WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
SIXTIETH DAY

Charleston, West Virginia, Saturday, March 12, 2022

The Senate met at 10:14 a.m.

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

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

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Eric J. Tarr, a senator from the fourth district.

Pending the reading of the Journal of Friday, March 11, 2022,

At the request of Senator Grady, 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 Clerk presented the following communications from various state agencies as required by the provisions of law:

Landscape Architects, Board of (§30-1-12)

Women's Commission (§29-20-6)

The Senate then proceeded to the third order of business.

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

Eng. Senate Bill 1, Creating Mining Mutual Insurance Company.

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

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

On page 2, section 2, beginning on line 30, after the word "in" by striking the words "managing the actual and potential liability of the state to the private sector and";

On page 4, section 4, on line 17, after the word "code" and before the period by inserting the words "to the extent applicable";

On page 4, section 5, on line 4, after the first word "and" by inserting the words "all of";

On page 4, section 5, on line 4, after the word "this" by striking the words "chapter and chapter 31 of this";

And;

On page 8, section 10, on line 2, after the number "31" and before the "and" by inserting a comma and the following "31D, 31E,".

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

Engrossed Senate Bill 1, as amended by the House of Delegates, was then 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, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Maroney, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 1) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Beach, Maroney, and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 1) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 6, Establishing common law "veil piercing" claims not be used to impose personal liability.

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

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

On page 1, section 303(a), line 5, by inserting the following language after "manager": "nor for fines, fees or penalties individually assessed against another member or manager for acts unrelated to the business of the limited liability company";

On Page 2, section 303(c), Lines 26-27, by striking subparagraph (c)(5) in its entirety;

And,

On page 2, section 303(d), line 33, by striking "$50,000 per person and $100,000 per occurrence" and inserting in place thereof "$100,000 liability insurance".

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 6) was reported by the Clerk:

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

Eng. Com. Sub. for Senate Bill 6—A Bill to amend and reenact §31B-3-303 of the Code of West Virginia, 1931, as amended, relating to the applicability of "corporate veil piercing" analysis to impose personal liability on a member or manager of a limited liability company; clarifying that members or managers of a limited liability company are not personally liable for fines, fees, or penalties individually assessed against another member or manager for unrelated acts; establishing the intent and policy of the Legislature to modify the applicability of "corporate veil piercing" analysis adopted in *Joseph Kubican v. The Tavern, LLC*, 232 W.Va. 268, 752 S.E.2d 299 (2013) with respect to certain claims against a limited liability company; clarifying circumstances in which members of a limited liability company may be held liable in their capacity as members for debts, obligations, or liabilities of the company; establishing criteria required for court to apply "corporate veil piercing analysis" in certain claims asserted against a limited liability company; providing for liability of non-human members of a limited liability company under doctrine of joint enterprise liability; providing for liability of a member of a limited liability company as a tortfeasor; authorizing a creditor of a limited liability company to seek "clawback" from a member of limited liability company under certain circumstances; and defining terms.

Following discussion,

The question being on the adoption of Senator Takubo’s amendment to the House of Delegates amendments to the bill, the same was put and prevailed.

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

Engrossed Committee Substitute for Senate Bill 6, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Woodrum, and Blair (Mr. President)—28.

The nays were: Baldwin, Caputo, Romano, Weld, and Woelfel—5.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 6) passed with its Senate amended title.

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

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

Eng. Com. Sub. for Senate Bill 205, Expanding PEIA Finance Board membership.

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

Eng. Senate Bill 228, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV.

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

Eng. Com. Sub. for Senate Bill 232, Relating to punishment for third offense felony.

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

Eng. Com. Sub. for Senate Bill 242, Restricting authority to prevent or limit owner’s use of natural resources or real property in certain agricultural operations.

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

Eng. Senate Bill 253, Relating to voting precincts and redistricting.

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

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

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-5. Voting precincts and places established; number of voters in precincts; precinct map; municipal map.

(a) The precinct is the basic territorial election unit. The county commission shall divide each magisterial district of the county into election precincts, shall number the precincts, shall determine, and establish the boundaries thereof and shall designate one voting place in each precinct, which place shall be established as nearly as possible at the point most convenient for the voters of the precinct. Each magisterial district shall contain at least one voting precinct and each precinct shall have but one voting place therein.

Each precinct within any urban center shall contain not less than 300, nor more than 1,500 registered voters. Each precinct in a rural or less thickly settled area shall contain not less than 200, nor more than 700 registered voters. A county commission may permit the establishment or retention of a precinct less than the minimum numbers allowed in this subsection upon making a written finding that to do otherwise would cause undue hardship to the voters. If, at any time the number of registered voters exceeds the maximum number specified, the county commission shall rearrange the precincts within the political division so that the new precincts each contain a number of registered voters within the designated limits: *Provided,* That any precincts with polling places that are within a one-mile radius of each other on or after July 1, 2014, may be consolidated, at the discretion of the county clerk and county commission into one or more new precincts that contain not more than 3,000 registered voters in any urban center, nor more than 1,500 registered voters in a rural or less thickly settled area: *Provided, however,* That no precincts may be consolidated pursuant to this section if the consolidation would create a geographical barrier or path of travel between voters in a precinct and their proposed new polling place that would create an undue hardship to voters of any current precinct.

If a county commission fails to rearrange the precincts as required, any qualified voter of the county may apply for a writ of mandamus to compel the performance of this duty: *Provided,* That when in the discretion of the county commission, there is only one place convenient to vote within the precinct and when there are more than 700 registered voters within the existing precinct, the county commission may designate two or more precincts with the same geographic boundaries and which have voting places located within the same building. The county commission shall designate alphabetically the voters who are eligible to vote in each precinct so created. Each precinct shall be operated separately and independently with separate voting booths, ballot boxes, election commissioners and clerks, and whenever possible, in separate rooms. No two precincts may use the same standard receiving board, except as permitted by the provisions of §3-1-30(j) of this code.

(b) In order to facilitate the conduct of local and special elections and the use of election registration records therein, precinct boundaries shall be established to coincide with the boundaries of any municipality of the county and with the wards or other geographical districts of the municipality, except in instances where found by the county commission to be wholly impracticable so to do. Governing bodies of all municipalities shall provide accurate and current maps of their boundaries to the clerk of any county commission of a county in which any portion of the municipality is located.

(c) To facilitate the federal and state redistricting process, precinct boundaries shall be comprised of intersecting geographic physical features or municipal boundaries recognized by the U. S. Census Bureau. For purposes of this subsection, geographic physical features include

streets, roads, streams, creeks, rivers, railroad tracks, and mountain ridge lines. The county commission of every county shall modify precinct boundaries to follow geographic physical features or municipal boundaries recognized by the U.S. Census Bureau and submit changes to the ~~Joint Committee on Government and Finance by June 30, 2007, and by June 30, every ten calendar years thereafter~~ Secretary of State, the President of the Senate, and the Speaker of the House of Delegates in accordance with this section. The county commission shall also submit precinct boundary details to the U.S. Census Bureau upon request.

(d) To facilitate the state's receipt of decennial census data from the U.S. Census Bureau which will include tabulation geography that supports the needs of the Legislature during the federal congressional and state legislative redistricting process, and the needs of county commissions during the magisterial district and precinct redistricting process:

(1) The President of the Senate and the Speaker of the House of Delegates, or designee or designees shall serve as the state's liaison, hereafter referred to as Legislative Liaisons, to the U.S. Census Bureau for purposes of Block Boundary Suggestion Project (Phase I), Voting District Project (Phase II), and Collection of Census Redistricting Plans (Phase IV), or their equivalents, of the U.S. Census Bureau's Redistricting Data Program for the federal decennial census. The Legislature may request the Secretary of State to designate and utilize staff within his or her office to perform the technical responsibilities of this role.

(2) Each county commission shall submit on an ongoing basis to the Legislative liaisons and Secretary of State, its updated precincts and such other information as is sufficient to participate in the Block Boundary Suggestion Project (Phase I) and Voting District Project (Phase II), or their equivalents, of the Redistricting Data Program, including any verification phases. The Legislative liaisons and Secretary of State shall coordinate with all counties for the submission and verification of such information. The Legislative liaisons and Secretary of State, when so requested by the Legislature, shall compile the information submitted by the counties and shall submit and verify such information to the U.S. Census Bureau in compliance with the deadlines established by the U.S. Census Bureau for the Redistricting Data Program. Copies of such submission shall be provided to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Delegates, and the Minority Leader of the House of Delegates.

(3) Upon the conclusion of any federal congressional or state legislative redistricting process, the Legislature shall provide updated maps and accompanying technical files to the Secretary of State. The Legislature shall submit such maps and accompanying technical files to the U.S. Census Bureau during its Collection of Census Redistricting Plans (Phase IV) of the Redistricting Data Program. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the Legislature. The Secretary of State shall maintain previous maps and technical files submitted by the Legislature in its records.

~~(d)~~ (e) ~~The~~ Each county commission shall keep available at all times during business hours in the courthouse at a place convenient for public inspection a map or maps of the county and municipalities with the current boundaries of all precincts and magisterial districts. Each county commission shall submit current maps and accompanying technical files to the Legislature and Secretary of State upon updating its precincts and magisterial districts. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the counties. The Secretary of State shall maintain previous maps and accompanying technical files submitted by the counties in its records. The Secretary of State shall

notify the Legislature of any submissions it receives from a county commission and shall provide copies of the same to the Legislature.;

And,

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

Eng. Senate Bill 253—A Bill to amend and reenact §3-1-5 of the Code of West Virginia, 1931, as amended, relating generally to voting precincts and redistricting; requiring county commissions to submit precinct boundary modifications to the Secretary of State, President of the Senate, and Speaker of the House of Delegates; designating the President of the Senate and the Speaker of the House of Delegates, or designee, as state liaison to the U.S. Census Bureau during certain phases of the Redistricting Data Program; authorizing the Legislature to request the Secretary of State to provide technical responsibilities to staff; requiring county commissions to submit certain information relating to precinct updates to the Secretary of State and the Legislative liaisons on ongoing basis; requiring the Legislative liaisons and Secretary of State to coordinate with counties; requiring the Legislative liaisons and Secretary of State to compile and submit certain information to the U.S. Census Bureau in compliance with certain deadlines and requiring the Secretary of State provide copies to Legislative leadership; requiring the Legislature to provide certain maps and files to the Secretary of State at conclusion of federal congressional or state legislative redistricting; requiring Legislature to provide updated maps and files to the U.S. Census Bureau; requiring Secretary of State to make certain maps and files publicly available in physical office and on website; requiring Secretary of State to maintain certain maps and files in records; requiring county commissions to include magisterial districts in publicly available maps; requiring county commissions to submit certain maps and files to the Legislature and the Secretary of State; and requiring the Secretary of State notify the Legislature and provide copies of any maps it receives from a county commission.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 253) were reported by the Clerk, considered simultaneously, and adopted:

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

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-5. Voting precincts and places established; number of voters in precincts; precinct map; municipal map.

(a) The precinct is the basic territorial election unit. The county commission shall divide each magisterial district of the county into election precincts, shall number the precincts, shall determine, and establish the boundaries thereof and shall designate one voting place in each precinct, which place shall be established as nearly as possible at the point most convenient for the voters of the precinct. Each magisterial district shall contain at least one voting precinct and each precinct shall have but one voting place therein.

Each precinct within any urban center shall contain not less than 300, nor more than 1,500 registered voters. Each precinct in a rural or less thickly settled area shall contain not less than 200, nor more than 700 registered voters. A county commission may permit the establishment or retention of a precinct less than the minimum numbers allowed in this subsection upon making a written finding that to do otherwise would cause undue hardship to the voters. If, at any time the

number of registered voters exceeds the maximum number specified, the county commission shall rearrange the precincts within the political division so that the new precincts each contain a number of registered voters within the designated limits: *Provided,* That any precincts with polling places that are within a one-mile radius of each other on or after July 1, 2014, may be consolidated, at the discretion of the county clerk and county commission into one or more new precincts that contain not more than 3,000 registered voters in any urban center, nor more than 1,500 registered voters in a rural or less thickly settled area: *Provided, however,* That no precincts may be consolidated pursuant to this section if the consolidation would create a geographical barrier or path of travel between voters in a precinct and their proposed new polling place that would create an undue hardship to voters of any current precinct.

If a county commission fails to rearrange the precincts as required, any qualified voter of the county may apply for a writ of mandamus to compel the performance of this duty: *Provided,* That when in the discretion of the county commission, there is only one place convenient to vote within the precinct and when there are more than 700 registered voters within the existing precinct, the county commission may designate two or more precincts with the same geographic boundaries and which have voting places located within the same building. The county commission shall designate alphabetically the voters who are eligible to vote in each precinct so created. Each precinct shall be operated separately and independently with separate voting booths, ballot boxes, election commissioners and clerks, and whenever possible, in separate rooms. No two precincts may use the same standard receiving board, except as permitted by the provisions of §3-1-30(j) of this code.

(b) In order to facilitate the conduct of local and special elections and the use of election registration records therein, precinct boundaries shall be established to coincide with the boundaries of any municipality of the county and with the wards or other geographical districts of the municipality, except in instances where found by the county commission to be wholly impracticable so to do. Governing bodies of all municipalities shall provide accurate and current maps of their boundaries to the clerk of any county commission of a county in which any portion of the municipality is located.

(c) To facilitate the federal and state redistricting process, precinct boundaries shall be comprised of intersecting geographic physical features or municipal boundaries recognized by the U. S. Census Bureau. For purposes of this subsection, geographic physical features include streets, roads, streams, creeks, rivers, railroad tracks, and mountain ridge lines. The county commission of every county shall modify precinct boundaries to follow geographic physical features or municipal boundaries recognized by the U.S. Census Bureau and submit changes to the ~~Joint Committee on Government and Finance by June 30, 2007, and by June 30, every ten calendar years thereafter~~ Secretary of State in accordance with this section. ~~The county commission shall also submit precinct boundary details to the U.S. Census Bureau upon request~~

(d) To facilitate the state's receipt of decennial census data from the U.S. Census Bureau which will include tabulation geography that supports the needs of the Legislature during the federal congressional and state legislative redistricting process, and the needs of county commissions during the magisterial district and precinct redistricting process:

(1) The Secretary of State shall serve as the Legislature's agent to the U.S. Census Bureau, the county commissions, and the clerks of the county commissions for purposes of Block Boundary Suggestion Project (Phase I), Voting District Project (Phase II), and Collection of Census Redistricting Plans (Phase IV), or their equivalents, of the U.S. Census Bureau's Redistricting Data Program for the federal decennial census. The Secretary of State may

designate and utilize staff within his or her office to perform the technical responsibilities of this role.

(2) Each county commission shall submit on an ongoing basis to the Secretary of State its updated precincts and such other information as is sufficient to participate in the Block Boundary Suggestion Project (Phase I) and Voting District Project (Phase II), or their equivalents, of the Redistricting Data Program, including any verification phases. The Secretary of State shall coordinate with all counties for the submission and verification of such information. The Secretary of State shall compile the information submitted by the counties and shall submit and verify such information to the U.S. Census Bureau in compliance with the deadlines established by the U.S. Census Bureau for the Redistricting Data Program. The Secretary of State shall provide copies of such submission to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Delegates, and the Minority Leader of the House of Delegates.

(3) Upon the conclusion of any federal congressional or state legislative redistricting process, the Legislature shall provide updated maps and accompanying technical files to the Secretary of State. The Secretary of State shall submit such maps and accompanying technical files to the U.S. Census Bureau during its Collection of Census Redistricting Plans (Phase IV) of the Redistricting Data Program. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the Legislature. The Secretary of State shall maintain previous maps and technical files submitted by the Legislature in its records.

~~(d)~~ (e) ~~The~~ Each county commission shall keep available at all times during business hours in the courthouse at a place convenient for public inspection a map or maps of the county and municipalities with the current boundaries of all precincts and magisterial districts. Each county commission shall submit current maps and accompanying technical files to the Secretary of State upon updating its precincts and magisterial districts. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the counties. The Secretary of State shall maintain previous maps and accompanying technical files submitted by the counties in its records.;

And,

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

Eng. Senate Bill 253—A Bill to amend and reenact §3-1-5 of the Code of West Virginia, 1931, as amended, relating to voting precincts and redistricting; relating generally to voting precincts and redistricting; requiring county commissions to submit precinct boundary modifications to the Secretary of State; designating the Secretary of State as the Legislature's agent to the U.S. Census Bureau, county commissions, and clerks of county commissions during certain phases of the U.S. Census Bureau's Redistricting Data Program; authorizing the Secretary of State to delegate technical responsibilities to staff; requiring county commissions to submit certain information to the Secretary of State on ongoing basis; requiring the Secretary of State to coordinate with counties; requiring the Secretary of State to compile, submit, and verify certain information to the U.S. Census Bureau in compliance with certain deadlines; requiring the Secretary of State to provide copies to Legislative leadership; requiring the Legislature to provide certain maps and files to the Secretary of State at conclusion of federal congressional or state legislative redistricting; requiring the Secretary of State to provide updated maps and files to the U.S. Census Bureau; requiring the Secretary of State to make certain maps and files publicly

available in physical office and on website; requiring the Secretary of State to maintain certain maps and files in its records; requiring county commissions to include magisterial districts in publicly available maps; and requiring county commissions to submit certain maps and files to Secretary of State.

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

Engrossed Senate Bill 253, as amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 253) passed with its Senate amended title.

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

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

Eng. Com. Sub. for Senate Bill 261, Requiring video cameras in certain special education classrooms.

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

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

On page five, section eleven, line one hundred five, following the words "the agency", by striking out the word "getting" and inserting the word "receiving";

And,

On page five, section eleven, line one hundred six, following the words "video recording", by striking out the word "will" and inserting the word "shall".

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

Engrossed Committee Substitute for Senate Bill 261, as amended by the House of Delegates, was then put upon its passage.

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

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 264, Relating to conservation districts law of WV.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2022, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 312, Authorization for Department of Revenue to promulgate legislative rules.

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

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

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

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Alcohol Beverage Control Commission.

(a) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §60-2-16 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register

on December 20, 2021, relating to the Alcohol Beverage Control Commission (Private Club Licensing, 175 CSR 02), is authorized; with the following amendments:

On page six, subsection 2.22.5a after the words "wine that a member purchased" by removing the following new language "from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper" and,

On page 17, subsection 3.1.7 by striking the language "being a suitable person, being of good morals and character" and inserting in lieu thereof the following:

"not have been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years" and,

On page 18, subsection 3.2.1.e. by striking the words "suitable persons" and inserting in lieu thereof the following:

"persons that have not been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years" and,

On page 18, subsection 3.2.2.a, by striking the language "Is not a person of good moral character or repute" and inserting in lieu thereof the following:

"Has not been convicted of a felony in the previous five years before the date of application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years" and

On page 18, subdivision 3.2.2.d, by striking "has the general reputation of drinking alcoholic beverages or nonintoxicating to excess, or is addicted to the use of controlled substances;" in its entirety and renumbering the remaining subdivisions as appropriate, and

On page 18, subdivision 3.2.3.b, by striking out the words "moral turpitude" and inserting in lieu thereof the following:

"fraud, dishonesty, or deceit" and,

On page 20, subsection 3.2.6, by striking the words "or its officers and directors who have been convicted of a felony or a crime involving moral turpitude" and,

On page 23, subdivision 3.4.6.c.1, by striking the following: "(which does not include a metal crowler that is canned)" and,

On page 23, subdivision 3.4.6.c.2.B, by striking the new language "110%" and inserting in lieu thereof the "the required" and,

On page 26, subdivision 3.4.6.e.5, by adding after the word "requirements" the following:

" – The delivery person must permit only the person who placed the delivery order through telephone order, mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery. The delivery person must verify the person's age using the person's legal identification. The delivery must otherwise comply with W. Va. Code §60-7-8f(f)." And,

On page 26, by striking out subdivision 3.4.6.e.5.A in its entirety, and,

On page 26, by striking out subdivision 3.4.6.e.5.A.i in its entirety, and,

On page 26, by striking out subdivision 3.4.6.e.5.A.ii in its entirety, and,

On page 26 and continuing through page 27, by striking out subdivision 3.4.6.e.5.A.iii in its entirety, and,

On page 27, by striking out subdivision 3.4.6.e.5.B in its entirety, and,

On page 27, subdivision 3.4.6.e.6.B, after the words "transportation permit" by striking out "and pay the transportation permit fee, $10 for the first transporting vehicle and a one dollar for every transporting vehicle thereafter," and

On page 28, subdivision 3.4.11.a, by striking out the word "limited" and striking out the words "(ex. Recorded music or limited live music, such as a solo musician, for ambiance)" and

On page 28, subdivision 3.4.11.a, by striking out after the words "outdoor dining area" the comma and "however, in the Commissioner's determination, any entertainment or alcohol beverage service that has the appearance or function as a festival, event, concert, or in any other manner exceeds what is necessary for private outdoor dining, then such entertainment or alcoholic beverage service shall be denied" and inserting in lieu thereof the following:

"The Commissioner may determine not to authorize entertainment but must provide a written statement indicating why such entertainment is not authorized" and,

On page 28, subdivision 3.4.11.b, by striking out the word "limited" and striking out the words "(ex. Recorded music or limited live music, such as a solo musician, for ambiance)" and,

On page 28, subdivision 3.4.11.b, by striking out after the words "outdoor street dining area" the comma and "however, in the Commissioner's determination, any entertainment or alcohol beverage service that has the appearance or function as a festival, event, concert, or in any other manner exceeds what is necessary for private outdoor dining, then such entertainment or alcoholic beverage service shall be denied" and inserting in lieu thereof the following:

"The Commissioner may determine not to authorize entertainment but must provide a written statement indicating why such entertainment is not authorized."

(b) The Legislature directs the Alcohol Beverage Control Commission to amend the legislative rule filed in the State Register on June 23, 2008, authorized under the authority of §60-2-16 of this code, relating to the Alcohol Beverage Control Commission (Bailment Policies and Procedures, 175 CSR 06) with the amendment set forth below:

On page nine, subsection 11.1, by striking "The amount of such charges will be imposed by administrative notices filed in the State Register."; and inserting in lieu thereof the following:

"The amount of such charges will be approved by the Legislature, pursuant to W. Va. Code §29A-3-1, then filed in the State Register."

