng. Com. Sub. for H. B. 4113), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4257, Require visitation immediately following a procedure in a health care facility.

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

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

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

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.

The bill (Eng. Com. Sub. for H. B. 4257), as amended, was then ordered to third reading.

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

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

Eng. House Bill 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

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

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

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

Eng. Com. Sub. for House Bill 4567, Relating to business and occupation or privilege tax.

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

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

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

ARTICLE 13. TAXATION AND FINANCE.

§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.

(a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under article thirteen, chapter eleven of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling, maintenance, modification and refurbishing services to any aircraft or to an engine or other component part of any aircraft as a separate business activity.

(b) *Maximum tax rates.* — In no case shall the rate of such municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under sections two-a, two-b, two-c, two-d, two-e, two-g, two-h, two-i and two-j, article thirteen of said chapter eleven, as such rates were in effect under said article thirteen, on January 1, 1959, or in excess of one percent of gross income under section two-k of said article thirteen, or in excess of three tenths of one percent of gross value or gross proceeds of sale under section two-m of said article thirteen. The rate of

municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of article twenty-five-a, chapter thirty-three of this code, shall not exceed one half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to article sixteen, chapter five of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any such company maintains its office or offices in this state, whether such income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for calendar year 1997 shall not be subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under section two-e of said article thirteen shall apply only to gross income derived from contracts entered into after the effective date of such imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least sixty days prior to the effective date of said tax or revision thereof.

(d) *Exemptions.* —

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of section three, article thirteen of said chapter eleven, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of section three, article thirteen of chapter eleven, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of section 511 of the Internal Revenue Code of 1986, as amended.

(2) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by 50% percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the remaining

municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50% of the total amount of the tax: *Provided, however,* That effective July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this section an automobile is a self-propelled vehicle used primarily for the transportation of passengers and their effects and operated on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) *Activity in two or more municipalities.* — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with such legislative regulations as the Tax Commissioner may prescribe. It being the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under section two-c or two-h, article thirteen, chapter eleven of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, such governing body shall have the authority to offer tax credits from such tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) *Administrative provisions.* — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of such tax, which shall be similar to those procedures in article thirteen, chapter eleven of this code, as in existence on June 30, 1978, or to those procedures in article ten, chapter eleven of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

The bill (Eng. Com. Sub. for H. B. 4567), as amended, was then ordered to third reading.

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

Eng. House Bill 4535, Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

On third reading, coming up in deferred order, with the amendment offered by Senator Karnes to the bill pending, and with the right having been granted on March 4, 2022, for further amendments to be received on third reading, was again reported by the Clerk.

The question being on the adoption of the amendment offered by Senator Karnes to the bill (*shown in the Senate Journal of today, pages 27 to 39, inclusive*).

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

The Senate proceeded to the tenth order of business.

Eng. House Bill 2631, Provide for WVDNR officers to be able to work "off duty".

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

Eng. Com. Sub. for House Bill 4050, Defining terms related to livestock trespassing.

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

Eng. House Bill 4296, To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation.

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

Eng. Com. Sub. for House Bill 4311, Creating criminal penalties for illegal voting activity.

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

Eng. Com. Sub. for House Bill 4329, To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act.

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

Eng. House Bill 4331, West Virginia's Urban Mass Transportation Authority Act.

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

Eng. Com. Sub. for House Bill 4441, Creating a Class M air rifle stamp.

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

Eng. Com. Sub. for House Bill 4466, Relating to School Building Authority's review of school bond applications.

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

Eng. Com. Sub. for House Bill 4510, To provide that third grade students be competent in reading and math before moving on to fourth grade.

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

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

Eng. Com. Sub. for House Bill 4540, To update all retirement plans to comport with federal law.

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

Eng. Com. Sub. for House Bill 4570, To allow veterinary telehealth in West Virginia with out of state providers.

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

Eng. Com. Sub. for House Bill 4644, Prohibiting the restriction, regulation, use or administration of lawn care and pest care products.

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

Eng. Com. Sub. for House Bill 4712, Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court.

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

Eng. House Bill 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts.

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

Eng. Com. Sub. for House Bill 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds.

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

Eng. House Bill 4842, Relating to obscene matter to minors.

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

Without objection, the Senate returned to the third order of business.

Executive Communications

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



Jim Justice
Governor of West Virginia

March 8, 2022

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

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. Two Hundred Twenty-One (221), which was presented to me on March 2, 2022.

Committee Substitute for Senate Bill No. Four Hundred Fifty-Two (452), which was presented to me on March 2, 2022.