(c) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §11-16-22 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Alcohol Beverage Control Commission (Nonintoxicating Beer Licensing and Operations Procedures, 176 CSR 01), is authorized with the following amendments:

On page 8, subdivision 3.1.b, by striking out the word "credit" and

On page 8, subdivision 3.1.e, by striking out the words "being a suitable person, being of good morals and character" and inserting in lieu thereof:

"not have been convicted of a felony in the previous five years before application, not have been convicted of a crime involving fraud, dishonesty, and deceit in the previous five years before application, not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years before application" and

On page 12, section 3.4, by striking the section heading "3.4.a" and the section headings for "3.4.b" and "3.4.c" and renumbering those section accordingly, and

On page 13 and continuing to page 14, subdivision 3.6.b.1, after the word "citizen", by striking, "and a person of good moral character" and inserting in lieu thereof:

"and has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, and deceit in the previous five years before application, and has not been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years before application." And

On page 14, subdivision 3.6.3.e.3.B by adding the word "and" at the end of the sentence and entering down to create a new subdivision as follows:

"3.6.e.3.C. that this requirement does not apply to a school or church that has notified the Commissioner, in writing, that it has not objection to the location of a proposed business;" and,

On page 15, subsection 3.6.j, by striking out the words "are suitable persons of good reputation and morals to be licensed" and inserting in lieu thereof:

"have not been convicted of a felony in the previous five years before application, have not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and have not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application to be licensed;" and,

On page 15, subdivision 3.8.c by striking out the words "is an unsuitable person to be licensed" and inserting in lieu thereof the following:

"has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application to be licensed" and

On page 19, subdivision 3.11.f.6, by adding after the colon the following:

"The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the delivery of food and nonintoxicating beer or nonintoxicating craft beer and the delivery driver must verify the person's legal identification to ensure the person accepting the delivery is at least 21 years of age. A record of the delivery and of verifying the person's identification must be created and retained for at least 3 years." And,

On page 19 by deleting subdivision 3.11.f.6.A in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.i in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.ii in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.iii in its entirety, and

On page 19, by deleting subdivision 3.11.f.6.B in its entirety, and

On page 19, by deleting subdivision 3.11.f.6.C in its entirety, and

On page 19 and page 20 by renumbering subdivision 3.11.f.6.D and subdivision 3.11.f.6.E, to 3.11.f.6.A and 3.11.f.6.B respectively.

On page 21, subdivision 3.11.g.6. by adding after the colon the following:

"The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the delivery of food and nonintoxicating beer or nonintoxicating craft beer and the delivery driver must verify the person's legal identification to ensure the person accepting the delivery is at least 21 years of age. A record of the delivery and of verifying the person's identification must be created and retained for at least 3 years." And,

On page 21, by deleting subdivision 3.11.g.6.A in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.i in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.ii in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.iii in its entirety, and

On page 21, by renumbering subdivision 3.11.g.6.B and 3.11.g.6.C to 3.11.g.6.A and 3.11.g.6.B, respectively, and

On page 22, subdivision 3.11.h.3, by striking the word "limited" and striking, after the comma "like recorded music for ambiance" and inserting, after the comma, in lieu thereof the following:

"however, if the Commissioner denies entertainment the Commissioner must provide an explanation for denying such entertainment." And

On page 22, subdivision 3.11.i.3, by striking the word "limited" and striking, after the comma, "like recorded music for ambiance" and inserting, after the comma, in lieu thereof the following:

"however, if the Commissioner denies entertainment the Commissioner must provide an explanation for denying such entertainment." And

On page 23, subdivision 3.11.k.3.B, by adding after the words "or home brewer's license" a comma and the following "if applicable" and,

On page 24, subdivision 3.11.k.4.C by adding after the word Commissioner a comma and the following: "except that if an unlicensed brewer is licensed in its domicile state and is in good standing, no criminal background checks may be required for the temporary one-day license."

On page 24, subdivision 3.12.d, by striking the word "suitable" and,

On page 25, subdivision 3.12.d.6 by striking everything and inserting in lieu thereof:

"has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application;" and,

On page 26, subdivision 3.14.b by adding, after the words "bond forfeiture" a comma and the words "if applicable," and

On page 31, subdivision 6.1.b, by striking the words "known to be insane or known to be a habitual drunkard" and inserting in lieu thereof: "known to be mentally incompetent"

§64-7-2. Insurance Commission.

(a) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §33-12B-12 of this code, relating to the Insurance Commission (Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters, 114 CSR 42), is authorized.

(b) The legislative rule filed in the State Register on March 31, 2021, authorized under the authority of §33-7-9 of this code, relating to the Insurance Commission (Adoption of Valuation Manual, 114 CSR 98), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §33-51-8 of this code, relating to the Insurance Commission (Pharmacy Auditing Entities and Pharmacy Benefit Managers, 114 CSR 99), is authorized.

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §33-4-15a of this code, relating to the Insurance Commission (Term and Universal Life Insurance Reserve Financing, 114 CSR 102), is authorized.

(e) The legislative rule filed in the State Register o July 9, 2021, authorized under the authority of §51-10-8 of this code, modified by the Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 24, 2021, relating to the Insurance Commission (Bail Bondsmen in Criminal Cases, 114 CSR 103), is authorized.

§64-7-3. Lottery Commission

(a) The legislative rule filed in the State Register on July 7, 2021, authorized under the authority of §29-22-5 of this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2021, relating to the Lottery Commission (West Virginia Lottery State Lottery Rules, 179 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §29-22B-402 of this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2021, relating to the Lottery Commission (West Virginia Lottery Limited Video Lottery Rule, 179 CSR 05), is authorized.

§64-7-4. Racing Commission.

(a) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-23-6 of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 8, 2021, relating to the Racing Commission (Thoroughbred Racing, 178 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on April 30, 2021, authorized under the authority of §19-23-6 of this code, relating to the Racing Commission (Pari-Mutuel Wagering, 178 CSR 05), is authorized.

§64-7-5. Tax Department.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §11-1C-10 of this code, relating to the Tax Department (Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes, 110 CSR 01J), is not authorized.

(b) The legislative rule filed in the State Register on July 8, 2021 authorized under the authority of §11-13KK-13 of this code, modified by the State Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 7, 2021 relating to the State Tax Department (West Virginia Tax Credit for Federal Excise Tax Imposed Upon Small Arms and Ammunition Manufacturers, 110 CSR 13KK), is authorized.

(c) The legislative rule filed in the State Register on June 30, 2021, authorized under the authority of §11-15-9s of this code, modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2021, relating to the Tax Department (Sales Tax Holiday, 110 CSR 15F), is authorized.

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15-9t of this code, modified by the State Tax Department to meet the objections

of the Legislative Rule-Making Review Committee and refiled in the State Register on September 7, 2021, relating to the State Tax Department (Exemption for Repair, Remodeling, and Maintenance of Aircraft, 110 CSR 15L), is authorized.

(e) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15A-8 of this code, relating to the Tax Department (Vendor Absorption or Assumption of Sales and Use Tax, 110 CSR 15M), is authorized.

(f) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15A-8 of this code, relating to the Tax Department (On-line Bingo and Raffles, 110 CSR 16A), is authorized with the following amendments:

On page four, subsection 8.1, by striking out the words "A licensee may only use bingo equipment or raffle equipment," and inserting in lieu thereof the words "A bingo licensee may use only bingo equipment,";

On page four, after subsection 8.1, by adding a new subsection 8.2 to read as follows:

8.2. A raffle licensee may use only raffle equipment, including software or programming for conducting raffles on-line over the Internet, which the licensee owns or which it borrows without compensation, or leases for a reasonable and customary amount from a wholesaler or distributor of raffle boards and games licensed under W. Va. Code §47-23-3.

And,

By renumbering the remaining subsections.

(g) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §11-24-6b of this code, modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2021, relating to the Tax Department (Corporation Net Income Tax, 110 CSR 24), is authorized;

And,

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

Eng. Com. Sub. for Senate Bill 312—A Bill to amend and reenact §64-7-1 et. seq. of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Revenue to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to private club licensing; relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to bailment policies and procedures; relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to continuing education for individual insurance producers and individual insurance providers; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to the adoption of the valuation manual; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to pharmacy auditing entities and pharmacy benefit managers; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to term and universal life insurance reserve

financing; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to bail bondsmen in criminal cases; relating to authorizing the Lottery Commission to promulgate a legislative rule relating to the West Virginia Lottery State Lottery Rules; relating to authorizing the Lottery Commission to promulgate a legislative rule relating to West Virginia Lottery Limited Video Lottery Rule; relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; relating to authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering; relating to not authorizing the Tax Department to promulgate a legislative rule relating to the valuation of producing and reserve oil, natural gas liquids, and natural gas for ad valorem property tax purposes; relating to authorizing the Tax Department to promulgate a legislative rule relating to the West Virginia tax credit for Federal Excise Tax imposed upon small arms and ammunition manufacturers; relating to authorizing the Tax Department to promulgate a legislative rule relating to the Sales Tax Holiday; relating to authorizing the Tax Department to promulgate a legislative rule relating to the exemption for repair, remodeling, and maintenance of an aircraft; relating to authorizing the Tax Department to promulgate a legislative rule relating to vendor absorption or assumption of Sales and Use tax; and relating to authorizing the Tax Department to promulgate a legislative rule relating to on-line bingo and raffles; and relating to authorizing the Tax Department to promulgate a legislative rule to the corporation net income tax.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 312) was reported by the Clerk:

On page four, section one, lines seventy-nine and eighty, by striking out the words "W.Va. Code §29A-3-1, then filed in the State Register." and inserting in lieu thereof the following: W.Va. Code §29A-3-1 *et seq*., then filed in the State Register. The Commission is authorized to promulgate an emergency rule in the event of price changes from vendors affecting the routine warehousing charges".

Following discussion,

The question being on the adoption of Senator Takubo’s amendment to the House of Delegates amendments to the bill, the same was put and prevailed.

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

Engrossed Committee Substitute for Senate Bill 312, as amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 312) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2022.

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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 312) takes effect July 1, 2022.

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

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

Eng. Com. Sub. for Senate Bill 424, Relating generally to 2022 Farm Bill.

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

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

At section 1 of Article 2C, on page 5, by deleting the second set of lines numbered 1 and 2;

at section 1, on page 16, after the first use of line "7" by deleting Chapter 30, Article 43 in its entirety;

And,

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

Eng. Com. Sub. for Senate Bill 424—A Bill to repeal §19-1-10, and §19-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto one new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; to amend and reenact §19-36-5 of said code, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee on Government and Finance and sending copy to archives and history; requiring license from state to produce industrial hemp; changing

the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on the liming material law; removing requirement that commissioner publish and distribute annual report on the law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes; providing that agritourism business may use certain facilities for certain events without complying with fire codes.

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

Engrossed Committee Substitute for Senate Bill 424, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 424) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 434, Updating authority to airports for current operations.

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

Eng. Com. Sub. for Senate Bill 438, Relating generally to WV Security for Public Deposits Act.

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

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

On page 3, section 4, line 12, following the word "of" by striking "chapter 12 of this code" and inserting in lieu thereof "this chapter';

On page 3, section 4, line 16, following the word "that" by striking "chose" and inserting in lieu thereof "choose";

On page 4, section 4, line 27, following the word "rules" by inserting "promulgated or proposed";

On page 4, section 4, line 34, following the word "enable" by striking "public depositors" and inserting "designated state depositories";

On page 5, section 7, line 8, following the word "on" by adding "the";

On page 5, section 7, line 21, following the word "method" by adding "or other approved method permitted in this code";

On page 5, following section 7, by striking "**§12-1B-8. Authority to secure public deposits; acceptance of liabilities and duties by public depositories.**" and inserting in lieu thereof "**§12-1B-8. Authority to secure public deposits; acceptance of liabilities and duties of designated state depositories.**";

On page 5, section 9, line 1, following "by" by striking "either the pooled method or the dedicated method"; and inserting in lieu thereof "the pooled method, the dedicated method or by any other method permitted in this code"; and

On page 7, section 10, line 1, following "any" by striking "public deposit" and inserting in lieu thereof "designated state depository".

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

Senators Trump and Nelson, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Trump and Nelson would be as a member of a class of persons and that they would be required to vote.

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

Engrossed Committee Substitute for Senate Bill 438, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 438) passed with its title.

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

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

Eng. Senate Bill 529, Encouraging additional computer science education in WV schools.

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

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

On page two, section twelve, line twenty-five, following the words "computer architecture" and the comma, by inserting the words "coding, application development";

On page three, section twelve, line forty-three, following the words "computer architecture" and the comma, by inserting the words "coding, application development";

On page three, section twelve, line fifty-four, following the word "architecture" and the comma, by inserting the words "coding, application development";

On page three, section twelve, beginning on line sixty-two, following the words "post-secondary opportunities", by striking out the words "prior to the 2020-2021 school year" and the comma;

On page 3, section 12, line 43, after the word "development" by adding a comma and the words "digital literacy" and a comma;

And,

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

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

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

Engrossed Senate Bill 529, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 529) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 573, Providing system where magistrates shall preside in certain instances outside normal court hours.

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

Eng. Com. Sub. for Senate Bill 606, Relating to WV Medical Practice Act.

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

Eng. Com. Sub. for Senate Bill 609, Allowing DOH Commissioner to accept ownership of rented and leased equipment.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 647, Prohibiting discrimination in organ donation process.

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

Eng. Com. Sub. for Senate Bill 662, Relating to creation, expansion, and authority of resort area district.

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

Eng. Com. Sub. for Senate Bill 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

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

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

On page 1, section 27, line 1, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 1, section 27, line 6, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 1, section 27, line 8, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 1, section 27, line 9, after the words "inspect the" by striking out the word "supplementary";

On page 2, section 27, line 11, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 2, section 27, line 12, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 2, section 27, line 17, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 2, section 27, line 19, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 2, section 27, line 22, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 2, section 27, line 32, after the word "section," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

On page 2, section 27, line 32, after the words "means a" by striking out the words "grandparent of the child" and inserting in lieu thereof the word "person";

On page 2, section 27, line 35 after the words "parent or" by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

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

Eng. Com. Sub. for Senate Bill 704—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-27, relating to requiring each classroom teacher to comply with any request by a parent, custodian, or guardian to inspect any instructional materials and books in the classroom that are available for students to read; requiring, as part of the inspection and upon request of the parent, custodian, or guardian, that the classroom teacher demonstrate how the instructional material relates to the content standards adopted by the State Board of Education; requiring the classroom teacher to include any book or books students will be required to read on a class syllabus; requiring the syllabus to be made available to the parent, custodian, or guardian upon request; allowing any parent, custodian, or guardian to file a complaint with the county superintendent if the classroom teacher fails to comply with this new section, and then with the state superintendent if the complaint is not resolved by the county superintendent within seven days; requiring reports on the number of complaints filed; and defining terms.

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

Engrossed Committee Substitute for Senate Bill 704, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: Brown, Caputo, Geffert, Hamilton, Plymale, Romano, and Stollings—7.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 704) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee.

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

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

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

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

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

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

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

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

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

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

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

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

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

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

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. Com. Sub. for House Bill 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.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 4, John B. Short Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 7, Daniel Edward Kolhton "Red" Haney Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 8, U.S. Army Private Elmo Davis Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 14, Colonel Ronald John "Ron" Chiccehitto Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 25, SP5 Terry Lee McClanahan Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 26, Charleston Police Officer Cassie Johnson - Fallen Heroes Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 38, Dale Shaheen and George H. Hooker Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 39, PFC Donald L. Stuckey Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 56, Roy Lee Shamblin Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 60, Fire Chief Lee Thomas Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 74, Judge Les Fury Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 83, U.S. Army SGT Charles L. Toppings Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to and adoption as amended, of

House Concurrent Resolution 89, Hajash Brothers Memorial Bridge.

The Senate proceeded to the fourth order of business.

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

Your Committee on Confirmations has had under consideration

Senate Executive Message 2, dated March 8, 2022, requesting confirmation by the Senate of the nominations mentioned therein. The following list of names from Executive Message 2 is submitted:

1. For Member, Veterans' Council, Adam Truex, Glen Dale, Marshall County, for the term ending June 30, 2025.

2. For Member, West Virginia Parole Board, Hollis T. Lewis, Charleston, Kanawha County, for the term ending June 30, 2024.

3. For Member, Purchase of Commodities and Services from the Handicapped, Anna Marie Hardy, Hinton, Summers County, for the term ending January 31, 2023.

4. For Member, Southern West Virginia Community and Technical College Board of Governors, Sydney Brown, Logan, Logan County, for the term ending June 30, 2023.

5. For Member, Mountwest Community and Technical College Board of Governors, David A. Earl, Huntington, Wayne County, for the term ending June 30, 2024.

6. For Member, Mountwest Community and Technical College Board of Governors, Mark A. Morgan, Barboursville, Cabell County, for the term ending June 30, 2024.

7. For Member, Mountwest Community and Technical College Board of Governors, Anthony E. Martin, Ona, Cabell County, for the term ending June 30, 2024.

8. For Member, Mountwest Community and Technical College Board of Governors, Jeffrey L. Blatt, Kenova, Wayne County, for the term ending June 30, 2024.

9. For Member, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, Peter A. Chirico, Huntington, Cabell County, for the term ending June 30, 2023.

10. For Member, Shepherd University Board of Governors, Austin J. Slater, Jr., Shepherdstown, Jefferson County, for the term ending June 30, 2022.

11. For Member, West Virginia Investment Management Board of Trustees, Steve L. Smith, West Union, Doddridge County, for the term ending January 31, 2028.

12. For Member, West Virginia Investment Management Board of Trustees, Marie L. Prezioso, Charleston, Kanawha County, for the term ending January 31, 2028.

13. For Member, Coal Resource Transportation Designation Committee, Jason Bostic, Pratt, Kanawha County, for the term ending June 30, 2023.

14. For Member, West Virginia College and Jumpstart Savings Program Board of Trustees, Justin Williams, Charleston, Kanawha County, for the term ending June 30, 2027.

15. For Member, West Virginia College and Jumpstart Savings Program Board of Trustees, Marguerite Horvath, Morgantown, Monongalia County, for the term ending June 30, 2027.

16. For Member, West Virginia Public Energy Authority, Nicholas S. Preservati, Jr., Huntington, Cabell County, for the term ending June 30, 2024.

17. For Member, Consolidated Public Retirement Board, Woodrow W. Brogan III, Cool Ridge, Raleigh County, for the term ending June 30, 2027.

18. For Member, Workforce Development Board, Diane W. Strong-Treister, Charleston, Kanawha County, for the term ending June 30, 2024.

19. For Member, Workforce Development Board, Kimberly Tieman, South Charleston, Kanawha County, for the term ending June 30, 2024.

20. For Member, Workforce Development Board, Stephanie Ahart, Wallback, Clay County, for the term ending June 30, 2024.

21. For Member, Workforce Development Board, Heather Vanater, Milton, Cabell County, for the term ending June 30, 2024.

22. For Member, Workforce Development Board, Abby S. Reale, Hurricane, Putnam County, for the term ending June 30, 2024.

23. For Member, Workforce Development Board, The Honorable John D. O'Neal IV, Ghent, Raleigh County, for the term ending June 30, 2024.

24. For Member, Workforce Development Board, Casey K. Sacks, South Charleston, Kanawha County, for the term ending June 30, 2024.

25. For Member, Workforce Development Board, Lisa Samples White, Charleston, Kanawha County, for the term ending June 30, 2023.

26. For Member, Housing Development Fund, Allen D. Retton, Fairmont, Marion County, for the term ending October 30, 2023.

27. For Director, Division of Natural Resources, Brett W. McMillion, Oak Hill, Fayette County, to serve at the will and pleasure of the Governor.

And reports the same back with the recommendation that the Senate do advise and consent to all nominations listed above.

Respectfully submitted,

Donna J. Boley,
Chair.

The time having arrived for the special order of business to consider the list of nominees for public office submitted by His Excellency, the Governor, the special order thereon was called by the President.

Thereupon, Senator Blair (Mr. President) laid before the Senate the following executive message:

Senate Executive Message 2, dated March 8, 2022 *(shown in the Senate Journal of March 9, 2022, pages 5 to 7, inclusive).*

Senator Boley then moved that the Senate advise and consent to all of the executive nominations referred to in the foregoing report from the Committee on Confirmations.

The question being on the adoption of Senator Boley's aforestated motion,

The roll was then taken; and

On this question, 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Boley's motion had prevailed and that all the executive nominations referred to in the foregoing report from the Committee on Confirmations had been confirmed.

Consideration of executive nominations having been concluded,

On motion of Senator Takubo, at 11:03 a.m., the Senate recessed until 12 Noon.

The Senate reconvened at 12:25 p.m. and resumed business under the fourth order.

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 12th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 515), Supplementing and amending appropriations of public moneys to Department of Administration, Public Defender Services.

(S. B. 517), Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund.

(S. B. 525), Expiring funds from unappropriated balance in Lottery Net Profits.

(S. B. 526), Supplementing and amending appropriations to Department of Commerce, Office of Secretary.

(S. B. 527), Supplementing and amending appropriations to Department of Administration, Office of Technology.

(S. B. 626), Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV.

(S. B. 627), Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH.

(S. B. 628), Supplementing and amending appropriations to Department of Commerce, DNR.

(S. B. 629), Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division.

(S. B. 630), Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account.

(S. B. 636), Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals.

And,

(S. B. 637), Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.

Dean Jeffries,
Chair, House Committee.

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

At the request of Senator Takubo, and by unanimous consent, the Senate proceeded to the consideration of

Eng. House Bill 4847, Relating to missing persons generally.

On third reading, coming up out of regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk:

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

ARTICLE 3D. MISSING PERSONS ACT.

§15-3D-4. Missing persons complaints; law-enforcement procedures.

(a) Complaint requirements. — A person may file a missing persons complaint with any law-enforcement agency having jurisdiction. The law-enforcement agency shall attempt to collect the following information from a complainant <u>and, as soon as thereafter as is practicable, shall then furnish the information to the West Virginia State Police</u>:

(1) The missing person's name;

(2) The missing person's date of birth;

(3) The missing person's address;

(4) The missing person's identifying characteristics, including, but not limited to: Birthmarks, moles, tattoos, scars, height, weight, gender, race, current hair color, natural hair color, eye color, prosthetics, surgical implants, cosmetic implants, physical anomalies, and blood type;

(5) A description of the clothing the missing person was believed to have been wearing when he or she went missing and any items that might be with the missing person, such as jewelry, accessories, shoes, or any other distinguishing garments or items;

(6) The date of the last known contact with the missing person;

(7) The missing person's driver's license and Social Security number, or any other numbers related to other forms of identification;

(8) A recent photograph of the missing person;

(9) Information related to the missing person's electronic communication devices or electronic accounts, such as cell phone numbers, social networking login information, and email addresses and login information;

(10) Any circumstances that the complainant believes may explain why the person is missing;

(11) The name and location of the missing person's school or employer;

(12) The name and location of the missing person's dentist or primary care physician;

(13) A description of the missing person's possible means of transportation, including make, model, color, license, and identification number of a vehicle;

(14) Any identifying information related to a known or possible abductor, or the person last seen with the missing person, including the person's name, physical description, date of birth, identifying physical marks, a description of the person's possible means of transportation, including the make, model, color, license, and identification number of the person's vehicle, and any known associates;

(15) The name of the complainant and his or her relationship to the missing person; and

(16) Any additional information considered relevant by either the complainant or the law-enforcement agency.

(b) Upon receipt of the information required by subsection (a) of this section, the State Police shall monitor and assist in the investigation or, if the available evidence supports a conclusion that the missing person may have left the county from which he or she went missing, or at the request of the lead law-enforcement agency, the State Police shall supervise the investigation.

~~(b)~~ (c) High-risk determination; requirements. —

(1) Upon initial receipt of a missing persons report, the lead law-enforcement agency shall immediately assess whether facts or circumstances indicate that the person meets any of the following risk indicators, which, if applicable, will be entered into NCIC:

(A) The person is or was likely involved in a natural disaster;

(B) The person is a juvenile, or was a juvenile when he or she went missing;

(C) The person is likely endangered;

(D) The person has mental or physical disabilities;

(E) The disappearance is believed to have been the result of abduction or kidnapping, or was otherwise involuntary;

(F) The person is 75 years of age or older;

~~(F)~~ (G) The person is under the age of 21 and declared emancipated by the laws of his or her state of residence; and

~~(G)~~ (H) None of the criteria in paragraphs (A) through ~~(E)~~ (F), inclusive, of this subdivision apply, but additional facts support a reasonable concern for the person's safety.

(2) If, upon assessment, the lead law-enforcement agency determines that the missing person meets one of the classifications in subdivision (1) of this subsection, the lead law-enforcement agency shall:

(A) Immediately notify the terminal operator responsible for WEAPON system entries for the law-enforcement agency and provide the operator with all relevant information collected from the missing persons complainant as soon as possible. The terminal operator will enter all information into the WEAPON system and submit the information to the West Virginia State Police communications section. If the law-enforcement agency does not have an agreement with a local terminal agency, then the law-enforcement agency will contact the West Virginia State Police terminal agency for that particular area and request that the West Virginia State Police enter the information into the WEAPON system. Once the missing persons complaint has been entered into the WEAPON system, the West Virginia State Police communications section shall immediately notify all law-enforcement agencies within the state and surrounding region by means of the WEAPON system with all information that will promote efforts to promptly locate and safely recover the missing person. Local law-enforcement agencies that receive the notification of a missing persons ~~complaint~~ shall notify all officers to be on the lookout for the missing person or a suspected abductor; and

(B) Immediately, and no later than two hours, after the determination that a juvenile is missing, take appropriate steps to ensure that the case is entered into the NCIC database with a photograph and other applicable information related to that missing person.

~~(c)~~(d) General requirements. —

(1) The lead law-enforcement agency shall take appropriate steps to ensure that all relevant information related to a missing persons complaint is submitted in a timely manner to the WEAPON system, and as applicable, NCIC, CODIS, NDIS, NamUs, and NCMEC. Any information that the West Virginia State Police obtains from these databases must be provided to the lead law-enforcement agency and to other law-enforcement agencies who may come in contact with or be involved in the investigation or location of a missing person.

(2) The lead law-enforcement agency or the West Virginia State Police shall submit any available DNA profiles that may aid in a missing persons investigation and that have not already

been submitted by a medical examiner into appropriate DNA databases, including, but not limited to, NamUs.

~~(d)~~(e) Removal upon location of person. — Upon the determination that the person is no longer missing, the lead law-enforcement agency or the West Virginia State Police shall immediately remove or request the removal of all records of the missing person from all missing persons databases.

§15-3D-5. Missing persons investigation requirements.

(a) A law-enforcement agency may not delay an investigation of a missing persons complaint on the basis of a written or unwritten policy requiring that a certain period of time pass after any event, including the receipt of a complaint, before an investigation may commence; and shall commence an active investigation immediately upon receipt of the missing persons complaint.

(b) A law-enforcement agency may not refuse to accept a missing person report over which it has investigatory jurisdiction.

(c) A law-enforcement agency is not required to obtain written authorization before publicly releasing any photograph that would aid in the location or recovery of a missing person.

(d) ~~A~~ The lead law-enforcement agency shall notify the complainant, a family member, or other person in a position to assist in efforts to locate the missing person of the following:

(1) Whether additional information or materials would aid in the location of the missing person, such as information related to credit or debit cards the missing person may have access to, other banking information, or phone or computer records;

(2) That any DNA samples requested for the missing persons investigation are requested on a voluntary basis, to be used solely to help locate or identify the missing person and will not be used for any other purpose; and

(3) Any general information about the handling of the investigation and the investigation's progress, unless disclosure would adversely affect the ability to locate or protect the missing person, or to apprehend or prosecute any person criminally involved in the person's disappearance.

(e) A law-enforcement agency may provide informational materials through publications, or other means, regarding publicly available resources for obtaining or sharing missing persons information.

(f) ~~Lead~~ The lead law-enforcement ~~agencies~~ agency shall coordinate with all other law-enforcement agencies to ~~make~~ ensure the appropriate use of all available and applicable tools, resources, and technologies to resolve a missing persons investigation, including but not limited to:

(1) Assistance from other law-enforcement agencies, whether at a local, state, or federal level;

(2) Nonprofit search and rescue organizations, which may provide trained animal searches, use of specialized equipment, or man trackers;

(3) Cell phone triangularization and tracking services;

(4) Subpoenas of cell phone, land line, Internet, email, and social networking website records; and

(5) Services of technology experts to examine any available information collected from a computer or communications device belonging to or used by the missing person.

(g) If a person remains missing for 30 days after the receipt of a missing persons complaint or the date on which the person was last seen, whichever occurs earlier, the lead law-enforcement agency shall attempt to obtain the following information:

(1) DNA samples from family members and the missing person, along with any necessary authorizations to release such information. All DNA samples obtained in a missing persons investigation shall be immediately forwarded to an appropriate laboratory for analysis;

(2) Any necessary written authorization to release the missing person's medical and dental records, including any available x-rays, to the lead law-enforcement agency. If no family or next of kin exists or can be located, the lead law-enforcement agency may execute a written declaration, stating that an active investigation seeking to locate the missing person is being conducted and that the records are required for the exclusive purpose of furthering the investigation. The written declaration, signed by the supervising or chief officer of the law-enforcement agency, is sufficient authority for a health care practitioner to immediately release the missing person's x-rays, dental records, dental x-rays, and records of any surgical implants to the law-enforcement agency;

(3) Additional photographs of the missing person that may aid the investigation; and

(4) Fingerprints of the missing person.

(h) Nothing in this section precludes a law-enforcement agency from attempting to obtain the materials identified in subsection (g) of this section before the expiration of the 30-day period.

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-5. Federal officers' peace-keeping authority.

(a) Notwithstanding any provision of this code to the contrary, any person who is employed by the United States government as a federal law-enforcement officer and is listed in subsection (b) of this section, has the same authority to enforce the laws of this state, except state or local traffic laws or parking ordinances, as that authority granted to state or local law-enforcement officers, if one or more of the following circumstances exist:

(1) The federal law-enforcement officer is requested to provide temporary assistance by the head of a state or local law-enforcement agency or the designee of the head of the agency and that request is within the state or local law-enforcement agency's scope of authority and jurisdiction and is in writing: *Provided*, That the request does not need to be in writing if an emergency situation exists involving the imminent risk of loss of life or serious bodily injury;

(2) The federal law-enforcement officer is requested by a state or local law-enforcement officer to provide the officer temporary assistance when the state or local law-enforcement officer is

acting within the scope of the officer's authority and jurisdiction and where exigent circumstances exist; or

(3) A felony is committed in the federal law-enforcement officer's presence or under circumstances indicating a felony has just occurred.

(b) This section applies to the following persons who are employed as full-time federal law-enforcement officers by the United States government and who are authorized to carry firearms while performing their duties:

(1) Federal Bureau of Investigation special agents;

(2) Drug Enforcement Administration special agents;

(3) United States Marshal's Service marshals and deputy marshals;

(4) United States postal service inspectors;

(5) Internal revenue service special agents;

(6) United States secret service special agents;

(7) Bureau of alcohol, tobacco, and firearms special agents;

(8) Police officers employed ~~pursuant to 40 U.S.C. §§ 318 and 490~~ at the Federal Bureau of Investigation's criminal justice information services division facility located within this state;

(9) Law enforcement commissioned rangers of the national park service;

(10) Department of Veterans Affairs Police and Department of Veterans Affairs special investigators;

(11) Office of Inspector General special agents; and

(12) Federal Air Marshals with the Federal Air Marshal Service.

(c) Any person acting under the authority granted pursuant to this section:

(1) Has the same authority and is subject to the same exemptions and exceptions to this code as a state or local law-enforcement officer;

(2) Is not an officer, employee, or agent of any state or local law-enforcement agency;

(3) May not initiate or conduct an independent investigation into an alleged violation of any provision of this code except to the extent necessary to preserve evidence or testimony at risk of loss immediately following an occurrence described in subdivision (3), subsection (a) of this section;

(4) Is subject to 28 U.S.C. §1346, the Federal Tort Claims Act; and

(5) Has the same immunities from liability as a state or local law-enforcement officer.

Following discussion,

The question being on the adoption of Senator Trump's amendment to the bill, the same was put and prevailed.

Engrossed House Bill 4847, as just amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4847) passed.

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

Eng. House Bill 4847—A Bill to amend and reenact §15-3D-4 and §15-3D-5of the Code of West Virginia, 1931, as amended; and to amend and reenact §15-10-5 of said code, all relating to law enforcement generally; providing that missing persons information shall be furnished to West Virginia State Police; providing West Virginia State Police shall monitor and assist in missing persons investigation; providing that West Virginia State Police shall supervise missing persons investigation in certain circumstances; providing that missing persons report involving person aged over 75 years are high-risk; providing that an active investigation shall start when the missing persons complaint is received; providing the lead law-enforcement agency engage in coordination efforts with other law-enforcement agencies and ensure appropriate use of certain resources; and removing the incorporation by reference of an obsolete federal statute within the definition of Federal Bureau of Investigation police officer.

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

Senator Takubo moved that the Senate reconsider the vote by which on yesterday, Friday, March 11, 2022, it passed

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

The bill still being in the possession of the Senate,

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

The vote thereon having been reconsidered,

At the request of Senator Takubo, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Takubo, the following amendment to the bill was reported by the Clerk and adopted:

On page four, section one, lines forty-seven through fifty, by striking out all of subsection (e) and inserting a new subsection (e) to read as follows:

(e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of this code is continued as a separate independent agency within the Department of Arts, Culture, and History, which shall provide administrative support for the authority.

Engrossed Committee Substitute for House Bill 4020, as just amended, was then put upon its passage.

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

The nays were: Caputo, Geffert, and Romano—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4020) passed with its title.

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

The Senate again proceeded to the third order of business.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 262, Relating generally to financial institutions engaged in boycotts of energy companies.

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

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

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

ARTICLE 1C. FINANCIAL INSTITUTIONS ENGAGED IN BOYCOTTS OF ENERGY COMPANIES.

§12-1C-1. DEFINITIONS.

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

"Banking contract" means a contract entered into by the Treasurer and a financial institution pursuant to this chapter, to provide banking goods or services to a spending unit.

"Boycott of energy companies" means without a reasonable business purpose, refusal to deal with a company, termination of business activities with a company, or another action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

(A) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy;

(B) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or

(C) Does business with a company that engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy.

"Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exist for the purpose of making profit.

"Financial institution" means a bank, national banking association, non-bank financial institution, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union, or a savings bank.

"Reasonable business purpose" includes any purpose directly related to:

(A) Promoting the financial success or stability of a financial institution;

(B) Mitigating risk to a financial institution;

(C) Complying with legal or regulatory requirements; or

(D) Limiting liability of a financial institution.

"Restricted financial institution" means a financial institution included in the most recently updated restricted financial institution list.

"Restricted financial institution list" means the list of financial institutions prepared, maintained, and published pursuant to this article.

"Treasurer" refers to the West Virginia State Treasurer.

§12-1C-2. Restricted financial institutions list.

(a) The Treasurer is authorized to prepare and maintain a list of financial institutions that are engaged in a boycott of energy companies.

(b) The Treasurer must publicly post the restricted financial institution list on the Treasurer's website and submit a copy of the list to the Governor, the President of the Senate, and the Speaker of the House of Delegates.

(c) A citation to this article and a brief summary of the purpose of the list must appear at the top of the list, including a statement that inclusion on the list is not an indication of unsafe or unsound operating conditions of any financial institution nor any risk to consumer deposits.

(d) The Treasurer must update the restricted financial institution list annually, or more often as the Treasurer considers necessary.

§12-1C-3. Notice to financial institutions.

(a) Forty-five days prior to including a financial institution on the restricted financial institution list, the Treasurer must send a written notice to the institution containing the following information:

(1) That the Treasurer has determined that the financial institution is a restricted financial institution;

(2) That the financial institution will be placed on the restricted financial institution list in 45 days unless, within 30 days following the receipt of the written notice, the restricted financial institution demonstrates that it is not engaged in a boycott of energy companies;

(3) That the restricted financial institution list is published on the Treasurer's website; and

(4) That the institution's placement on the list may render the institution ineligible to enter into, or remain in, banking contracts with the State of West Virginia.

(b) Following a restricted financial institution's inclusion on the restricted financial institution list, the Treasurer will remove the institution from the list if the institution demonstrates that it has ceased all activity that boycotts energy companies.

§12-1C-4. Sources of Information.

(a) In determining whether to include a financial institution on the restricted financial institution list, the Treasurer shall consider and may rely upon the following information:

(1) A financial institution's certification that it is not engaged in a boycott of energy companies;

(2) Publicly available statements or information made by the financial institution, including statements by a member of a financial institution's governing body, an executive director of a financial institution, or any other officer or employee of the financial institution with the authority to issue policy statements on behalf of the financial institution; or

(3) Information published by a state or federal government entity.

(b) In determining whether to include a financial institution on the restricted financial institution list, the Treasurer may not rely solely on the following information:

(1) Statements or complaints by an energy company; or

(2) Media reports of a financial institution's boycott of energy companies.

(c) A financial institution may not be compelled to produce or disclose any data or information deemed confidential, privileged, or otherwise protected from disclosure by state or federal law.

§12-1C-5. Restricted financial institutions.

(a) In selecting a financial institution to enter into a banking contract, the Treasurer is authorized to disqualify restricted financial institutions from the competitive bidding process or from any other official selection process.

(b) The Treasurer is authorized to refuse to enter into a banking contract with a restricted financial institution based on its restricted financial institution status.

(c) The Treasurer is authorized to require, as a term of any banking contract, an agreement by the financial institution not to engage in a boycott of energy companies for the duration of the contract.

§12-1C-6. Limitation on Liability.

With respect to actions taken in compliance with this article, a public agency, public official, public employee, or member or employee of a financial institution is immune from liability.

§12-1C-7. Exemptions.

The provisions of this section do not apply to the duties, actions, and transactions of the West Virginia Investment Management Board as set forth in §12-6-1 *et seq.* of this code.;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 262—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12 1C 1, §12 1C 2, §12 1C 3, §12 1C 4, §12 1C 5, §12 1C 6, and §12 1C 7, all relating generally to financial institutions engaged in boycotts of energy companies; defining terms; authorizing the State Treasurer to publish a list of financial institutions engaged in boycotts of energy companies; requiring the Treasurer to publicly post the list and submit the list to certain public officials; requiring the list to contain certain information; requiring the Treasurer to send written notice to a financial institution prior to its inclusion on the list; establishing required content of said written notice; requiring the Treasurer to remove a financial institution from the list if it presents information demonstrating that it is not engaged in a boycott of energy companies; preventing financial institutions from being compelled to produce certain information; setting forth sources of information on which the Treasurer may rely in preparing the list; authorizing the Treasurer to exclude financial institutions on the list from the selection process for state banking contracts; authorizing the Treasurer to refuse to enter into a banking contract with a financial institution on the list; authorizing the Treasurer to require, as a term of a banking contract, an agreement by the financial institution not to engage in a boycott of energy companies; limiting liability for actions taken in compliance with the new article; and exempting the Investment Management Board from the new article.

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

Following discussion,

Senators Trump and Nelson, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Trump and Nelson would be as a member of a class of persons and that they would be required to vote.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 262, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: Brown, Nelson, and Woelfel—3.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 262) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 334, Authorizing miscellaneous agencies and boards to promulgate rules.

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

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

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

ARTICLE 9. AUTHORIZATION FOR MISCELLANOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §19-9A-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Feeding of Untreated Garbage to Swine, 61 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §19-14-3 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Commissioner of Agriculture (Commercial Feed, 61 CSR 05), is authorized with the amendment set forth below:

On page 14, subsection 11.4, after the word "may" by deleting the word "NOT".

(c) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-11A-10 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 31, 2021, relating to the Commissioner of Agriculture (Enrichment of Flour and Bread Law Regulations, 61 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-16-7 of this code, relating to the Commissioner of Agriculture (Fruits and Vegetables: Certification of Potatoes for Seedling Purposes, 61 CSR 08C), is authorized.

(e) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-37-3 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Fresh Food Act, 61 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-2C-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Auctioneers, 61 CSR 11B), is authorized, with the following amendments:

On page 8, subdivision 16.1, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60" and,

On page 8 subdivision 16.3, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60" and,

On page 9, subdivision 16.6 by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60" and,

On page 9, subdivision 16.7, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60"

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Hemp Products, 61 CSR 30), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-1C-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

January 3, 2022, relating to the Commissioner of Agriculture (Livestock Care Standards , 61 CSR 31), is authorized with the amendments set forth below:

On page 2, subsection 2.15, by striking out "2018" and inserting in lieu thereof "2020";

On page 6, subdivision 13.2.a., by striking out the "5" and inserting in lieu thereof a "9";

On page 7, subsection 13.12., by striking out the word "and";

On page 7, subsection 13.13., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 7, after subsection 13.13, by adding a new subsection 13.14. to read as follows:

"13.14. Any other widely accepted practices.";

On page 9, subdivision 14.4.p., by striking out the word "and";

On page 9, subdivision 14.4.q., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 9, after subdivision 14.4.q., by adding a new subdivision 14.q.r. to read as follows:

"14.q.r. Any other widely accepted practices.";

On page 11, subdivision 15.6.j., by striking out the word "and";

On page 11, subdivision 15.6.k., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 11, after subdivision 15.6.k. by adding a new subdivision 16.6.l. to read as follows:

"16.6.l. Any other widely accepted practices.";

On page 12, paragraph 16.2.a.6., by striking out the word "and";

On page 12, paragraph 16.2.a.7., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 12, after paragraph 14.2.a.7., by adding a new paragraph 16.2.a.8. to read as follows:

"16.2.a.8. Any other widely accepted practices.";

On page 12, paragraph 16.2.b.7., by striking out the word "and";

On page 12, paragraph 16.2.b.8., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page twelve, after paragraph 16.2.b.8. by adding a new paragraph 16.2.b.9. to read as follows:

"16.2.b.9. Any other widely accepted practices.";

On page 12, paragraph 16.2.c.2., by striking out the word "and";

On page 12, paragraph 16.2.c.3., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 12, after paragraph 16.2.c.3., by adding a new paragraph 16.2.c.4. to read as follows:

"16.2.c.4. Any other widely accepted practices.";

On page 13, subdivision 17.3.j., by striking out the word "and";

On page 13, subdivision 17.3.k., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 13, after subdivision 17.3.k., by adding a new subdivision 17.3.l. to read as follows:

"17.3.l. Any other widely accepted practices.";

On page 14, paragraph 18.3.d.2., by striking out the word "and";

On page 14, subdivision 18.3.e., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

And,

On page 14, after subdivision 18.3.e., by adding a new subsection 18.3.f., to read as follows:

"18.3.f. Any other widely accepted practices."

(i) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §19-1-11 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Rural Rehabilitation Program, 61 CSR 33), is authorized.

(j) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §11-13DD-5 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Farm-to-Food Bank Tax Credit, 61 CSR 36), is authorized.

(k) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-35-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Farmers Markets, 61 CSR 38), is authorized with the amendments set forth below:

On page 11, subdivision 8.1.d by striking out the words "holding a Food Handler’s Card;

And,

On page 11, subdivision 8.1.d, after the word "completed" by inserting the words "Better Process Control School or".

(l) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-16-6 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2021, relating to the Commissioner of Agriculture (Seed Certification, 61 CSR 39), is authorized.

§64-9-2. State Auditor.

(a) The legislative rule filed in the State Register on January 3, 2022, authorized under the authority of §11-8-9 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 10, 2022, relating to the Auditor (Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body, 155 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on September 13, 2021, authorized under the authority of §12-4-14 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Auditor (Accountability Requirements for State Funds and Grants, 155 CSR 09), is authorized.

§64-9-3. West Virginia Board of Chiropractic Examiners.