You will note that I have approved these bills on March 8, 2022.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

The Senate again proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 58 (originating in the Committee on the Judiciary)—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.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 59 (originating in the Committee on Transportation and Infrastructure)—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 pause, 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.

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

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 60 (originating in the Committee on Transportation and Infrastructure)—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.

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

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Resolution 35, Congratulating Tug Valley High School Lady Panthers for winning 2021 Class A State Championship in Girls Basketball.

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

Respectfully submitted,

Craig Blair,
Chair, ex officio.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Resolution 36, Recognizing Tug Valley Cheerleaders for winning 2021 Class A State Championship.

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Eng. Com. Sub. for House Bill 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4563, Provide for a license plate for auto mechanics.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee references of the bills contained in the foregoing report from the Committee on Transportation and Infrastructure.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2798, Relating to requiring the Health Department to mandate mucopolysaccharidosis type 1 (MPS1) test for newborn babies, to be known as Embie's Law.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

Eng. House Bill 3082, Stabilizing funding sources for the DEP Division of Air Quality.

Eng. Com. Sub. for House Bill 4336, Providing for the valuation of natural resources property.

And,

Eng. Com. Sub. for House Bill 4497, Extending the regional jail per diem through July 1, 2023.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4021, Relating to the Medical Student Loan Program.

Eng. House Bill 4110, Relating to staffing levels at multi-county vocational centers.

Eng. Com. Sub. for House Bill 4389, Relating to repealing school innovation zones provisions superseded by Innovation in Education Act.

Eng. Com. Sub. for House Bill 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan.

And,

Eng. House Bill 4829, Modifying definitions of certain school cafeteria personnel.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4020, Relating to reorganizing the Department of Health and Human Resources.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4020) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4059, Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4662, Relating to licensure of Head Start facilities in this state.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4087, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4112, Provide consumers a choice for pharmacy services.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4285, Relating to real estate appraiser licensing board requirements.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 4288, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4340, Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4340) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4355, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4393, To increase the managed care tax if the managed care organization receives a rate increase.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4393) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4492, Creating the Division of Multimodal Transportation.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4559, Providing for legislative rulemaking relating to the disposition of unidentified and unclaimed remains in the possession of the Chief Medical Examiner.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4560) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4629, Relating to procedures for certain actions against the state.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4634, Relating to occupational licensing or other authorization to practice.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 4743, Relating to security and surveillance requirements of medical cannabis organization facilities.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4787, Creating the Highly Automated Motor Vehicle Act.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4826, Relating to e-sports.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Baldwin.

(Senator Woodrum in the Chair.)

Remarks were made by Senators Brown, Weld, Trump, and Karnes.

At the request of Senator Stollings, and by unanimous consent, the remarks by Senators Baldwin, Brown, and Weld were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:08 p.m., the Senate adjourned until tomorrow, Wednesday, March 9, 2022, at 11 a.m.

SENATE CALENDAR

**Wednesday, March 09, 2022
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 58 - Requesting Joint Committee on Government and Finance study common law cause of action for public nuisance
- S. C. R. 59 - Respectfully urging executive branches of US government and State of WV to provide adequate staffing for governmental agencies involved in infrastructure projects
- S. C. R. 60 - Requesting Joint Committee on Government and Finance study outdoor advertising and propose updates to state's outdoor advertising laws and regulations
- S. R. 35 - Congratulating Tug Valley High School Lady Panthers for winning 2021 Class A State Championship in Girls Basketball
- S. R. 36 - Recognizing Tug Valley Cheerleaders for winning 2021 Class A State Championship
- S. R. 51 - Designating month of February as National Cancer Prevention Month at Legislature

THIRD READING

- Eng. Com. Sub. for H. B. 2096 - Reinstating the film investment tax credit - (Com. amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 4113 - Public Health definitions and powers of secretary and commissioner
- Eng. Com. Sub. for H. B. 4257 - Require visitation immediately following a procedure in a health care facility - (Com. title amend. pending)
- Eng. H. B. 4396 - Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically
- Eng. H. B. 4410 - Specifying allocation, apportionment and treatment of income of flow-through entities
- Eng. 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
- Eng. H. B. 4535 - Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle - (Amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 4567 - Relating to business and occupation or privilege tax