(a) The Legislature directs the West Virginia Board of Chiropractic Examiners to amend the legislative rule filed in the State Register on April 1, 2014, authorized under the authority of §30-16-5 of this code, relating to the West Virginia Board of Chiropractic Examiners (Fees Established by the Board, 4 CSR 06) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

"1.5. Sunset Provision. — This rule shall terminate and have no further force or effect on August 1, 2027.";

On page one, subdivision 6.2.1, after the words "in West Virginia is," by striking out "$300", and inserting in lieu thereof "$261";

On page one, subdivision 6.2.1.,after the words "chiropractors is," by striking out "$150" and inserting in lieu thereof "$130";

On page one, subdivision 6.2.2 by striking out "$200", and inserting in lieu thereof "$175";

On page one, subdivision 6.2.3 by striking out "$200", and inserting in lieu thereof "$175";

On page one, subdivision 6.2.4, after the words "articles of incorporation," by striking out "$150", and inserting in lieu thereof "$130";

On page one, subdivision 6.2.4., after the words "limited liability company is," by striking out "$150", and inserting in lieu thereof "$130";

One page one, subdivision 6.2.4., after the words "annual renewal fee of," by striking out "$150", and inserting in lieu thereof "$130";

On page one, subdivision 6.2.5, after the words "examination fee is," by striking out "$150", and inserting in lieu thereof "$130";

On page one, subdivision 6.2.5., after the words "and a fee of," by striking out "$50" and inserting "$45.";

On page one, subdivision 6.2.6 by striking out "$50", and inserting in lieu thereof "$45";

On page one, subdivision 6.2.7 by striking out "$100", and inserting in lieu thereof "$87";

On page one, subdivision 6.2.8 by striking out "$50", and inserting in lieu thereof "$45";

And,

On page one, subdivision 6.2.2 by striking out "$250", and inserting in lieu thereof "$218";

(b) The legislative rule filed in the State Register on July 13, 2021, authorized under the authority of §30-16-5 of this code, modified by the West Virginia Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the West Virginia Board of Chiropractic Examiners (Chiropractic Telehealth Practice, 4 CSR 09), is authorized.

§64-9-4. West Virginia Contractor Licensing Board.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-42-5 of this code, modified by the West Virginia Contractor Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 9, 2021, relating to the West Virginia Contractor Licensing Board (Contractor Licensing Act, 28 CSR 02), is authorized with the amendment set forth below:

On page 1, subsection 3.2, after the word "public." by adding a new sentence to read as follows: "If a contractor maintains an internet website, any advertisement by the contractor may direct potential customers to the contractor’s online landing page for a link to the information required by W. Va. Code §30-42-6(b)."

§64-9-5. West Virginia Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensing Rule, 27 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensed Professional Counselors Fees Rule, 27 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Licensing Rule, 27 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Fees Rule, 27 CSR 09), is authorized.

§64-9-6. Dangerous Wild Animal Board.

The legislative rule filed in the State Register on April 5, 2021, authorized under the authority of §19-34-3 of this code, relating to the Dangerous Wild Animal Board (Dangerous Wild Animal, 74 CSR 01), is authorized.

§64-9-7. West Virginia Board of Dentistry.

(a) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the amendments set forth below:

On page 2, subsection 3.3, after the words "certification of the dean of the dental school" by inserting the words "or program director of a dental residency program";

On page 2, subsection 3.3, after the word "staff at that school" by inserting the words "or program";

On page 2, subsection 3.3, after the words "dental school dean" by inserting the words "or program director of a dental residency program";

On page 2, subsection 3.3, after the words "location of the dental school" by inserting the words "or program";

And,

On page 2, subsection 3.3, after the word "functions in the dental school" by inserting the words "or program".

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §31B-13-1304 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Professional Limited Liability Companies, 5 CSR 02), is authorized.

(c) The Legislature directs the West Virginia Board of Dentistry to amend the legislative rule filed in the State Register on May 1, 2014, authorized under the authority of §30-4-6 of this code,

relating to the West Virginia Board of Dentistry (Fees Established by the Board, 5 CSR 03) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

"1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2027.";

On page one, subsection 2.1 by striking out "$185.00", and inserting in lieu thereof "$167.00";

On page one, subsection 2.2 by striking out "$20.00", and inserting in lieu thereof "$18.00";

On page one, subsection 2.3 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page one, subsection 2.4 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page one, subsection 2.5 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page one, subsection 2.6 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page one, subsection 2.7 by striking out "$185.00", and inserting in lieu thereof "$167.00";

On page one, subsection 3.1 by striking out "$300.00", and inserting in lieu thereof "$270.00";

On page one, subsection 4.1 by striking out "$75.00", and inserting in lieu thereof "$68.00";

On page one, subsection 4.2 by striking out "$20.00", and inserting in lieu thereof "$18.00";

On page one, subsection 4.3 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subsection 4.4 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subsection 4.5 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page two, subsection 4.6 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.7 by striking out "$75.00", and inserting in lieu thereof "$68.00";

On page two, subsection 4.8 by striking out "$65.00", and inserting in lieu thereof "$59.00";

On page two, subsection 4.9 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.10 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.11 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 4.12 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page two, subsection 4.13 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 4.14 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 4.15 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.16 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 5.1 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 5.2 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 6.1 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page two, subsection 6.2 by striking out "$150.00", and inserting in lieu thereof "$135.00";

On page two, subsection 6.3 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 7.1 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 7.2 by striking out "$15.00", and inserting in lieu thereof "$14.00";

On page two, subsection 7.3 by striking out "$900.00", and inserting in lieu thereof "$810.00";

On page two, subsection 7.4 by striking out "$300.00", and inserting in lieu thereof "$270.00";

On page two, subsection 7.5 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page three, subsection 7.6 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 7.7 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page three, subsection 8.1 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 8.2 by striking out "$175.00", and inserting in lieu thereof "$158.00";

On page three, subsection 8.3 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 9.1 by striking out "$1,500.00", and inserting in lieu thereof "$1,350.00";

On page three, subsection 9.2 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 9.3 by striking out "$1,000.00", and inserting in lieu thereof "$900.00";

On page three, subsection 9.4 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 9.5 by striking out "$500.00", and inserting in lieu thereof "$450.00";

On page three, subsection 9.6 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page three, subsection 9.7 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 9.8 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page three, subsection 10.1 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 10.2 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 10.3 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page three, subsection 10.6 by striking out "$100.00", and inserting in lieu thereof "$90.00";

And,

On page three, subsection 10.7 by striking out "$200.00", and inserting in lieu thereof "$180.00".

(d) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Dental Corporation and Dental Practice Ownership, 5 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Continuing Education Requirements, 5 CSR 11), is authorized.

(f) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Administration of Anesthesia by Dentists, 5 CSR 12), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Expanded Duties of Dental Hygienists and Dental Assistants, 5 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Dentistry (Teledentistry, 5 CSR 16), is authorized.

§64-9-8. West Virginia Board of Licensed Dietitians.

The Legislature directs the West Virginia Board of Licensed Dietitians to amend the legislative rule filed in the State Register on March 26, 2020, authorized under the authority of §30-35-4 of this code, relating to the West Virginia Board of Licensed Dietitians (Licensure and Renewal Requirements, 31 CSR 01) with the amendments set forth below:

On page one, subsection 1.5 by striking out "March 26, 2030", and inserting in lieu thereof "August 1, 2030"

On page two, paragraph 4.1.2.1 by striking out "$75.00", and inserting in lieu thereof "$69.00";

On page two, paragraph 4.1.2.2 by striking out "$75.00", and inserting in lieu thereof "$69.00";

On page two, paragraph 4.1.2.3 by striking out "$50.00", and inserting in lieu thereof "$46.00";

And,

On page two, subsection 31.6.3 by striking out "$50.00", and inserting in lieu thereof "$46.00".

§64-9-9. West Virginia Board of Professional Engineers.

The Legislature directs the West Virginia Board of Professional Engineers to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-13-9 of this code, relating to the West Virginia Board of Professional Engineers (Examination, Licensure and Practice of Professional Engineers, 7 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking "April 1, 2030" and inserting in lieu thereof "August 1, 2030";

On page eighteen, by striking all of subsection 13.4, and inserting in lieu thereof a new subsection 13.4 to read as follows:

"13.4. Fee Amounts. The fees for various services provided by Board are:

Engineering Intern

Application Fee	$23.00
Examination Fee	As charged by NCEES

Professional Engineer

Application Fee	$72.00
Examination Fee	As charged by NCEES
Re-examination Fee	As charged by NCEES
Certificate Fee	$23.00
Comity Application Fee	$135.00

Certificate of Authorization

Application Fee for Sole Proprietor with no employees	$ 0.00

Application Fee for Firm with three or fewer Professional Engineers*	$90.00
Application Fee for Firm with four or more Engineers*	$135.00
Two-Year Renewal Fee	
Professional Engineer	$63.00
Professional Engineer-Retired	$27.00
COA for Sole Proprietor with no Employees	$ 0.00
COA for Firm with three Or fewer Professional Engineers*	$ 90.00
COA for Firm with four or more Professional Engineers*	$450.00
Late Fee	25% of fee
Reinstatement Applications	
Professional Engineer	$167.00
COA for Sole Proprietor with No employees	0.00
COA for Firm with three or fewer engineers	$180.00
COA for Firm with four or more Professional Engineers*	$630.00
PE or COA Roster **	$ 23.00
Replacement Certificates	$ 23.00
Returned Checks	$ 23.00

*Regardless of the PE's state of registration or licensure

**Available for free download on the Board website"

§64-9-10. West Virginia Board of Funeral Service Examiners.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-6-6 of this code, modified by the West Virginia Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2021, relating to the West Virginia Board of Funeral Service Examiners (Fee Schedule , 6 CSR 07), is authorized.

§64-9-11. West Virginia Massage Therapy Licensure Board.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-37-6 of this code, modified by the West Virginia Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2021, relating to the West Virginia Massage Therapy Licensure Board (General Provisions, 194 CSR 01), is authorized with the amendment set forth below:

On page 4, subdivision 4.1.h, after the words "written medical directive" by inserting the words "prescribed by a medical doctor, doctor of osteopathy, physician assistant, or an advanced practice registered nurse".

§64-9-12. West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.

The Legislature directs the West Virginia Board of Medical Imaging and Radiation Therapy Technology Board of Examiners to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-23-7 of this code, relating to the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Medical Imaging Technologists, 18 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking "March 30, 2035" and inserting in lieu thereof "August 1, 2035";

On page 6, subdivision 4.7.a. by striking out "$100.00" and inserting in lieu thereof "$92.00";

On page 6, subdivision 4.7.b. by striking out "$65.00" and inserting in lieu thereof "$60.00";

On page 6, subdivision 4.7.c. by striking out "$40.00" and inserting in lieu thereof "$37.00";

On page 6, subdivision 4.7.f. by striking out "$40.00" and inserting in lieu thereof "$37.00";

On page 6, subdivision 4.7.j. by striking out "$100.00" and inserting in lieu thereof "$92.00";

On page 6, subdivision 4.7.k. by striking out "$100.00" and inserting in lieu thereof "$92.00";

On page 7, paragraph 4.8.a.1. by striking out "$1000.00" and inserting in lieu thereof "$920.00";

On page 7, paragraph 4.8.a.2. by striking out "$1000.00" and inserting in lieu thereof "$920.00";

On page 7, paragraph 4.8.a.3. by striking out "$500.00" and inserting in lieu thereof "$460.00";

And,

On page 7, paragraph 4.8.a.4. by striking out "$500.00" and inserting in lieu thereof "$460.00".

§64-9-13. West Virginia Board of Medicine.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Licensing and Disciplinary Procedures: Physicians, Podiatric Physicians and Surgeons, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 2, 2021, relating to the West Virginia Board of Medicine (Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Dispensing of Prescription Drugs by Practitioners, 11 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Continuing Education for Physicians and Podiatric Physicians, 11 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database, 11 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities, 11 CSR 11), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Registration to Practice During Declared State of Emergency, 11 CSR 14), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the Board of Medicine (Telehealth and Interstate Telehealth Registration for Physicians, Podiatric Physicians and Physician Assistants, 11 CSR 15), is authorized with the amendment set forth below:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words "based solely upon a telemedicine encounter".

§64-9-14. West Virginia Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Licensing Procedures for Osteopathic Physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Osteopathic Medicine (Osteopathic Physician Assistants, 24 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Practitioner Requirements for Controlled Substances Licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database, 24 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the Board of Osteopathic Medicine (Telehealth Practice and Interstate Telehealth Registration for Osteopathic Physicians and Physician Assistants, 24 CSR 10), is authorized with the amendment set forth below:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words "based solely upon a telemedicine encounter".

§64-9-15. West Virginia Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Licensure and Practice of Pharmacist Care, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §60A-9-6 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR 08), is authorized.

(c) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Pharmacy (Regulations Governing Pharmacists, 15 CSR 16), is authorized.

§64-9-16. West Virginia Board of Psychologists.

The Legislature directs the West Virginia Board of Psychologists to amend the legislative rule filed in the State Register on April 25, 2018, authorized under the authority of §30-21-6 of this code, relating to the West Virginia Board of Psychologists (Fees, 17 CSR 01) with the amendments set forth below:

One page one, subsection 1.5. by striking out "July 1, 2028", and inserting in lieu thereof "August 1, 2028";

On page one, subsection 2.1 by striking out "$133.00", and inserting in lieu thereof "$120.00";

On page one, paragraph 2.2 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subdivision 2.2.1 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subdivision 2.3.1 by striking out "$450.00", and inserting in lieu thereof "$405.00";

On page one, subdivision 2.3.2 by striking out "$133.00", and inserting in lieu thereof "$120.00";

On page one, subdivision 2.2.3 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page two, subdivision 2.3.4 by striking out "$300.00", and inserting in lieu thereof "$270.00";

Strike the entirety of page two, subsection 2.5, and renumber the remaining subsections;

On page two, subsection 2.6 by striking out "$78.00", and inserting in lieu thereof "$68.00";

On page two, subdivision 2.7.1 by striking out "$450.00", and inserting in lieu thereof "$405.00";

On page two, subdivision 2.7.2 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page two, subsection 2.8 by striking out "$133.00", and inserting in lieu thereof "$120.00";

On page two, subsection 2.9 by striking out "$300.00", and inserting in lieu thereof "$270.00";

On page two, subsection 2.11 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page two, subdivision 2.12.1 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page two, subdivision 2.12.2 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 2.13 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 2.14 by striking out "$50.00", and inserting in lieu thereof "$45.00";

And,

On page two, subsection 2.15 by striking out "$200.00", and inserting in lieu thereof "$180.00".

§64-9-17. Public Service Commission.

The legislative rule filed in the State Register on August 6, 2021, authorized under the authority of §24-2E-3 of this code, modified by the Public Service Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 24, 2021, relating to the Public Service Commission (Rules Governing the Occupancy of Customer-Provided Conduit, 150 CSR 37), is authorized.

§64-9-18. West Virginia Real Estate Appraiser Licensing and Certification Board.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Requirements for Licensure and Certification, 190 CSR 02), is authorized with the amendments set forth below:

On page twenty-five, subdivision 10.2.a., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-five, subdivision 10.2.b., by striking out "two hundred sixty-five dollars ($265)", and inserting in lieu thereof "$210";

On page twenty-five, subdivision 10.2.c., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$80";

On page twenty-five, subdivision 10.2.d., following the words "temporary permit fee of" by striking out "two hundred fifty dollars ($250)", and inserting in lieu thereof "$200";

On page twenty-five, subdivision 10.2.d., following the words "non-residential appraisal and," and inserting in lieu thereof "$200";

On page twenty-six, subdivision 10.2.e., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.f., by striking out "four hundred sixty-five dollars ($465)", and inserting in lieu thereof "$375";

On page twenty-six, subdivision 10.2.g., by striking out "three hundred fifteen dollars ($315)", and inserting in lieu thereof "$250";

On page twenty-six, subdivision 10.2.h., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$80";

On page twenty-six, subdivision 10.2.j., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.k., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.l., by striking out "one hundred ninety dollars ($190)", and inserting in lieu thereof "$150";

On page twenty-six, subdivision 10.2.m., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$20";

On page twenty-six, subdivision 10.2.n., by striking out "Copy fees: fifty cents ($.50) per page"

On page twenty-six, subdivision 10.2.n., following the words Administrative fee of," striking "fifty cents ($.50)," and inserting in lieu thereof "$.40"

On page twenty-six, subdivision 10.2.o., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.p., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.q., after the words "One roster-fee of" by striking out "thirty-five dollars ($35), and inserting in lieu thereof "$28";

On page twenty-six, subdivision 10.2.q., after the words roster subscription fee-of" by striking out "fifty dollars ($50)", and inserting in lieu thereof "$40";

On page twenty-six, subdivision 10.2.r., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$40";

On page twenty-six, subdivision 10.2.s., by striking out "fifty dollars ($550)", and inserting in lieu thereof "$40";

On page twenty-six, subdivision 10.2.t., by striking out "seventy-five dollars ($75)", and inserting in lieu thereof "$60";

And,

On page twenty-six, subdivision 10.2.u., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$20".

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Renewal of Licensure or Certification, 190 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38A-2 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Requirements for Registration and Renewal of Appraisal Management Companies, 190 CSR 05), is authorized.

§64-9-19. West Virginia Board of Examiners for Registered Professional Nurses.

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §30-7-15a of this code, relating to the West Virginia Board of Examiners for Registered Professional Nurses (Limited Prescriptive Authority for Nurses in Advanced Practice, 19 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on August 31, 2021, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (Telehealth Practice, 19 CSR 16), is authorized with the amendments set forth below:

On page three, subdivision 3.3.2., by striking out the word "state" and inserting in lieu thereof the words "State of West Virginia";

On page three, subdivision 3.3.2., by striking out the words "location or";

On page five, subsection 5.9., by striking out the word "applicant" and inserting in lieu thereof the word "registrant";

On page five, after subsection 5.12, by renumbering the remaining subsections;

On page six, subsection 5.11., by striking out the words "apply anew" and inserting in lieu thereof the word "reapply";

On page seven, subsection 7.3., after the words "prescription if" by inserting in lieu thereof the words "the nurse";

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

On page eight, subsection 7.8., after the word "practices" by striking out the word "to" and inserting in lieu thereof the words "while treating";

On page eight, subsection 8.1, by striking out the words "of the provider's profession in the State of West Virginia pursuant to qualified advanced practice registered nurses to prescribe prescription drugs in accordance with the" and inserting in lieu thereof the words "as set forth in the";

On page eight, subsection 8.2, by striking out the words "Schedules III through V of";

On page eight, subsection 8.3, by striking out the words "based solely upon a telemedicine encounter";

On page nine, subdivision 10.2.1., by striking out the words "Shall not engage" and inserting in lieu thereof the word "Engaging";

On page nine, subdivision 10.2.1., by inserting a period after the words "this rule";

On page nine, subdivision 10.2.1., by striking out the words "or they" and inserting in lieu thereof the words "A registered nurse or advance practice registered nurse who engages in professional misconduct";

And,

On page nine, subsection 11.2., by striking out the words "the following" and inserting in lieu thereof the word "that".

§64-9-20. Secretary of State.

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-11 of this code, relating to the Secretary of State (Voter Registration at the Division of Motor Vehicles, 153 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-23a of this code, relating to the Secretary of State (Voter Registration List Maintenance by the Secretary of State, 153 CSR 05), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-2-12 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-3-3 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Use of Digital Signatures, 153 CSR 30), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-8-2c of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Regulation of Political Party Headquarters Finances, 153 CSR 43), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39-4-37 and §39-4-38 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Standards and Guidelines for Electronic Notarization, Remote Online Notarization, and Remote Ink Notarization, 153 CSR 45), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-4-4 of this code, relating to the Secretary of State (Real Property Electronic Recording Standards and Regulations, 153 CSR 48), is authorized with amendments set forth below:

On page 2, section 3.1, by striking out the words "as amended from time to time";

On page 3, subdivision 3.3.1, by striking out the words "as amended from time to time";

And,

On page 3, subdivision 3.3.2, by striking out the words "as amended from time to time".

§64-9-21. West Virginia Board of Social Work Examiners.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Qualifications for the Profession of Social Work, 25 CSR 01), is authorized.

(b) The Legislature directs the West Virginia Board of Social Work Examiners to amend the legislative rule filed in the State Register on May 12, 2020, authorized under the authority of §30-30-6 of this code, relating to the West Virginia Board of Social Work Examiners (Fee Schedule, 25 CSR 03) with the amendments set forth below:

On page two, subdivision 3.1.2., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$45";

On page two, subdivision 3.2.1., by striking out "($100)", and inserting in lieu thereof "$90";

On page two, subdivision 3.2.2., following the words "biennial license renewal is" by striking out "eighty-five dollars ($85)", and inserting in lieu thereof "$76";

On page two, subdivision 3.2.2., following the words "provisional license renewal is" by striking "ninety dollars ($90)", and inserting in lieu thereof "$80";

On page two, subdivision 3.2.3., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$45";

On page two, subdivision 3.2.4., by striking out "one hundred fifteen dollars ($115)", and inserting in lieu thereof "$104";

On page two, subdivision 3.2.5., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$23";

On page two, subdivision 3.2.6., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$45";

On page two, subdivision 3.2.7., by striking out "thirty dollars ($30)", and inserting in lieu thereof "$27";

On page two, subdivision 3.2.8., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$90";

On page two, subdivision 3.2.9., by striking out "fifty-five dollars ($55)", and inserting in lieu thereof "$50";

On page two, subdivision 3.2.10., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$23";

On page three, subdivision 3.4.1., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$90";

On page three, subdivision 3.4.2., by striking out "sixty dollars ($60)", and inserting in lieu thereof "$54";

And,

On page three, subdivision 3.5.1., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$90".

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Continuing Education for Social Workers and Providers, 25 CSR 05), is authorized.

§64-9-22. West Virginia Board of Examiners for Speech-Language Pathology and Audiology.

The legislative rule filed in the State Register on June 9, 2021, authorized under the authority of §30-32-7 of this code, modified by the West Virginia Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the West Virginia Board of Speech-Language Pathology and Audiology (Licensure of Speech-Pathology and Audiology, 29 CSR 01), is authorized.

§64-9-23. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-4-11 of this code, relating to the Treasurer (Substitute Checks-Exceptional Items Fund, 112 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-2-2 of this code, relating to the Treasurer (Procedures for Deposit of Moneys with the State Treasurer's Office by State Agencies, 112 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Disbursement Accounts Through Competitive Bidding, 112 CSR 06), is authorized.

(d) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Receipt Accounts, 112 CSR 07), is authorized.

(e) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-3-1 of this code, relating to the Treasurer (Procedures for Processing Payments from the State Treasury, 112 CSR 08), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-6A-7 of this code, relating to the Treasurer (Reporting Debt, 112 CSR 10), is authorized.

(g) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedure for Fees in Collections by Charge, Credit or Debit Card or by Electronic Payment, 112 CSR 12), is authorized.

(h) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedures for Providing Services to Political Subdivisions, 112 CSR 13), is authorized.;

And,

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

Eng. Com. Sub. for Senate Bill 334—A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules, as filed, as modified, and as amended by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to feeding of untreated garbage to swine; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to commercial feed; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to enrichment of flour and bread law regulations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to fruits and vegetables: certification for potatoes for seedling purposes; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; to authorizing the Commissioner of Agriculture to promulgate a legislative rule

relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Rural Rehabilitation Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Farm-to-Food Bank Tax Credit; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to seed certification; authorizing the State Auditor to promulgate a legislative rule relating to the procedure for local levying bodies to apply for permission to extend time to meet as levying body; authorizing the State Auditor to promulgate a legislative rule relating to accountability requirements for state funds and grants; authorizing the West Virginia Board of Chiropractic Examiners to promulgate a legislative rule relating to fees; authorizing the West Virginia Board of Chiropractic Examiners to promulgate a legislative rule relating to chiropractic telehealth practices; authorizing the Contractor Licensing Board to promulgate a legislative rule relating to the Contractor Licensing Act; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to licensure; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselors fees; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist licensing; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist fees; authorizing the Dangerous Wild Animal Board to promulgate a legislative rule relating to dangerous wild animals; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the West Virginia Board of Dentistry; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to fees; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the formation and approval of dental corporation and dental practice ownership; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the administration of anesthesia by dentists; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the expanded duties of dental hygienists and dental assistants; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to teledentistry; authorizing the West Virginia Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the West Virginia Board of Professional Engineers to promulgate a legislative rule relating to examination, licensure, and practice of professional engineers and the fee schedule; authorizing the West Virginia Board of Funeral Service Examiners to promulgate a legislative rule relating to the fee schedule; authorizing the West Virginia Massage Therapy Licensure Board to promulgate a legislative rule relating to general provisions; authorizing the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners relating to medical imaging technologists; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures for physicians, podiatric physicians, and surgeons; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensure, practice requirements disciplinary and complaint procedures, continuing education, and physician assistants; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to dispensing of prescription drugs by practitioners; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatric physicians; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to practitioner requirements for accessing the West Virginia Controlled Substances Monitoring Program Database; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities;

authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to registration to practice during a declared State of Emergency; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to telehealth and interstate telehealth registration for physicians, podiatric physicians, and physician assistants; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to Osteopathic Physicians Assistants; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to practitioner requirements for controlled substances licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to telehealth practice and interstate telehealth registration for osteopathic physicians and physician assistants; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy care; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to the Controlled Substance Monitoring Program; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the West Virginia Board of Psychologists to promulgate a legislative rule relating to fees; authorizing the Public Service Commission to promulgate a legislative rule relating to rules governing the occupancy of customer-provided conduit; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure or certification; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to the renewal of licensure and certification; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for registration and renewal of appraisal management companies; authorizing the West Virginia Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; authorizing the West Virginia Board of Examiners of Registered Professional Nurses to promulgate a legislative rule relating to telehealth practice; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration at the Division of Motor Vehicles; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration list maintenance by the Secretary of State; authorizing the Secretary of State to promulgate a legislative rule relating to the combined Voter Registration and Driver Licensing Fund; authorizing the Secretary of State to promulgate a legislative rule relating to the use of digital signatures; authorizing the Secretary of State to promulgate a legislative rule relating to regulation of political party headquarters finances; authorizing the Secretary of State to promulgate a legislative rule relating to standards and guidelines for electronic notarization, remote online notarization, and remote ink notarization; authorizing the Secretary of State to promulgate a legislative rule relating to real property electronic recording standards and regulations; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to the fee schedule; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to continuing education for social workers and providers; authorizing the West Virginia Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the State Treasurer to promulgate a legislative rule relating to Substitute Checks- Exceptional Items Fund; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for deposit of monies with the State Treasurer's Office by state agencies; authorizing the State Treasurer to promulgate a legislative rule relating to the selection of state depositories for disbursement accounts through competitive bidding; authorizing the State Treasurer to promulgate a legislative rule relating to the selection of state depositories for receipt accounts; authorizing the State

Treasurer to promulgate a legislative rule relating to procedures for processing payments from the State Treasury; authorizing the State Treasurer to promulgate a legislative rule relating to reporting debt; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for fees in collections by charge, credit, or debit card or by electronic payment; and authorizing the State Treasurer to promulgate a legislative rule relating to procedures for providing services to political subdivisions.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 334) and requested the House of Delegates to recede therefrom.

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

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

Eng. Com. Sub. for Senate Bill 518, Allowing nurses licensed in another state to practice in WV.

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

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

On page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-1a. Eligibility for licensure by meeting requirements which existed prior to the legislative enactments during the 2012 legislative session.

[Repealed].

§30-7-3. Board of examiners for registered professional nurses.

~~The Governor shall appoint, by and with the advice and consent of the Senate, a board consisting of five members who shall constitute and be known as the West Virginia board of examiners for registered professional nurses.~~

~~Appointments hereunder shall be made by the Governor, by and with the advice and consent of the Senate, from lists submitted to the Governor by the West Virginia nurses' association. Such lists shall contain the names of at least three persons eligible for membership for each membership or vacancy to be filled and shall be submitted to the Governor on or before June 1 of each year and at such other time or times as a vacancy on the board shall exist. Appointments under the provisions of this article shall be for a term of five years each or for the unexpired term, if any, of the present members. Any member may be eligible for reappointment, but no member shall serve longer than two successive terms. Vacancies shall be filled in the same manner as is provided for appointment in the first instance. The Governor may remove any member for neglect of duty, for incompetence, or for unprofessional or dishonorable conduct.~~

~~Each member of the board hereafter appointed shall (a) be a citizen of the United States and a resident of this state, (b) be a graduate from an accredited educational program in this or any other state for the preparation of practitioners of registered professional nursing, or be a graduate from an accredited college or university with a major in the field of nursing, (c) be a graduate from an accredited college or university, (d) be a registered professional nurse licensed in this state or eligible for licensure as such, (e) have had at least five years of experience in teaching in an educational program for the preparation of practitioners of registered professional nursing, or in a combination of such teaching and either nursing service administration or nursing education administration, and (f) have been actually engaged in registered professional nursing for at least three within the past five years preceding his or her appointment or reappointment.~~

~~Each member of the board shall receive $50 for each day actually spent in attending meetings of the board, or of its committees, and shall also be reimbursed for actual and necessary expenses: *Provided*, That the per diem increased by this amendment shall be effective upon passage of this article.~~

(a) The West Virginia Board of Examiners for Registered Professional Nurses is renamed the West Virginia Board of Registered Nurses effective July 1, 2022. The members of the West Virginia Board of Examiners for Registered Professional Nurses shall remain as members until the new appointments are made.

(b) By July 1, 2022, the Governor, by and with the advice and consent of the Senate, shall appoint a new board as follows:

(1) One person licensed as an advanced practice registered professional nurse by the board;

(2) One person who is certified as a dialysis technician by the board;

(3) Four persons licensed as a registered professional nurse by the board and meet the following requirements:

(A) One registered professional nurse, who provides direct patient care in a long-term care facility, home health or hospice;

(B) Two registered professional nurses, who provide direct patient care in a hospital setting or acute care setting; and,

(C) One registered professional nurse, who teaches nursing; and,

(4) One citizen member who is not licensed under the provisions of this chapter and who has never performed any services as a health care professional.

(c) Organizations that represent nurses may submit to the Governor recommendations for the appointment of the licensed board members.

(d) The appointment term is four years. A member may not serve more than two consecutive terms. A member may continue to serve until his or her successor has been appointed and qualified.

(e) Each member of the board shall be a resident of this state during the appointment term.

(f) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(g) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(h) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice is disciplined in any jurisdiction.

(i) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(j) The board shall elect one of its members as president and one member as secretary who shall serve at the will and pleasure of the board.

(k) A member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(l) A simple majority of the membership serving on the board at a given time is a quorum for the transaction of business.

(m) The board shall hold at least two meetings annually. Other meetings shall be held at the call of the president or upon the written request of four members, at the time and place as designated in the call or request.

(n) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(o) A board member, when acting in good faith and without malice, shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

§30-7-4. Organization and meetings of board; quorum; powers and duties generally; executive secretary; funds.

~~The board shall meet at least once each year and shall elect from its members a president and a secretary. The secretary shall also act as treasurer of the board. The board may hold such other meetings during the year as it may deem necessary to transact its business. A majority, including one officer, of the board shall constitute a quorum at any meeting. The board is hereby authorized and empowered to:~~

~~(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article;~~

~~(b) Prescribe standards for educational programs preparing persons for licensure to practice registered professional nursing under this article;~~

~~(c) Provide for surveys of such educational programs at such time as it may deem necessary;~~

~~(d) Accredit such educational programs for the preparation of practitioners of registered professional nursing as shall meet the requirements of this article and of the board;~~

~~(e) Deny or withdraw accreditation of educational programs for failure to meet or maintain prescribed standards required by this article and by the board;~~

~~(f) Examine, license and renew the licenses of duly qualified applicants;~~

~~(g) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;~~

~~(h) Keep a record of all proceedings of the board;~~

~~(i) Make a biennial report to the Governor and the Legislative Oversight Commission for Health and Human Resources Accountability;~~

~~(j) Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive secretary to the board;~~

~~(k) Define the duties and fix the compensation for the executive secretary; and~~

~~(l) Employ such other persons as may be necessary to carry on the work of the board.~~

(a) The board has all the powers and duties set forth in this article, in §30-1-1 *et seq.* of this code and elsewhere in law, including the ability to:

(1) Hold meetings;

(2) Establish procedures for submitting, approving, and rejecting applications for a license and permit;

(3) Determine the qualifications of an applicant for a license and permit;

(4) Establish the fees charged under the provisions of this article;

(5) Issue, renew, restrict, deny, suspend, revoke, or reinstate a license and permit;

(6) Prepare, conduct, administer, and grade written, oral, or written and oral examinations for a license;

(7) Contract with third parties to administer the examinations required under the provisions of this article;

(8) Maintain records of the examinations the board, or a third party, administers, including the number of persons taking the examination and the pass and fail rate;

(9) Maintain an office and hire, discharge, establish the job requirements, and fix the compensation of employees, and contract with persons necessary to enforce the provisions of this article;

(10) Employ investigators, attorneys, hearing examiners, consultants, and other employees as may be necessary who are exempt from the classified service and who serve at the will and pleasure of the board;

(11) Delegate hiring of employees to the executive director;

(12) Investigate alleged violations of the provisions of this article and legislative rules, orders, and final decisions of the board;

(13) Conduct disciplinary hearings of persons regulated by the board;

(14) Determine disciplinary action and issue orders;

(15) Institute appropriate legal action for the enforcement of the provisions of this article;

(16) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(17) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(18) Public meeting minutes to its website within 14 days of a meeting;

(19) Propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article;

(20) Sue and be sued in its official name as an agency of this state;

(21) Approve a nursing school;

(22) Establish a nurse health program;

(23) Implement the provisions of the enhanced nurse licensure compact in accordance with §30-7B-1 *et seq.* of this code;

(24) Coordinate with and assist the Center for Nursing in accordance with §30-7B-1 *et seq.* of this code; and

(25) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

(b) All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the General Funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the General Funds of this state.

§30-7-6. License to practice registered professional nursing.

~~(a) To obtain a license to practice registered professional nursing, an applicant for such license shall submit to the board written evidence, verified by oath, that he or she: (1) Is of good moral character; (2) has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency; and (3) has completed an accredited program of registered professional nursing education and holds a diploma of a school accredited by the board.~~

~~(b) The applicant shall also be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing such examination or examinations, the board shall issue to the applicant a license to practice registered professional nursing. The board shall determine the times and places for examinations. In the event an applicant shall have failed to pass examinations on two occasions, the applicant shall, in addition to the other requirements of this section, present to the board such other evidence of his or her qualifications as the board may prescribe.~~

~~(c) The board may, upon application, issue a license to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country if in the opinion of the board the applicant meets the qualifications required of registered professional nurses at the time of graduation.~~

~~(d) The board may, upon application and proper identification determined by the board, issue a temporary permit to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country. Such temporary permit authorizes the holder to practice registered professional nursing in this state while the temporary permit is effective. A temporary permit shall be effective for ninety days, unless the board revokes such permit prior to its expiration, and such permit may not be renewed. Any person applying for a temporary license under the provisions of this paragraph shall, with his or her application, pay to the board a nonrefundable fee of $10.~~

~~(e) Any person holding a valid license designated as a "waiver license" may submit an application to the board for a license containing no reference to the fact that such person has theretofore been issued such "waiver license." The provisions of this section relating to examination and fees and the provisions of all other sections of this article shall apply to any application submitted to the board pursuant to the provisions of this paragraph.~~

~~(f) Any person applying for a license to practice registered professional nursing under the provisions of this article shall, with his or her application, pay to the board a fee of $40: *Provided,* That the fee to be paid for the year commencing July 1, 1982, shall be $70: *Provided, however,* That the board in its discretion may, by rule or regulation, decrease either or both said license fees. In the event it shall be necessary for the board to reexamine any applicant for a license, an additional fee shall be paid to the board by the applicant for reexamination: *Provided further,* That the total of such additional fees shall in no case exceed $100 for any one examination.~~

~~(g) Any person holding a license heretofore issued by the West Virginia state Board of Examiners for Registered Nurses and which license is valid on the date this article becomes effective shall be deemed to be duly licensed under the provisions of this article for the remainder of the period of any such license heretofore issued. Any such license heretofore issued shall also, for all purposes, be deemed to be a license issued under this article and to be subject to the provisions hereof.~~

~~(h) The board shall, upon receipt of a duly executed application for licensure and of the accompanying fee of $70, issue a temporary permit to practice registered professional nursing to any applicant who has received a diploma from a school of nursing approved by the board pursuant to this article after the date the board last scheduled a written examination for persons eligible for licensure: *Provided,* That no such temporary permit shall be renewable nor shall any~~

~~such permit be valid for any purpose subsequent to the date the board has announced the results of the first written examination given by the board following the issuance of such permit.~~

~~(i) To obtain a license to practice as an advanced practice registered nurse, an applicant must submit a written application, verified by oath, to the board together with an application fee established by the board through an authorized legislative rule. The requirements for a license to practice as an advanced practice registered nurse in this state are listed below and must be demonstrated to the board through satisfactory evidence submitted with the application for a license:~~

~~(1) The applicant must be licensed in good standing with the board as a registered professional nurse;~~

~~(2) The applicant must have satisfactorily completed a graduate-level program accredited by a national accreditation body that is acceptable to the board; and~~

~~(3) The applicant must be currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist or certified nurse practitioner.~~

(a) The board may issue a license to practice registered nursing to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency;

(3) Has completed a nursing education program;

(4) Has passed an examination approved by the board;

(5) Has paid the application fee specified by rule;

(6) Has completed a criminal background check, as required by §30-1D-1 *et seq.* of this code; and,

(7) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may be evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or process, may be considered.

(b) A license to practice registered professional nursing issued by the board shall for all purposes be considered a license issued under this section: *Provided,* That a person holding a license shall renew the license.

§30-7-7. License to practice advanced practice registered nursing.

~~(a) The board may, upon application, issue a license to practice registered professional nursing by endorsement to any person who is not a citizen of the United States of America if such~~

~~person: (1) Has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country; and (2) shall, in any such state, territory or foreign country, have passed a written examination in the English language which, in the opinion of the board, is comparable in content and scope to the type of written examination that is required in subsection~~

~~(b) of section six of this article.~~

~~(b) All other provisions of this article shall be applicable to any application for or license issued pursuant to this section.~~

(a) The board may issue an advanced practice registered nurse license to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Is currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner;

(3) Has paid the application fee specified by legislative rule; and

(4) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or process, may be considered.

(b) An advanced practice registered nurse license issued by the board and in good standing on the effective date of the amendments to this section shall for all purposes be considered an advanced practice registered nurse license issued under this section: *Provided*, That a person holding an advanced practice registered nurse license shall renew the license.

(c) An applicant, who is licensed in another jurisdiction as an advanced practice registered nurse, is eligible to apply for licensure.

(d) By virtue of being a licensed advanced practice registered nurse that person is also licensed as a registered professional nurse. The board may not charge an additional fee for registered professional nurse license

§30-7-8. License renewal.

~~The license of every person licensed and registered under the provisions of this article shall be annually renewed except as hereinafter provided. At such time or times as the board in its discretion may determine, the board shall mail a renewal application to every person whose license was renewed during the previous year and every such person shall fill in such application blank and return it to the board with a renewal fee of $25 within thirty days after receipt of said renewal application: *Provided,* That the board in its discretion by rule may increase or decrease the renewal fee. Upon receipt of the application and fee, the board shall verify the accuracy of the application and, if the same be accurate, issue to the applicant a certificate of renewal for the current year. Such certificate of renewal shall entitle the holder thereof to practice registered professional nursing for the period stated on the certificate of renewal. Any licensee who allows~~

~~his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment to the board of the renewal fee hereinabove provided and a reinstatement fee of $50. Any person practicing registered professional nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of this article desiring to retire from practice temporarily shall send a written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the inactive list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice registered professional nursing in this state. When the person desires to resume active practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.~~

(a) Persons regulated by this article shall annually or biennially, renew his or her board authorization by completing a form prescribed by the board and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a board authorization and shall charge a late fee for any renewal not paid by the due date.

(c) The board may deny an application for renewal for any reason which would justify the denial of an original application.

§30-7-8a. Temporary permits.

~~(a) The board is authorized to assess a supplemental licensure fee not to exceed $10 per license per year. The supplemental licensure fee is to be used to fund the center for nursing and to carry out its purposes as set forth in article seven-b of this chapter.~~

~~(b) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish the supplemental licensure fee.~~

~~(c) The board may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code for the initial fee assessment.~~

The board may issue a temporary permit to a person applying for a license under this article.

§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.

[Repealed.]

§30-7-18. Nursing shortage study commission.

(a) ~~The Legislature finds the following:~~

~~(1) Health care services are becoming complex and it is increasingly difficult for patients to access integrated services;~~

~~(2) Quality of patient care is jeopardized because of insufficient nursing staff;~~

~~(3) To ensure the adequate protection of patients in acute care settings, it is essential that qualified registered nurses and other licensed nurses be accessible and available to meet the needs of patients;~~

~~(4) In West Virginia, and across the country, concerns about an increasing nursing shortage continue to grow;~~

~~(5) A number of factors contribute to the growing shortages in qualified nursing personnel;~~

~~(6) The way care is delivered has changed dramatically over the last decade with more people being treated in outpatient settings, shorter and more intense lengths of stay in acute and long-term care settings, and the development of alternatives to nursing home care;~~

~~(7) These changes have led to a number of employment options becoming available to nurses that did not exist previously, making it difficult for employers of nurses to recruit and retain qualified nursing personnel;~~

~~(8) Severe cutbacks in the federal Medicare program, state budgetary pressures related to the Medicaid program and continued pressure from insurers to reduce their costs and to retrospectively deny payment for services rendered, have: (A) Made it extremely difficult for many providers to keep up with other employers in salaries and benefits and to recruit and retain qualified nursing personnel; and (B) increased stresses in the work environment;~~

~~(9) The increasing reliance on temporary employment agencies to meet nursing personnel needs further complicates the situation as continuity of care is disrupted, quality of patient care is jeopardized, and costs pressures are further increased; and~~

~~(10) Because of the multifaceted nature of these problems, it is critical that all of the interested and affected parties cooperate and collaborate in the development of solutions.~~

~~(b)~~ A nursing shortage study commission shall be created by the ~~West Virginia~~ board ~~of examiners for registered professional nurses~~. The board shall appoint ~~eleven~~ 9 members to the commission. The board shall appoint:

(1) ~~Two individuals who are~~ One individual who is on the board ~~of examiners for registered professional nurses; one of which is employed in a school of nursing~~;

(2) Two individuals that are employed as registered professional nurses in a hospital and who work primarily providing direct patient care;

(3) Two registered professional nurses who work as long-term care nurses, one of whom works in a nursing home and one of whom works for a home health agency, both of whom work primarily providing direct patient care;

(4) One nursing administrator; ~~of a hospital in this state;~~

(5) ~~One doctoral prepared nurse researcher;~~ The Chancellor of the Higher Education Policy Commission

(6) ~~One nursing home administrator; and~~ The West Virginia Nurses' Association President; and,

(7) ~~Two representatives of the public not currently or previously employed in hospital, nursing home or for a related entity.~~ The Executive Director of the Center for Nursing.

~~(c)~~ (b) Members of the commission are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties. ~~Six~~ 5 of the appointed members is a quorum for the purpose of conducting business. The board shall meet at least monthly. The board shall designate a chair, who is not a public official. The commission shall conduct all meetings in accordance with the open meeting law pursuant to §6-9A-1 *et seq.* of this code.

~~(d)~~ (c) The commission shall:

(1) Study the nursing shortage in West Virginia and ways to alleviate it, including, but not limited to:

(A) Evaluating mechanisms currently available in the state and elsewhere intended to enhance education, recruitment, and retention of nurses in the workforce and to improve quality of care;

(B) Assessing the impact of shortages in nursing personnel on access to, and the delivery of, quality patient care;

(C) Developing recommendations on strategies to reverse the growing shortage of qualified nursing personnel in the state, including:

(i) Determining what changes are needed to existing programs, current scholarship programs and funding mechanisms to better reflect and accommodate the changing health care delivery environment and to improve quality of care to meet the needs of patients;

(ii) Facilitating career advancement within nursing;

(iii) Identifying more accurately specific shortage areas in a more timely manner;

(iv) Attracting middle and high school students into nursing as a career; and

(v) Projecting a more positive and professional image of nursing.

(2) ~~Report to the Legislature by February 1, 2002, its findings and recommendations on or before February 1 each year thereafter.~~

Report its findings and recommendation to the Joint Committee on Health by December 1, 2022.