SECOND READING

- Eng. H. B. 2631 - Provide for WVDNR officers to be able to work "off duty" - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4020 - Relating to reorganizing the Department of Health and Human Resources - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4050 - Defining terms related to livestock trespassing - (Com. amend. pending)
- Eng. H. B. 4296 - To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation
- Eng. Com. Sub. for H. B. 4311 - Creating criminal penalties for illegal voting activity - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4329 - To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act
- Eng. H. B. 4331 - West Virginia's Urban Mass Transportation Authority Act - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4441 - Creating a Class M air rifle stamp - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 4466 - Relating to School Building Authority's review of school bond applications - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4540 - To update all retirement plans to comport with federal law
- Eng. Com. Sub. for H. B. 4560 - Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4570 - To allow veterinary telehealth in West Virginia with out of state providers
- Eng. Com. Sub. for H. B. 4644 - Prohibiting the restriction, regulation, use or administration of lawn care and pest care products
- Eng. Com. Sub. for H. B. 4712 - Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court - (Com. amend. and title amend. pending)
- Eng. H. B. 4778 - Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts
- Eng. Com. Sub. for H. B. 4779 - Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds - (Com. title amend. pending)
- Eng. H. B. 4842 - Relating to obscene matter to minors - (Com. amend. and title amend. pending)

FIRST READING

- S. B. 731 - Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund (original similar to HB4851)

- S. B. 732 - Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund (original similar to HB4852)
- S. B. 733 - Supplementing and amending appropriation to Executive, Governor's Office (original similar to HB4850)
- Eng. Com. Sub. for H. B. 2733 - Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2798 - Relating to requiring the Health Department to mandate mucopolysaccharidosis type 1 (MPS1) test for newborn babies, to be known as Embie's Law
- Eng. Com. Sub. for H. B. 2838 - Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds
- Eng. H. B. 3082 - Stabilizing funding sources for the DEP Division of Air Quality
- Eng. Com. Sub. for H. B. 3231 - Public Utilities not required to pay interest on security deposits
- Eng. Com. Sub. for H. B. 4008 - Relating to Higher Education Policy Commission funding formula - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4021 - Relating to the Medical Student Loan Program
- Eng. Com. Sub. for H. B. 4059 - Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 4087 - Allowing variance in state fire code for certain buildings used solely for emergency equipment storage
- Eng. H. B. 4110 - Relating to staffing levels at multi-county vocational centers
- Eng. Com. Sub. for H. B. 4112 - Provide consumers a choice for pharmacy services - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4285 - Relating to real estate appraiser licensing board requirements - (Com. amend. and title amend. pending)
- Eng. H. B. 4288 - Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board
- Eng. Com. Sub. for H. B. 4336 - Providing for the valuation of natural resources property
- Eng. H. B. 4355 - Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 4389 - Relating to repealing school innovation zones provisions superseded by Innovation in Education Act
- Eng. H. B. 4419 - Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees - (Com. amend. and title amend. pending) (original similar to SB665)

Eng. Com. Sub. for H. B. 4488 - Relating to coal mining and changing fees for permitting actions

Eng. Com. Sub. for H. B. 4492 - Creating the Division of Multimodal Transportation - (Com. amend. pending)

Eng. H. B. 4496 - Allowing interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested

Eng. Com. Sub. for H. B. 4497 - Extending the regional jail per diem through July 1, 2023

Eng. Com. Sub. for H. B. 4559 - Providing for legislative rulemaking relating to the disposition of unidentified and unclaimed remains in the possession of the Chief Medical Examiner

Eng. Com. Sub. for H. B. 4563 - Provide for a license plate for auto mechanics - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 4565 - To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan

Eng. H. B. 4566 - Creating the Economic Enhancement Grant Fund

Eng. H. B. 4568 - To allow phased rehabilitations of certified historic structures

Eng. Com. Sub. for H. B. 4608 - To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters

Eng. Com. Sub. for H. B. 4629 - Relating to procedures for certain actions against the state - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4634 - Relating to occupational licensing or other authorization to practice

Eng. Com. Sub. for H. B. 4636 - Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4662 - Relating to licensure of Head Start facilities in this state - (Com. amend. and title amend. pending) (original similar to SB661)

Eng. H. B. 4743 - Relating to security and surveillance requirements of medical cannabis organization facilities

Eng. Com. Sub. for H. B. 4787 - Creating the Highly Automated Motor Vehicle Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4826 - Relating to e-sports - (Com. amend. pending)

Eng. H. B. 4829 - Modifying definitions of certain school cafeteria personnel

Eng. H. B. 4848 - Relating to nonintoxicating beer, wine and liquor licenses - (Com. amend. and title amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2022

Wednesday, March 9, 2022

9 a.m.	Judiciary	(Room 208W)
10 a.m.	Economic Development	(Room 451M)