(3) Terminate January 1, 2023.

§30-7-20. Pilot program.

[Repealed.];

And,

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

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

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

Engrossed Committee Substitute for Senate Bill 518, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: Takubo—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 518) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: Takubo—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 518) takes effect from passage.

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

On motion of Senator Takubo, at 12:45 p.m., the Senate recessed until 2 p.m. today.

The Senate reconvened at 3:05 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 250, Budget Bill.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for Senate Bill 334, Authorizing miscellaneous agencies and boards to promulgate rules.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Foster, Kimes, and Young.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Sypolt, Rucker, and Jeffries.

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

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

Eng. Senate Bill 731, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development 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 732, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority 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 733, Supplementing and amending appropriation to Executive, Governor’s Office.

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

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

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

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

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

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

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

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

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

Eng. House Bill 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.

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

Eng. Com. Sub. for House Bill 4373, To exclude fentanyl test strips from the definition of drug paraphernalia.

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

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

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

Eng. Com. Sub. for House Bill 4511, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

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

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

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

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

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

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

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

Executive Communications

Senator Blair (Mr. President) laid before the Senate the following proclamation from His Excellency, the Governor, regarding the regarding the passage of the Budget Bill and the extension of this current legislative session, which was received and read by the Clerk:

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

Charleston

A PROCLAMATION

By the Governor

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January, Two Thousand Twenty-Two, such Regular Session being scheduled to conclude on the Twelfth day of March, Two Thousand Twenty-Two; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the Regular Session of the Legislature for such further period as may, in his or her judgment, be necessary for the passage of the Budget Bill if the Budget Bill shall not have been finally acted upon three days before the expiration of its Regular Session; and

WHEREAS, the Budget Bill had not been finally acted upon by the Legislature three days before the expiration of its Regular Session, requiring under the provisions of the Constitution a proclamation be issued; and

WHEREAS, an extension of the Regular Session is not necessary for the passage of the Budget Bill; and

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the Two Thousand Twenty-Two Regular Session of the Legislature for no additional period, as no additional period is necessary for the passage of the Budget Bill.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of Charleston, State of West Virginia, on this the Twelfth day of March, in the Year of our Lord, Two Thousand Twenty-Two, and in the One Hundred Fifty-Ninth Year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE

The Senate proceeded to the sixth order of business.

Petitions

Senator Caputo presented a petition from the West Virginia Coalition for Truth in History and 475 West Virginia residents, opposing Engrossed Senate Bill 498 *(Creating Anti-Racism Act of 2022).*

Referred to the Committee on Education.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 62, Requesting Joint Legislative Oversight Commission on State Water Resources study and evaluate quality of water services in WV.

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

At the request of Senator Takubo, unanimous consent being granted, the resolution was referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

Eng. House Bill 2300, Including Family Court Judges in the Judges' Retirement System.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

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

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

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-14. Service credit; retroactive provisions.

(a) The board of trustees shall credit each member with the prior service and contributing service to which he or she is entitled based upon rules adopted by the board of trustees and based upon the following:

(1) In no event may less than ten days of service rendered by a member in any calendar month be credited as a month of service: *Provided,* That for employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim between regular

sessions and who have been or are employed during regular sessions or during the interim between regular sessions in seven consecutive calendar years, service credit of one month shall be awarded for each ten days employed in the interim between regular sessions, which interim days shall be cumulatively calculated so that any ten days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit;

(2) Except for hourly employees, and those persons who first become members of the retirement system on or after July 1, 2015, ten or more months of service credit earned in any calendar year shall be credited as a year of service: *Provided,* That no more than one year of service may be credited to any member for all service rendered by him or her in any calendar year and no days may be carried over by a member from one calendar year to another calendar year where the member has received a full-year credit for that year; and

(3) Service may be credited to a member who was employed by a political subdivision if his or her employment occurred within a period of thirty years immediately preceding the date the political subdivision became a participating public employer.

(b) The board of trustees shall grant service credit to employees of boards of health, the Clerk of the House of Delegates and the Clerk of the State Senate or to any former and present member of the State Teachers Retirement System who have been contributing members in the Public Employees Retirement System for more than three years, for service previously credited by the State Teachers Retirement System and shall require the transfer of the member's accumulated contributions to the system and shall also require a deposit, with reinstatement interest as set forth in the board's Rule, Refund, Reinstatement, Retroactive Service, Loan and Correction of Error Interest Factors, 162 C. S. R. 7, of any withdrawals of contributions any time prior to the member's retirement. Repayment of withdrawals shall be as directed by the Board of Trustees.

(c) Court reporters who are acting in an official capacity, although paid by funds other than the county commission or State Auditor, may receive prior service credit for time served in that capacity.

(d) Active members who previously worked in Comprehensive Employment and Training Act (CETA) may receive service credit for time served in that capacity: *Provided,* That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within one hundred twenty days following the termination of the member's CETA employment; (2) the board must receive evidence that establishes to a reasonable degree of certainty as determined by the board that the member previously worked in CETA; and (3) the member shall pay to the board an amount equal to the employer and employee contribution plus interest at the amount set by the board for the amount of service credit sought pursuant to this subsection: *Provided, however,* That the maximum service credit that may be obtained under the provisions of this subsection is two years: *Provided further,* That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: *And provided further,* That the board shall exercise due diligence to notify affected employees of the provisions of this subsection.

(e) (1) Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions shall receive service credit for the time served in that capacity in accordance with the following: For purposes of this

section, the term "regular session" means day one through day sixty of a sixty-day legislative session or day one through day thirty of a thirty-day legislative session. Employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions and who have been or are employed during regular sessions or during the interim time between regular sessions in seven consecutive calendar years, as certified by the clerk of the house in which the employee served, shall receive service credit of six months for all regular sessions served, as certified by the clerk of the house in which the employee served, or shall receive service credit of three months for each regular thirty-day session served prior to 1971: *Provided,* That employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions and who have been or are employed during the regular sessions in thirteen consecutive calendar years as either temporary employees or full-time employees or a combination thereof, as certified by the clerk of the house in which the employee served, shall receive a service credit of twelve months for each regular session served, as certified by the clerk of the house in which the employee served: *Provided, however,* That the amendments made to this subsection during the 2002 regular session of the Legislature only apply to employees of the Legislature who are employed by the Legislature as either temporary employees or full-time employees as of January 1, 2002, or who become employed by the Legislature as temporary or full-time employees for the first time after January 1, 2002. Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature during the interim time between regular sessions shall receive service credit of one month for each ten days served during the interim between regular sessions, which interim days shall be cumulatively calculated so that any ten days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit: *Provided further,* That no more than one year of service may be credited to any temporary legislative employee for all service rendered by that employee in any calendar year and no days may be carried over by a temporary legislative employee from one calendar year to another calendar year where the member has received a full year credit for that year. Service credit awarded for legislative employment pursuant to this section shall be used for the purpose of calculating that member’s retirement annuity, pursuant to section twenty-two of this article, and determining eligibility as it relates to credited service, notwithstanding any other provision of this section. Certification of employment for a complete legislative session and for interim days shall be determined by the clerk of the house in which the employee served, based upon employment records. Service of fifty-five days of a regular session constitutes an absolute presumption of service for a complete legislative session and service of twenty-seven days of a thirty-day regular session occurring prior to 1971 constitutes an absolute presumption of service for a complete legislative session. Once a legislative employee has been employed during regular sessions for seven consecutive years or has become a full-time employee of the Legislature, that employee shall receive the service credit provided in this section for all regular and interim sessions and interim days worked by that employee, as certified by the clerk of the house in which the employee served, regardless of when the session or interim legislative employment occurred: *And provided further,* That regular session legislative employment for seven consecutive years may be served in either or both houses of the Legislature.

(2) For purposes of this section, employees of the Joint Committee on Government and Finance are entitled to the same benefits as employees of the House of Delegates or the Senate: *Provided,* That for joint committee employees whose terms of employment are otherwise classified as temporary, employment in preparation for regular sessions, certified by the legislative manager as required by the Legislature for its regular sessions, shall be considered the same as employment during regular sessions to meet service credit requirements for sessions served.

(f) Any employee may purchase retroactive service credit for periods of employment in which contributions were not deducted from the employee's pay. In the purchase of service credit for employment prior to 1989 in any department, including the Legislature, which operated from the General Revenue Fund and which was not expressly excluded from budget appropriations in which blanket appropriations were made for the state's share of public employees' retirement coverage in the years prior to 1989, the employee shall pay the employee's share. Other employees shall pay the state's share and the employee's share to purchase retroactive service credit. Where an employee purchases service credit for employment which occurred after 1988, that employee shall pay for the employee's share and the employer shall pay its share for the purchase of retroactive service credit: *Provided,* That no legislative employee and no current or former member of the Legislature may be required to pay any interest or penalty upon the purchase of retroactive service credit in accordance with the provisions of this section where the employee was not eligible to become a member during the years for which he or she is purchasing retroactive credit or had the employee attempted to contribute to the system during the years for which he or she is purchasing retroactive service credit and the contributions would have been refused by the board: *Provided, however,* That a current legislative employee purchasing retroactive credit under this section shall do so within twenty-four months of beginning contributions to the retirement system as a legislative employee or no later than December 31, 2016, whichever occurs later: *Provided further,* That once a legislative employee becomes a member of the retirement system, he or she may purchase retroactive service credit for any time he or she was employed by the Legislature and did not receive service credit. Any service credit purchased shall be credited as six months for each sixty-day session worked, three months for each thirty-day session worked or twelve months for each sixty-day session for legislative employees who have been employed during regular sessions in thirteen consecutive calendar years, as certified by the clerk of the house in which the employee served, and credit for interim employment as provided in this subsection: *And provided further,* That this legislative service credit shall also be used for months of service in order to meet the sixty-month requirement for the payments of a temporary legislative employee member's retirement annuity: *And provided further,* That no legislative employee may be required to pay for any service credit beyond the actual time he or she worked regardless of the service credit which is credited to him or her pursuant to this section: *And provided further,* That any legislative employee may request a recalculation of his or her credited service to comply with the provisions of this section at any time.

(g) (1) Notwithstanding any provision to the contrary, the seven consecutive calendar years requirement and the thirteen consecutive calendar years requirement and the service credit requirements set forth in this section shall be applied retroactively to all periods of legislative employment prior to the passage of this section, including any periods of legislative employment occurring before the seven consecutive and thirteen consecutive calendar years referenced in this section: *Provided,* That the employee has not retired prior to the effective date of the amendments made to this section in the 2002 regular session of the Legislature.

(2) The requirement of seven consecutive years and the requirement of thirteen consecutive years apply retroactively to all legislative employment prior to the effective date of the 2006 amendments to this section.

(h) The board of trustees shall grant service credit to any former or present member of the State Police Death, Disability and Retirement Fund who has been a contributing member of this system for more than three years for service previously credited by the State Police Death, Disability and Retirement Fund if the member transfers all of his or her contributions to the State Police Death, Disability and Retirement Fund to the system created in this article, including repayment of any amounts withdrawn any time from the State Police Death, Disability and

Retirement Fund by the member seeking the transfer allowed in this subsection: *Provided,* That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Public Employees Retirement System during the period of his or her membership in the State Police Death, Disability and Retirement Fund, excluding contributions on lump sum payment for annual leave, plus interest at a rate determined by the board.

(i) The provisions of section twenty-two-h of this article are not applicable to the amendments made to this section during the 2006 regular session.

(j) The board of trustees shall grant service credit to any judge who elects to transfer service from the judges' retirement system to the public employees retirement system and shall require the transfer to the member's employee contributions to the system: *Provided,* That there shall be added by the member to the amount transferred pursuant to this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the public employees retirement system during the period of his or her membership in the judges' retirement system, plus interest at the actuarial interest rate assumption as approved by the board, compounded per annum.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-1a. Definitions.

(a) Notwithstanding any provision of this code contrary, as used in this article, the term "judge", "judge of any court of record", or "judge of any court of record of this state" means, refers to, and includes judges of the several family courts, circuit courts, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals. ~~For purposes of this article, the terms do not mean, refer to, or include family court judges.~~

(b) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of section 415 of the Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(c) "Beneficiary" means any person, except a member, who is entitled to an annuity or other benefit payable by the retirement system.

(d) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

(e) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

(f) "Final average salary" means the average of the highest 36 consecutive months' compensation received by the member as a judge of any court of record of this state.

~~(f)~~ (g) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

~~(g)~~ (h) "Member" means a judge participating in this system.

~~(h)~~ (i) "Plan year" means the 12-month period commencing on July 1 of any designated year and ending the following June 30.

~~(i)~~ (j) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age ~~70 and one-half~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which the member retires or otherwise separates from covered employment under this retirement system.

~~(j)~~ (k) "Retirement system" or "system" means the Judges' Retirement System created and established by this article. Notwithstanding any other provision of law to the contrary, the provisions of this article are applicable only to circuit judges, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals in the manner specified in this article. No service as a family court judge may be construed to qualify a person to participate in the Judges' Retirement System or used in any manner as credit toward eligibility for retirement benefits under the Judges' Retirement System.

§51-9-4. Required percentage contributions from salaries; any termination of required contributions prior to actual retirement disallowed; leased employees; military service credit; maximum allowable and qualified military service; qualifiable prosecutorial service.

(a) Every person who is now serving or shall hereafter serve as a judge of any court of record of this state shall pay into the Judges' Retirement Fund six percent of the salary received by such person out of the State Treasury: *Provided,* That when a judge becomes eligible to receive benefits from such trust fund by actual retirement, no further payment by him or her shall be required, since such employee contribution, in an equal treatment sense, ceases to be required in the other retirement systems of the state, also, only after actual retirement: *Provided, however,* That on and after January 1, 1995, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund nine percent of the salary received by that person: *Provided further,* That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on and after July 1, 2005, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund 10 and one-half percent of the salary received by that person: *And provided further,* That on and after July 1, 2013, except as provided in subsection (b) of this section, every person who is then serving or shall thereafter serve as a judge of any court of record in this state and who elects to participate in this retirement system shall pay into the Judges' Retirement Fund seven percent of the salary received. Any prior occurrence or practice to the contrary, in any way allowing discontinuance of required employee contributions prior to actual retirement under this retirement system, is rejected as erroneous and contrary to legislative intent and as violative of required equal treatment and is hereby nullified and discontinued fully, with the State Auditor to require such contribution in every instance hereafter, except where no contributions are required to be made under any of the provisions of this article.

(b) On and after July 1, 2014, every person who is serving or shall hereafter serve as a judge of any court of record of this state and who elects to participate in this retirement system shall contribute to the fund an amount determined by the board. This amount will be based on the annual actuarial valuation prepared by the State Actuary: *Provided,* That the contribution will be no less than seven percent or no more than ten and one-half percent of the participant's annual compensation: *Provided, however,* That on or after July 1, 2023, the contribution will be no less than three percent or no more than ten percent of the participant's annual compensation.

(c) On or after July 1, 2013, and each year thereafter, the annual actuarial valuation prepared by the State Actuary for determination of all participants' contributions and the annual actuarially required contribution prepared by the State Actuary for use by the courts of this state for legislative appropriation shall be provided to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement.

(d) An individual who is a leased employee shall not be eligible to participate in the system. For purposes of this system, a "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or other similar organization. If a question arises regarding the status of an individual as a leased employee, the board has the final power to decide the question.

(e) In drawing warrants for the salary checks of judges, the State Auditor shall deduct from the amount of each such salary check six percent thereof, which amount so deducted shall be credited by the Consolidated Public Retirement Board to the trust fund: *Provided,* That on or after January 1, 1995, the amount so deducted and credited shall be nine percent of each such salary check: *Provided, however,* That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on or after July 1, 2005, the amount so deducted and credited shall be 10 and one-half percent of each such salary check: *Provided further,* That on and after July 1, 2013, except as provided in subsection (b) of this section, the amount so deducted and credited shall be seven percent of each salary check: *And provided further,* That on and after July 1, 2014, the amount so deducted and credited will be determined by the board.

(f) Any judge seeking to qualify military service to be claimed as credited service, in allowable aggregate maximum amount up to five years, shall be entitled to be awarded the same without any required payment in respect thereof to the Judges' Retirement Fund.

(g) Notwithstanding the preceding provisions of this section, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has the same meaning as in Section 414(u) of the Internal Revenue Code. The retirement board is authorized to determine all questions and make all decisions relating to this section and may promulgate rules relating to contributions, benefits and service credit pursuant to the authority granted to the retirement board in §5-10D-1 of this code to comply with Section 414(u) of the Internal Revenue Code.

(h) Any judge holding office as such on the effective date of the amendments to this article adopted by the Legislature at its 1987 regular session who seeks to qualify service as a prosecuting attorney as credited service, which service credit must have been earned prior to the year 1987, shall be required to pay into the Judges' Retirement Fund nine percent of the annual salary which was actually received by such person as prosecuting attorney during the time such

prosecutorial service was rendered prior to the year 1987 and for which credited service is being sought, together with applicable interest. No judge whose term of office shall commence after the effective date of such amendments to this article shall be eligible to claim any credit for service rendered as a prosecuting attorney as eligible service for retirement benefits under this article, nor shall any time served as a prosecutor after the year 1988 be considered as eligible service for any purposes of this article.

Engrossed House Bill 2300, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 2300 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2300) passed.

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

Eng. House Bill 2300—A Bill to amend and reenact §5-10-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §51-9-1a; and to amend and reenact §51-9-4 relating to including family court judges in the Judges' Retirement System; to change contribution levels of persons who serve of any court of record of this state and who elects to participate in this retirement system; setting an effective date; and modifying percent of participant's annual compensation.

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 2910, To modify the allowable number of magistrate judges per county.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the bill was withdrawn.

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

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

ARTICLE 1. COURTS AND OFFICERS.

§50-1-2. Number of magistrates.

(a) The number of magistrates to be elected in each county of this state shall be determined in accordance with the provisions of this section.

~~(b) The number of magistrates serving in each county of the state shall comport with the numbers certified by the Supreme Court of Appeals to the ballot commissioners of each county on or before January 31, 2000, for purposes of the primary and general elections to be held in the year 2000.~~

(b) The Supreme Court of Appeals shall conduct or otherwise arrange for a caseload study of the magistrate courts of this state for the purpose of determining how many magistrates are needed in each county. Based upon the results of this study and upon consideration of county population data from the most recent decennial census, the Supreme Court of Appeals shall enter an administrative order on or before January 5, 2023, containing the Supreme Court's recommendations as to the number of magistrates who are needed in each of the state's 55 counties for the four-year terms of office to be filled by election in the year 2024. The administrative order shall allocate no more than 170 magistrates for the entire State of West Virginia, nor shall the allocation reduce the number of magistrates in any county below that in effect on the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. Attested copies of the administrative order shall be provided to the President of the West Virginia Senate, the Clerk of the Senate, the Clerk and the Speaker of the West Virginia House of Delegates, and the West Virginia Secretary of State.

~~(c)(1) The Legislature finds that there exists among the various counties large and unwarranted disparities of caseload between the magistrate courts. The Legislature further finds that the disparity causes an inequity with regard to magistrate court resources and the ability of the courts to effectively meet the needs of the citizens of this state who need to avail themselves of this judicial resource. The Legislature further finds that the system currently in place for allocating magistrate court resources which has been in effect since the year 1991 produces certain anomalies which cause quadrennial reallocation of magistrate resources based upon said anomalies which in turn cause a waste of funds, inequitable workloads, unnecessary shifting of resources and confusion among the various counties.~~

(c) The West Virginia Legislature may, in the regular session of the Legislature, 2023, reject the allocation of magistrates recommended by the Supreme Court and allocate magistrates for the four-year terms commencing in January of 2025 and serving through December of 2028, as the Legislature may choose by enactment of a bill containing such an allocation.

(d) If the Legislature does not enact a different allocation of the magistrates to be elected in 2024 pursuant to subsection (c) of this section, then the administrative order of the Supreme Court of Appeals required by subsection (b) of this section shall become the certification to the ballot commissioners of each county in this state of the number of magistrates to be elected in each county of this state at the judicial elections to be held concurrently with the primary election in 2024.

(e) The process set forth in this section shall be repeated every four years in the first and second years immediately preceding the quadrennial election of magistrates.

§50-1-2a. Addition of magistrate in Berkeley County.

(a) The Legislature hereby finds that, according to the statistics compiled by the administrative office of the Supreme Court of Appeals of West Virginia, the caseload in the magistrate court of Berkeley County in the year 2020 was as follows:

Civil cases: 4,139

Criminal cases: 7,782

Total: 11,921

With five elected magistrates in Berkeley County, each magistrate had a caseload of 2,384 cases in 2020. This caseload per magistrate is substantially higher than the statewide average total caseload of 957 cases per magistrate and is higher than the caseload per magistrate in any other county in West Virginia in 2020.

(b) Notwithstanding any other provisions of this article to the contrary, the allowable number of magistrates serving in the county of Berkeley as of March 1, 2022, shall be increased by one, effective July 1, 2022. The initial appointment for the position shall be made in accordance with the provisions of §50-1-6 of this code.

~~(2) The office of Legislative Services is hereby directed to undertake a comprehensive study of the magistrate courts of the various counties to determine, among other things, the work performed by various personnel in the magistrate court system, how work time is spent by said employees and to report its findings no later than December 10, 2001, to the joint standing committee on the judiciary.~~

~~(3) The division of criminal justice and highway safety shall, in conjunction with the administrative office of the West Virginia Supreme Court of Appeals, compile for consideration by the Legislature statistical information and documentation regarding caseloads, cases handled per year per magistrate, cases per county, cases per circuit and provide to the President of the Senate and the Speaker of the House of Delegates no later than the first day of the 2002 regular session of the Legislature, their recommendations for improving the magistrate process, better utilization of court resources, including, but not limited to, categorizing the various types of cases heard in magistrate court and developing a new weighted formula to evaluate types of cases by the amount of time necessary to bring said cases to a resolution.~~

~~(d) Notwithstanding the other provisions of this section, the allowable number of magistrates serving the counties of Berkeley and Nicholas on March 1, 2001, shall be increased by one in each county, effective July 1, 2001. The initial appointment to the position shall be made in accordance with the provisions of section six of this article.~~

§50-1-3. Salaries of magistrates.

~~(a) The Legislature finds and declares that:~~

~~(1) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate the equal protection clause of the Constitution of the United States;~~

~~(2) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate section 39, article VI, of the Constitution of West Virginia;~~

~~(3) The Administrative Office of the Supreme Court of Appeals of West Virginia has stated that the utilization of a two-tiered salary schedule for magistrates is no longer an equitable and rational manner by which magistrates should be compensated for work performed;~~

~~(4) Organizing the two tiers of the salary schedule into one tier for magistrates serving less than 7,300 in population and a second tier for magistrates serving 7,300 or more in population is no longer rational and equitable given current statistical information relating to population and caseload; and~~

~~(5) That, by January 1, 2017, all magistrates should be compensated equally.~~

~~(b) The salary of each magistrate shall be paid by the state. Magistrates who serve fewer than 7,300 in population shall be paid annual salaries of $51,125 and magistrates who serve 7,300 or more in population shall be paid annual salaries of $57,500.~~

~~(c) For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. For the purpose of this article, the population of each county is the population as determined by the last preceding decennial census taken under the authority of the United States government.~~

~~(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 First Extraordinary Session are effective upon passage and are retroactive to January 1, 2013.~~

~~(e) On or before July 1, 2013, the Joint Committee on Government and Finance shall request a study by the National Center for State Courts, working in conjunction with the Administrative Office of the Supreme Court of Appeals of West Virginia, to review the weighted caseloads in each of the magistrate courts in this state, and present recommendations as to how the present resources and personnel in the magistrate court system could be better apportioned to equitably and timely meet the collective needs of the magistrate court system in West Virginia. Based on the findings and data generated by that study, the National Center for State Courts shall make recommendations as to the equitable redistribution of personnel and resources, by temporary or permanent reassignment, to better meet the needs and weighted loads that are demonstrated to exist in the various magistrate courts in this state. This study shall be presented to the Joint Committee on Government and Finance no later than December 1, 2014, and shall include recommendations and proposed legislation resulting from such study and shall also include a plan to continue the efficient delivery of justice by the magistrate court system and the justification for equalization of pay for all magistrates. As a part of the submitted study, the plan shall consider the reassignment of magistrates or the extension of their duties and jurisdiction to include holding court or delivering services to adjacent counties with higher caseloads, as part of their regular duties, or being on call as needed to serve other needs in other adjacent counties or within the same judicial circuit.~~

~~On or before January 15, 2015, the Supreme Court of Appeals of West Virginia shall present its recommendations to the Legislature regarding how to allocate or assign a maximum of 158 magistrates throughout this state to improve the magistrate process, and more equitably distribute the magistrate court resources to efficiently and effectively meet the needs of the citizens of this state.~~

~~(f) Notwithstanding any provision of this code to the contrary, beginning January 1, 2017, all magistrates shall be compensated equally and the annual salary of all magistrates shall be $57,500.~~

~~(g)~~ Notwithstanding any provisions of this code to the contrary, beginning July 1, 2021, the annual salary of a magistrate shall be $60,375, and beginning July 1, 2022, the annual salary of a magistrate shall be $63,250.

§50-1-13. Temporary service within or outside of county.

(a) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may order a magistrate to serve temporarily at locations within the county other than at the regular office or offices of the magistrate.

(b) The Chief Justice of the Supreme Court of Appeals may by order direct a magistrate to serve on a temporary basis outside the county of his or her election or appointment while giving due consideration to travel time and geographic circumstance. ~~or~~ A judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may by order direct a magistrate to serve temporarily in any other county within the judicial circuit for ~~such~~ any purposes ~~as~~ directed by the judge ~~may direct~~. The magistrate's authority, to the extent ordered by the chief justice or judge, shall be equal to the jurisdiction and authority of a magistrate elected in the county to which the magistrate is ordered to serve. The temporary assignment may not exceed 60 days in length in any given calendar year, except with the consent of the transferred magistrate.

~~(c) A magistrate who is temporarily assigned to a county with a higher salary schedule for magistrates than the salary schedule in the county from which the magistrate was elected, shall be reimbursed for the difference of the salary in the assigned county and the lower salary which the magistrate received in the county of election, prorated for the number of days of the temporary assignment. An assigned magistrate may not be reimbursed on a pro rata basis for less than the salary received in the county of that magistrate's election~~

~~(d)~~ (c) A magistrate serving outside the county in which he or she is elected or appointed shall be reimbursed for reasonable expenses incurred in service outside of the county, as provided by rule of the Supreme Court of Appeals.

(d) The Supreme Court of Appeals is requested to develop a rule creating a system in which magistrates shall, on a periodic alternating basis, be assigned to preside over initial appearances, petitions for domestic violence, emergency protective orders, emergency mental health petitions, emergency juvenile delinquency petitions, and applications for the issuance of search warrants arising outside normal court hours or in an emergency on a circuit-wide or other regional basis as determined by the Supreme Court of Appeals. The authority of the after-hours or emergency magistrate shall be equal to the jurisdiction and authority of a magistrate elected or appointed in any county in which he or she is directed to preside.

(e) Nothing in this section may be construed to prohibit proceedings authorized by subsection (d) of this section being held remotely as determined appropriate by the Supreme Court of Appeals.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2910, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2910 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2910) 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 2910—A Bill to amend and reenact §50-1-2, 50-1-2a, and 50-1-13 of the Code of West Virginia, 1931, as amended, all relating to the allocation of magistrates serving in each county; requiring the Supreme Court of Appeals to conduct or arrange for a caseload study of the state's magistrate courts; requiring the court to enter an administrative order by January 5, 2023, containing its recommendations which allocate no more than 170 magistrates state-wide; directing that any allocation by the supreme Court not reduce the number of magistrates below the allotted number as of the effective date of the 2022 amendments to § 50-1-2 of the West Virginia code; requiring attested copies of the order be provided to the Legislature; authorizing the Legislature to reject the recommended allocation and allocate the magistrates through legislation; providing that the court's administrative order be the certification to the ballot commissioners for each county if the Legislature does not reject the allocation; requiring process be repeated every four years; increasing the number of magistrates in Berkeley County by one, effective July 1, 2022; authorizing Chief Justice of the Supreme Court of Appeals to order a magistrate to serve outside the county where elected or appointed on a temporary basis; providing for reimbursement of reasonable expenses; requesting the court to develop a rule for assignment of magistrates to serve after hours or in an emergency on a circuit-wide or other regional basis for certain proceedings; providing for magistrates authority when presiding in these proceedings and clarifying that proceedings may be held remotely if determined appropriate by the Court.

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

Eng. House Bill 3073, Relating to the West Virginia Emergency School Food Act.

On third reading, coming up in regular order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.

§18-5D-6. West Virginia Emergency School Food Act.

(a) The Legislature finds and declares that:

(1) The Feed to Achieve initiative has successfully improved the availability and awareness for the need to provide nutritious food to state students and the Shared Table Initiative has facilitated a spirit of innovation and consciousness in our counties to find alternative ways to feed children in need;

(2) A periodic assessment of the needs for county students and availability of county resources would be helpful in determining what type of resources are available and needed to reduce food insecurity for students when they are not in school;

(3) That expansion of the Shared Table Initiative to include a program to encourage county schools to locate, participate in, and initiate programs to provide meals during summers and non-school-day times when some children may not have access to healthy meals could assist in reducing food insecurity for thousands of children in this state, and therefore, creating a mechanism that is not a directive from the Legislature upon county school boards, but rather an authorization to use school resources to find innovative ways, within the means of the county school systems, to assist the communities they serve, will provide a public benefit.

(b) Any county public school system may conduct an annual countywide survey of public-school students to determine their noninstructional or nontraditional remote learning and virtual school day eating patterns and the availability of nutritious food to them when schools are closed. The West Virginia Office of Child Nutrition may assist and facilitate with this survey to determine the needs for supplemental food services in every county.

(c) Any county board may collect and compile information regarding the availability of food resources in the county during noninstructional or nontraditional remote learning days as well as include a plan that includes virtual school students and distribute this information to all students. These resources may include any public, private, religious group, or charity that will provide food to children with food insecurity.

(d) Any county school board may investigate and implement any program that may facilitate this initiative including, but not limited to, entrepreneurship programs to foster innovation in

providing assistance, utilizing participation in programs as a positive discipline option, and creating mentorship programs or other opportunities to participate in the feeding program.

(e) Any county school board may provide an annual countywide or a coordinated regional training opportunity, with assistance from the West Virginia Office of Child Nutrition, that ensures that any entity that potentially qualifies as a summer feeding site according to the county survey, is afforded the opportunity to receive training on operation of a feeding site.

(f) Any county board may provide its survey, a summary of its activities, and any findings or recommendations the county school board has related thereto, to the West Virginia Office of Child Nutrition at a date determined each year by that office.

(g) Each West Virginia public school may include in its crisis response plan, created pursuant to §18-9G-9, an assessment and plan to feed students during noninstructional or nontraditional remote learning days and public virtual school students that includes emergency situations that may require innovative ways to deliver food to student homes. Community support and resources should be utilized when creating this plan.

(h) The West Virginia Office of Child Nutrition may monitor these activities and share between counties information about innovative and successful program initiatives around the state to promote and facilitate the West Virginia Emergency School Food Act.

On motion of Senator Rucker, the following amendment to the Education committee amendment to the bill (Eng. H. B. 3073) was reported by the Clerk and adopted:

On page two, section six, line forty, by striking out "§18-9G-9" and inserting in lieu thereof "§18-9F-9".

The question now being on the adoption of the Education committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed House Bill 3073, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 3073 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3073) 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 3073—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5D-6, relating to establishing the West Virginia Emergency School Food Act; providing findings; allowing an annual countywide survey of public school students to determine certain eating patterns and the availability of nutritious food to certain students when schools are closed; allowing the collection and compilation of information regarding the availability of food resources in the county on certain days including a plan that includes virtual school students and distribute the information to all students; allowing a county board to investigate and implement any program that may facilitate this initiative; allowing a county board to provide an annual county wide or a coordinated regional training opportunity for an entity that potentially qualifies as a summer feeding site; allowing a county board to provide its survey, a summary of its activities, and any findings or recommendations the county board has thereto, to the West Virginia Office of Child Nutrition; allowing a public school to include in its crisis response plan an assessment and plan to feed students during certain remote learning days and to public virtual school students; and allowing the West Virginia Office of Child Nutrition to monitor certain activities and share between counties information about innovative and successful program initiatives.

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 4001, Generally relating to broadband.

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, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 1A. OFFICE OF BROADBAND.

§31G-1A-7. Broadband Development Fund.

(a) The Broadband Development Fund is hereby created in the State Treasury. The fund shall be administered by the Secretary of the Department of Economic Development and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated to the fund by the Legislature, and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the purposes set forth in subsection (b) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) Monies of the Broadband Development Fund may only be expended for the following purposes:

(1) Expenses for the administration of the Office of Broadband;

(2) Line extension advancement and development projects, including expansion of existing fiber and cable networks;

(3) Major broadband project strategies, including new networks or major expansions of existing networks;

(4) GigReady incentive projects, including a state incentive for ISP and local governments and organizations to pool some of their federal American Rescue Plan Act allocations or other local funding; and

~~And~~

(5) Wireless Internet Networks, including expansions or upgrades of existing fixed wireless networks.

(c) Except funds expended for the administration of the Office of Broadband, monies of the Broadband Development Fund may only be expended for projects authorized by subsection (b) of this section that have been certified to the Joint Committee on Government and Finance by the Director of the Office of Broadband or the Secretary of the Department of Economic Development prior to making the expenditures.

(d) The Legislature of the State of West Virginia finds and declares that competition in any market, more especially in the delivery of broadband internet services is eminently desirable. The Legislature further finds that a competitive market, rather than a rate-regulated monopoly or duopoly will promote and perpetuate improvement in customer service, technical service, terms, conditions, and pricing. Accordingly, all agencies of state government are hereby directed to first support expansion and enhancement of broadband internet services to unserved homes and businesses and second to support expansion and enhancement of competition.

(e) Telecommunications facilities purchased, installed, or funded by any grant program offered by this state shall be subject to:

(1) The provisions of 2 CFR 200 governing equipment and capital assets and any other applicable federal law, rule, or regulation; and

(2) Any state law, rule, or regulation governing the sale of government or grant-funded assets not in conflict with applicable federal law, rule, or regulation.

§31G-1A-8. Broadband Carrier Neutral and Open Access Infrastructure Development Fund.

(a) The Broadband Carrier Neutral and Open Access Infrastructure Development Fund is hereby created in the State Treasury. The fund shall be administered by the Secretary of the Department of Economic Development and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated to the fund by the Legislature, and all interest or other return earned from investment of the fund. Expenditures from the fund

shall be for the purposes set forth in subsection (b) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) Moneys of the Broadband Carrier Neutral and Open Access Infrastructure Development Fund may only be expended for the following purposes:

(1) Expenses for the administration of the Office of Broadband; and

(2) Line extension advancement and development projects, including expansion of existing fiber and cable networks: *Provided*, That if a broadband project or extension is funded by 100 percent of public money, the project or extension shall be a carrier neutral and open access project.

ARTICLE 3. CONDUIT INSTALLATION; MICROTRENCHING.

§31G-3-5. Mapping of Disturbances in Rights of Way.

(a) Beginning July 1, 2022, every agency of state government, every public service district, and every county commission or other political subdivision must furnish to the Department of Economic Development, in a timely manner, all information relating to:

(1) any maps which they have; or

(2) descriptions of routes (if maps are not available) which they have

for any underground disturbances in state rights of way or easements.

(b) This requirement shall not constitute a new duty to create or maintain maps for any agency of state government, public service district, county commission or other political subdivision, or any regulated public utilities or any other entity with facilities in the rights of way of this state but does require any such information in their possession to be submitted to the Department of Economic Development.

(c) If any such information in subsections (a) or (b) of this section has been previously mapped by another department, division, agency, office, or commission, such information shall not be required to be submitted by that public service district, county commission, or other political subdivision again.

(d) The Department of Economic Development shall map those disturbances and limit access to any map or related data to only those entities or persons that have signed a valid confidentiality or non-disclosure agreement. Such mapping or data shall only be accessed or reviewed for the limited purposes of:

(1) Considering possible routes for installation of telecommunications facilities or other utilities;

(2) Engineering routes for installation of telecommunications facilities or other utilities;

(3) Study of existing telecommunications facilities or other utilities; or

(4) Improving, expanding, enhancing, and attaching to telecommunications facilities or other utilities.

ARTICLE 4. MAKE-READY POLE ACCESS.

§31G-4-2a. Utility Pole Rights of Way and Easement Mapping Initiative.

(a) Beginning July 1, 2022, every pole owner must furnish to the Department of Economic Development, in a timely manner, all information which they have required to be furnished by attachers, since January 1, 2018, or from such time as necessary and available, to accurately map the locations, class, number of attachments, weight, and such other information as the Department of Economic Development deems necessary to accurately map and present the data, including but not limited to all engineering reports or other documentation.

(b) The Department of Economic Development is hereby required to utilize this information to produce a map, which is to include information, where available, delineating the following:

(1) Class of poles;

(2) Age of utility poles;

(3) Distance between poles;

(4) Weight between those spans; and

(5) What is attached in the communications space on those poles.

(c) A pole owner shall not be required to disclose the details of any electrical facilities attached to the utility pole and the Department of Economic Development shall not publish information related there to, except any information in the aggregate for that pole or the spans between multiple poles related to weight thereon.

(d) This map is to be made available by the Department of Economic Development at no cost to afford potential attachers considering projects to quickly gain information to determine feasibility of a project. The Department of Economic Development shall require a confidentiality or non-disclosure agreement to access any data mapped relating to the Utility Pole Rights of Way and Easement Mapping Initiative. The Department of Economic Development shall limit access to such maps to only those persons or entities interested in or engaging in the installation of telecommunications facilities, their vendors, engineers, consultants, or other persons a potential attacher reasonably needs to review such information.

(e) If a pole owner furnishes to a requesting telecommunications entity who has requested to the pole owner to potentially attach to its poles,

(1) the latitude and longitude of all poles within the requested geographic area,

(2) in an electronic file or other format,

(3) at no cost; and

(4) once a non-disclosure agreement is entered into between pole owner and the requesting telecommunications entity. The information thus provided by the pole owners can then be used by the requesting entity to produce a map.

If a pole owner certifies in a sworn affidavit to the Department of Economic Development that the owner has produced and made available to attachers such a map as described in this section with at least the same information included and without cost to access, then the pole owner shall not be required to share this information with the state and the department shall not be required to map those utility poles. The department shall review any such map a pole owner claims meets these requirements annually, and if the map produced by the pole owner is materially deficient and has not met the requirements set-forth herein, the pole owner will once again be required to provide the foregoing information to the department to be mapped.

ARTICLE 7. CONSUMER PROTECTIONS.

§31G-7-1. Existing Consumer Protections.

The Consumer Protection Division of the Office of the Attorney General is responsible for effectuating and enforcing the following consumer protections in coordination with and the assistance of the Office of Broadband and the Department of Economic Development:

(a) If a broadband service to a subscriber is interrupted for more than 24 continuous hours, such subscriber shall, upon request, receive a credit or refund from the broadband operator in an amount that represents the proportionate share of such service not received in a billing period, provided such interruption is not caused by the subscriber, power outages, or other causes for outages beyond the control of the provider;

(b) A broadband operator may not deny service, deny access, or otherwise discriminate against subscribers, channel users, or any other citizens based on age, race, religion, sex, physical handicap, political affiliation, political views or exercise of other speech protected by the 1st Amendment to the United States Constitution, or country of natural origin;

(c) A broadband operator shall provide subscribers 30 days advance written notice of any changes to rates or charges, including the expiration of any promotion or special pricing that would result in an increase in the subscribers billing or cost of service; and

(d) A broadband system operator shall inform subscribers and provide written notice to subscribers that disputes regarding interrupted or substandard service or billing issues, which are unresolved to satisfaction of the subscriber, can be filed as a complaint with the Consumer Protection Division of the WV Attorney General's Office.

§31G-7-2. Fees.

(a) (1) No telecommunications provider may impose any fee, additional to the cost of service, on fixed broadband internet services which is not an election of the customer or required to be charged or assessed per connection by a government of competent jurisdiction.

(2) No telecommunications provider may require an individual customer to pay his or her pro rata share of the corporation's tax burden as an enumerate portion of their bill.

(b) No telecommunications provider may impose a fee for a residential customer to receive a paper bill or invoice for fixed broadband or cable television service.

§31G-7-3. Modems and other connection devices.

(a) (1) No telecommunications provider may impose any mandate that residential customers be required to rent a modem from that provider.

(2) All residential customers are to be permitted to utilize or furnish their own modem, if the network is built upon a non-proprietary, industry standard communication protocol.

(b) If there are not commercially available modems or devices to interface with the Wide Area Network, the provider must offer the ability for a residential customer to purchase, rather than rent, that hardware.

§31G-7-4. Competitive Access Infrastructure.

(a) Competitive access infrastructure is that infrastructure and related facilities which:

(1) Offer non-discriminatory, non-exclusive access to independent service providers and other entities with reasonable costs comparable to that of the owner; and

(2) On reasonable and equal terms, including location, pricing, applicable tariffs, terms and conditions.

(b) An assertion of competitive access telecommunications facilities may be demonstrated by filing with the Public Service Commission of West Virginia that documentation necessary to demonstrate the elements of a competitive access infrastructure defined in subsection (a) of this section.

(c) Where referenced elsewhere in the Code of West Virginia, 1931 as amended, the phrase "open-access networks" shall have the same meaning as "competitive access infrastructure", as defined by this section.

§31G-7-5. Credits due to a customer.

All credits due to a customer for any reason are due to the customer at the time the condition giving rise to them commences and shall be applied to the customer's bill as soon as is practicable. Once notified, the customer has no further duty to seek credit after the condition giving rise to such a credit is resolved.

ARTICLE 8. ELIGIBLE TELECOMMUNICATIONS CARRIERS.

§31G-8-1. Legislative Findings.

The Legislature of the State of West Virginia finds and declares that:

(1) The certification of Eligible Telecommunications Carriers is a responsibility primarily delegated to the states.

(2) The proper utilization and oversight of disbursement of funds from the Universal Service Fund established by the federal government and managed by the Federal Communications Commission is in the public interest, convenience, and necessity.

(3) Failure to perform any obligations imposed upon an Eligible Telecommunications Carrier in connection with disbursement of funding from the Universal Service Fund is detrimental to the public interest, convenience, and necessity.

(4) Proper oversight and certification of compliance are necessary and proper for the continuing issuance of Eligible Telecommunications Status and are in the public interest.

§31G-8-2. Definition.

"Eligible Telecommunications Carrier" means the status for a telecommunications carrier to be eligible for Universal Service Fund support pursuant to 47 CFR § 54.201.

§31G-8-3. Eligible Telecommunications Carriers Status.

Notwithstanding any other provision of this code to the contrary, eligible Telecommunications Carriers Status shall be issued by the Public Service Commission. Issuance thereof shall not be unreasonably withheld, considering the recommendation of the Attorney General, and only if the applicant for Eligible Telecommunications Carrier status is in compliance with the following:

(a) The Attorney General shall check the Universal Service Administrative Company HUB for any commitments, assertions, and/or obligations of Eligible Telecommunications Carriers in the state of West Virginia.

(b) The Attorney General shall require certification of completion thereof and ongoing compliance therewith, under penalty of perjury prior to making a favorable recommendation to the Public Service Commission of the application to be an Eligible Telecommunications Carrier. The Attorney General shall transmit all such recommendations to the Public Service Commission.

§31G-8-4. Misrepresentation in Certification for Eligible Telecommunications Carrier Status, penalty.

(a) If the Attorney General finds evidence that an Eligible Telecommunications Carrier has materially misrepresented compliance in their certification referenced in §31G-8-3 of this code, notification of such misrepresentation shall be transmitted to the West Virginia Public Service Commission. The Public Service Commission shall conduct a hearing on the merits thereof and if the Eligible Telecommunications Carrier is found to be non-compliant, the Public Service Commission shall assess a fine equal to the amount of any subsidization received for which the commitment, assertion or obligation was established. Any such fine shall be limited to such proportional amount as that which was awarded to the Eligible Telecommunications Carrier for a particular area or act to be performed and shall not be construed to include all amounts awarded statewide. The Public Service Commission or Attorney General shall seek enforcement of any fine and any court of competent jurisdiction in this state shall order payment and compliance with the order of the Public Service Commission associated herewith. Funds from any fine shall be deposited into the Broadband Development Fund, less any reasonable expenses and costs of the Public Service Commission in connection therewith.

(b) When such determination has been made, the Attorney General, and any other Department, office, bureau, or agency and any political subdivision of this state, shall cause any Eligible Telecommunications Carrier and its subsidiaries found to be non-compliant under subsection (a) of this section or failing to make the certification required thereunder, to no longer be certified as an Eligible Telecommunications Carrier and to be ineligible for any state grants, awards, procurement, leasing, licensing other than a business license issued by the Secretary of State or any business license by a political subdivision of this state, easement, right-of-way access, or purchase until such material misrepresentation is cured: *Provided*, That nothing in this section shall be construed to prevent the installation, repair, maintenance or other required work for any Carrier of Last Resort required to provide telephone service in this state: *Provided however*, That nothing in this section shall be construed to prevent an internet service provider from repairing or replacing telecommunications facilities in rights-of-way or easements that internet service provider currently has facilities situated within.

Engrossed Committee Substitute for House Bill 4001, as just amended, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries, Rucker, and Sypolt—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. 4001) passed with its title.

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 4002, Creating the Certified Sites and Development Readiness Program.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for House Bill 4002 was then put upon its passage.

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

The nays were: None.

Absent: Jeffries, Rucker, and Sypolt—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. 4002) passed with its title.

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

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 3:40 p.m. today:

Eng. House Bill 4097, To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

The Senate then 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 4012, Prohibiting the showing of proof of a COVID-19 vaccination.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-4b. Required exemptions to compulsory immunization against COVID-19 as a condition of employment; effective date.

(a) A covered employer, as defined in this section, that requires as a condition of continued employment or as a condition of hiring an individual for employment, that such person receive a COVID-19 immunization or present documentation of immunization from COVID-19, shall exempt current or prospective employees from such immunization requirements upon the presentation of one of the following certifications:

(1) A certification presented to the covered employer, signed by a licensed physician ~~licensed pursuant to the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code or an~~ or a licensed advanced practice registered nurse ~~licensed pursuant to the provisions of §30-7-1 *et seq.* of this code~~ who has conducted an in-person examination of the employee or prospective employee, stating that the physical condition of the current or prospective employee is such that a COVID-19 immunization is contraindicated; there exists a specific precaution to the mandated vaccine; or the current or prospective employee has developed COVID-19 antibodies from being exposed to the COVID-19 virus, or suffered from and has recovered from the COVID-19 virus; or

(2) A notarized certification executed by the employee or prospective employee that is presented to the covered employer by the current or prospective employee that he or she has sincerely held religious beliefs that prevent the current or prospective employee from taking the COVID-19 immunization.

(b) A covered employer ~~shall~~ may not be permitted to penalize or discriminate against current or prospective employees for exercising exemption rights provided in this section by practices including, but not limited to, benefits decisions, hiring, firing, or withholding bonuses, pay raises, or promotions.

(c) As used in this section, the following terms shall have the following meaning:

~~(1)~~ "Covered employer" ~~shall mean~~ means:

~~(A)~~ (1) The State of West Virginia, including any department, division, agency, bureau, board, commission, office, or authority thereof, or any political subdivision of the State of West Virginia including, but not limited to, any county, municipality, or school district;

~~(B)~~ (2) A business entity, including without limitation any individual, firm, partnership, joint venture, association, corporation, company, estate, trust, business trust, receiver, syndicate, club, society, or other group or combination acting as a unit, engaged in any business activity in this state, including for-profit or not-for-profit activity, that has employees;

(3) "Covered employer" does not include any Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section;

~~(2)~~ (4) "COVID-19" ~~shall mean~~ means the same as that term is defined in §55-19-3 of this code; or

~~(3)~~ (5) "Immunization" ~~shall mean~~ means any federally authorized immunization for COVID-19, whether fully approved or approved under an emergency use authorization.

(d) The provisions of this section are inapplicable to employees of covered employers who are required to work in Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section.

~~(d)~~ (e) Any person or entity harmed by a violation of this section may seek injunctive relief in a court of competent jurisdiction.

~~(e)~~ (f) The provisions of this section shall become effective immediately.

~~(f)~~ (g) Pursuant to §2-2-10 of this code, if any provision of this section or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the section, and to this end the provisions of this section are declared to be severable.

§16-3-4c. Prohibiting proof of COVID-19 vaccination.

(a) As used in this section:

(1) "COVID-19" has the same definition as provided in §55-19-3 of this code;

(2) "Hospital" has the same definition as provided in §16-5B-1 of this code;

(3) "Immunization" has the same definition as provided in §55-19-3 of this code;

(4) "Proof of vaccination" means physical documentation or digital storage of protected health information related to an individual's immunization or vaccination against COVID-19; and

(5) "State institution of higher education" has the same meaning as provided in §18B-1-2 of this code.

(b) A state or local governmental official, entity, department, or agency may not require proof of vaccination as a condition of entering the premises of a state or local government entity, or utilizing services provided by a state or local government entity: *Provided,* That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, the provisions of this subsection shall not apply: *Provided, however*, That this prohibition does not apply to any local government-owned facility that is leased to a private entity where the local governmental unit primarily serves as a property owner receiving rental payments.

(c) A hospital may not require proof of vaccination as a condition of entering the premises: *Provided,* That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, the provisions of this subsection shall not apply.

(d) A state institution of higher education may not require proof of vaccination as a condition of enrollment or for entering the premises: *Provided,* That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, or if the academic requirements of a particular program cannot be met without vaccination and proof thereof, the provisions of this subsection shall not apply.

Engrossed Committee Substitute for House Bill 4012, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4012 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Plymale, Romano, and Stollings—9.

Absent: Jeffries and Sypolt—2.

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. 4012) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4012—A Bill to amend and reenact §16-3-4b of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-3-4c, all relating to COVID-19 vaccination, generally prohibiting the showing of proof of a COVID-19 vaccination as a condition for entering upon the premises of any state or local governmental official, entity, department, or agency, or as a condition for entering upon the premises of a hospital or enrolling in a state institution of higher education, unless such proof is required by federal law or regulation; clarifying that a covered employer does not include any Medicare or Medicaid-certified facilities which are subject to federal regulations; clarifying that employees of otherwise covered employers who are required to work in Medicare or Medicaid-certified facilities are not subject to the prohibition; exempting from proof of vaccination prohibition students whose academic program requires vaccination against COVID-19; defining terms; and providing that sincerely held religious beliefs are an exemption to immunization.

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 4025, Providing exemption to severance tax for severing rare earth elements and other critical minerals.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

On motions of Senators Smith and Tarr, the following amendment to the bill was reported by the Clerk:

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3uu. Amusement tax.

Every county commission may levy and collect an admission or amusement tax upon any public amusement or entertainment conducted within the limits of the county for private profit or gain. The tax shall be levied upon the purchaser and added to and collected by the seller with the price of admission or other charge for the amusement or entertainment. The tax may not exceed two percent of the admission price or charge, but a tax of one cent may be levied and collected in any case.

Any ordinance imposing an amusement tax shall contain reasonable rules governing the collection of the tax by the seller and the method of his or her payment and accounting therefor to the county.

An amusement tax imposed by a county commission may not be imposed within the territory of a municipal corporation that has imposed an amusement tax under §8-13-6 of this code.

CHAPTER 11. TAXATION.

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3c. Imposition of tax on privilege of severing other natural resources.

(a) Imposition of tax. — For the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use any other natural resource product or product not taxed under section three, three-a, three-b or four of this article, there is hereby levied and shall be collected from every person exercising this privilege an annual privilege tax.

(b) Rate and measure of tax. — The tax imposed in subsection (a) of this section shall be four percent of the gross value of the natural resource produced, as shown by the gross proceeds derived from the sale thereof by producer, except as otherwise provided in this article: *Provided,* That beginning July 1, 1993, the tax imposed by this section shall be levied and collected at the rate of four and one-half percent, and beginning July 1, 1994, the tax imposed by this section shall be levied and collected at the rate of five percent: *Provided, however,* That there is an exemption from the imposition of the tax provided for in this article for five years beginning July 1, 2022, for severing, extracting, reducing to possession and producing for sale, profit or commercial use rare earth elements and critical minerals. For the purposes of this section, "rare earth elements" (also known as rare earth metals or rare earth oxides) are only yttrium, lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, and scandium, and "critical minerals" are only aluminum, antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, germanium, graphite, hafnium, indium, iridium, lithium, magnesium, manganese, nickel, niobium, palladium, platinum, rhodium, rubidium, ruthenium, tantalum, tellurium, tin, titanium, tungsten, vanadium, zinc, and zirconium.

(c) Tax in addition to other taxes. — The tax imposed by this section shall apply to all persons severing other natural resources in this state, and shall be in addition to all other taxes imposed by law.

(d) Effective date. — This section, as amended in the year 1993, shall apply to gross proceeds derived after May 31 of such year. The language of section three of this article, as in effect on January 1, of such year, shall apply to gross proceeds derived prior to June 1 of such year and, with respect to such gross proceeds, shall be fully and completely preserved.

Following discussion,

The question being on the adoption of the amendment offered by Senators Smith and Tarr to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4025, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Brown, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale,

Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Baldwin, Caputo, Geffert, and Romano—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4025) passed.

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

Eng. Com. Sub. for House Bill 4025—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §7-1-3uu; and to amend and reenact §11-13A-3c of said code, all relating to taxation; allowing county commissions to impose an amusement tax; providing for the imposition of the tax on the privilege of severing other natural resources; providing for an exemption from the imposition of the severance tax for a period of 5 years beginning on July 1, 2022, for severing rare earth elements and critical minerals; and defining rare earth elements and critical minerals.

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 4105, Relating to service employees with National Association for Pupil Transportation Certifications.

On third reading, coming up in regular order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was reported by the Clerk.

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

Eng. Com. Sub. for House Bill 4111, Relating to the prescriptive authority of advance practice registered nurses.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-3. Rulemaking.

(a) The boards shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including:

(1) The extent to which physician assistants may practice in this state;

(2) The extent to which physician assistants may pronounce death;

(3) Requirements for licenses and temporary licenses;

(4) Requirements for practice notifications;

(5) Requirements for continuing education;

(6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe~~, including: A state formulary classifying those categories of drugs which may not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals, and general anesthetics: *Provided,* That a physician assistant or an advanced practice registered nurse may prescribe no more than a three-day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a practice notification as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity~~;

(8) A fee schedule; and

(9) Any other rules necessary to effectuate the provisions of this article.

(b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code to ensure conformity with this article.

(c) (1) A physician assistant may not prescribe a Schedule I controlled substance as provided in §60A-1-1 *et seq.* of this code.

(2) A physician assistant may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-1-1 *et seq.* of this code.

(3) There are no other limitations on the prescribing authority of a physician assistant, except as provided in §16-54-1 *et seq.* of this code.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-15a. Prescriptive authority for prescription drugs~~; coordination with Board of Pharmacy; rule-making authority~~.

~~(a) The board may, in its discretion, authorize an advanced practice registered nurse to prescribe prescription drugs in accordance with this article and all other applicable state and federal laws. An authorized advanced practice registered nurse may write or sign prescriptions or transmit prescriptions verbally or by other means of communication.~~

~~(b) The board shall promulgate legislative rules in accordance with §29A-3-1 *et seq.* of this code of this code governing the eligibility and extent to which an advanced practice registered nurse may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying those categories of drugs which shall not be prescribed by advanced practice registered nurse including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a thirty-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a collaborative agreement as set forth in §30-7-15b of this code, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a "chronic condition" is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the prescription the chronic disease being treated.~~

~~(c) The board may promulgate emergency rules to implement the provisions of this article pursuant to §29A-3-15 of this code.~~

~~(d) The board shall transmit to the Board of Pharmacy a list of all advanced practice registered nurses with prescriptive authority. The list shall include:~~

~~(1) The name of the authorized advanced practice registered nurse;~~

~~(2) The prescriber's identification number assigned by the board; and~~

~~(3) The effective date of prescriptive authority.~~

(a) (1) An advanced practice registered nurse may not prescribe a Schedule I controlled substance as provided in §60A-1-1 *et seq.* of this code.

(2) An advanced practice registered nurse may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-1-1 *et seq.* of this code.

(3) There are no other limitations on the prescribing authority of an advanced practice registered nurse, except as provided in §16-54-1 *et seq.* of this code.

On motion of Senator Maroney, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4111) was reported by the Clerk and adopted:

On page one, before the article heading, by inserting the following:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.

(a) *Cost-sharing*. — The director shall provide under any contract or contracts entered into under the provisions of this article that the costs of any group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, or group life and accidental death insurance benefit plan or plans shall be paid by the employer and employee.

(b) *Eligible spouse and dependent coverage.* —

(1) Each employee is entitled to have his or her ~~spouse and~~ dependents included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate: *Provided,* That ~~the spouse and~~ dependent coverage is limited to excess or secondary coverage for each ~~spouse and~~ dependent who has primary coverage from any other source.

(2) Each employee is entitled to have his or her spouse included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate if his or her spouse does not have the option of obtaining primary coverage through the spouse's employer. The spouse of an employee who has the option of obtaining primary coverage through an employer that is not defined by §5-16-2 of this code is not eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article. Prior to being included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article, an employee's spouse must submit an affidavit to the Public Employees Insurance Agency certifying that the spouse does not have the option of obtaining primary coverage through an employer.

(3) The director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance, and resumption of any employee's coverage for his or her spouse and dependents.

(4) For purposes of this section: ~~the term "primary coverage" means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. For the purposes of this section,~~

(A) "Dependent" includes an eligible employee's unmarried child or stepchild under the age of 25 if that child or stepchild meets the definition of a "qualifying child" or a "qualifying relative" in Section 152 of the Internal Revenue Code. ~~the director may require proof regarding spouse and~~

~~dependent primary coverage and shall adopt rules governing the nature, discontinuance and resumption of any employee's coverage for his or her spouse and dependents;~~

(B) "Eligible spouse" means a spouse that is eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article according to this subsection.

(C) "Primary coverage" means individual or group hospital and surgical insurance coverage, individual or group major medical insurance coverage, or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder.

(c) *Continuation after termination.* — If an employee participating in the plan is terminated from employment involuntarily or in reduction of workforce, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee and the employer shall continue to contribute the employer's share of plan premiums for the coverage. An employee discharged for misconduct shall not be eligible for extended benefits under this section. Coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge of misconduct are pursued. If the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within 12 months of his or her prior termination, he or she shall not be considered a new enrollee and may not be required to again contribute his or her share of the premium cost, if he or she had already fully contributed such share during the prior period of employment.

(d) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan before July 1988.* — Except as otherwise provided in subsection (g) of this section, when an employee participating in the plan, who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: The insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her eligible spouse and dependents, the insurance coverage shall continue one additional month for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.

(e) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan after June 1988.* — Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this section, when an employee participating in the plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her eligible spouse and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining

premium cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an employee who has been a participant under eligible spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

(f) *Increased retirement benefits for retired employees with accrued annual and sick leave.* — In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days' retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee's retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system: *Provided,* That for a person who first becomes a member of the Teachers Retirement System as provided in article seven-a, chapter eighteen of this code on or after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not be applied for retirement service credit. However, the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education employees.* Except as otherwise provided in subsection (l) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for 12 months, is compelled or required by law to retire before reaching the age of 65, or when such a participating employee voluntarily retires as provided by law, that employee's insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for 12 months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the University of West Virginia Board of Trustees and the board of directors of the state college system, for individual coverage, or one additional year for each five years of teaching service for family coverage.

(h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the conditions of the "retired employee" definition in section two of this article, shall be eligible for insurance coverage under the same terms and provisions of this article. The retired employee's premium contribution for any such coverage shall be established by the finance board.

(i) *Retiree participation.* — All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter retiring are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

(j) *Surviving spouse and dependent participation.* — A surviving eligible spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any comprehensive group health insurance coverage provided under this article to which the deceased employee was entitled, and the eligible spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

(k) *Elected officials*. — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave or personal leave to elected public officials and the very nature of those positions preclude the arising or accumulation of any leave, so as to be thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.

(l) *Participation of certain former employees*. — An employee, eligible for coverage under the provisions of this article who has 20 years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for 20 years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays 105 percent of the cost of retiree coverage: *Provided,* That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

(m) *Prohibition on conversion of accrued annual and sick leave for extended coverage upon retirement for new employees who elect to participate in the plan after June 2001.* - Any employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: *Provided,* That any person who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she becomes reemployed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her reemployment.

(n) *Prohibition on conversion of accrued years of teaching service for extended coverage upon retirement for new employees who elect to participate in the plan July 2009*. — Any employee hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of teaching service toward the cost of premiums for extended insurance coverage upon his or her retirement.

(o) The amendments to this section enacted during the 2022 Regular Session of the Legislature shall become effective beginning July 1, 2023.

§5-16-20. Expense fund.

The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission, or department of the state which operates out of special revenue funds or federal funds or both shall pay its proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the State Employee Insurance Plan. All other employers not operating from the state General Revenue Fund shall pay their proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the Nonstate Employee Insurance Plan.

§5-16-25. Reserve fund.

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year and supplementing any reimbursements made to hospitals and emergency medical service providers or agencies in accordance with §5-16-30 of this code. Beginning with the fiscal year 2002 plan and for each succeeding fiscal year plan, the finance board shall maintain the actuarily recommended reserve in an amount no less than 10 percent of the projected total plan costs for that fiscal year in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article.

§5-16-30. Hospital inpatient rates.

(a) By July 1, 2023, the plan shall reimburse any hospital that provides inpatient care to a beneficiary covered by the plan at a rate of 110 percent of the Inpatient Prospective Payment System Diagnostic Related Group assigned amount then in effect for the federal fee for service component of the Medicare program.

(b) By July 1, 2023, the plan shall reimburse any emergency medical services provider or agency as defined in §16-4C-1 *et seq.* at a rate of 110 percent of the Medicare rate.

(c) Nothing in this section limits the authority of the director under §5-16-3(c) and §5-16-9 of this code, including, but not limited to, his or her authority to manage provider contracting and payments and to designate covered and noncovered services.

(d) This section does not limit the authority of the director, the plan, or the plans under §5-16-11 of this code.

(e) This section shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after July 1, 2023.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4111, as just amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4111) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4111—A Bill to amend and reenact §5-16-13, §5-16-20 and §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designed §5-16-30; to amend and reenact §30-3E-3 of said code; and to amend and reenact §30-7-15a of said code, all relating to health care; providing that Public Employees Insurance Agency coverage may only be extended to employee spouses who do not have the option of obtaining primary coverage through the spouse's employer; requiring the Public Employees Insurance Agency Finance Board to supplement reimbursements with reserve funds; providing for reimbursement of hospital inpatient rates by the plan; providing for reimbursement of emergency medical service providers and agencies rates by the plan; naming of funds within the Public Employees Insurance Agency; specifying prescriptive authority of physician assistants; eliminating certain discretionary authority of the Board of Nursing; eliminating certain legislative rule-making authority of the Board of Nursing with respect to prescriptive authority of an advanced practice registered nurse; eliminating emergency rule-making authority of the Board of Nursing; eliminating requirements regarding list of advanced practice registered nurses with prescriptive authority; and specifying prescriptive authority of advance practice registered nurses.

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 4252, To reduce copay cap on insulin and devices.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7g. Coverage for prescription insulin drugs.

(a) A policy, plan, or contract that is issued or renewed on or after ~~July 1, 2020~~ July 1, ~~2023~~, shall provide coverage for prescription insulin drugs pursuant to this section.

(b) For the purposes of this subdivision, "device" means a blood glucose test strip, glucometer, continuous glucometer, lancet, lancing device, or insulin syringe use to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include an insulin pump.

(c) For the purposes of this subdivision, "insulin pump" means a portable device that injects insulin at programmed intervals in order to regulate blood sugar levels in people with diabetes.

~~(b)~~ (d) For the purposes of this subdivision, "prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

~~(c)~~ (e) (1) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall~~ may not exceed ~~$100~~ $35 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(2) Cost sharing for a device may not exceed $100 for a 30-day supply.

(3) Cost sharing for an insulin pump may not exceed $250, and is limited to one insulin pump purchase every 2 years.

~~(d)~~ (f) Nothing in this section prevents the agency from reducing a covered person's cost sharing by an amount greater than the amount specified in this subsection.

~~(e)~~ (g) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) authorizing the agency's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in subsection ~~(c)~~ (e) of this section.

~~(f)~~ (h) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: ~~Blood~~ blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

~~(g)~~ (i) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in ~~§33-53-1(k)~~ §33-59-1(k) of this code.

~~(h)~~ (j) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

~~(i)~~ (k) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

CHAPTER 33. INSURANCE.

ARTICLE 59. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-59-1. Cost sharing in prescription insulin drugs.

(a) *Findings. —*

(1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

(2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(3) The annual medical cost related to diabetes in West Virginia is estimated at $2.5 billion annually;

(4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times higher than persons without diabetes;

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed $600 per month. Similar increases in the cost of diabetic equipment and supplies, and insurance premiums, have resulted in out-of-pocket costs for many West Virginia diabetics in excess of $1,000 per month;

(6) National reports indicate as many as one in four type 1 diabetics underuse, or ration, insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic comas, amputation, kidney damage, and even death; and

(7) It is important to enact policies to reduce the costs for West Virginians with diabetes to obtain life-saving and life-sustaining insulin.

(b) As used in this section:

(1) "Cost-sharing payment" means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person's health plan.

(2) "Covered person" means a policyholder, subscriber, participant, or other individual covered by a health plan.

(3) "Device" means a blood glucose test strip, glucometer, continuous glucometer, lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include an insulin pump.

~~(3)~~ (4) "Health plan" means any health benefit plan, as defined in §33-16-1a(h) of this code, that provides coverage for a prescription insulin drug.

(5) "Insulin pump" means a portable device that injects insulin at programmed intervals in order to regulate blood sugar levels in people with diabetes.

~~(4)~~ (6) "Pharmacy benefits manager" means an entity that engages in the administration or management of prescription drug benefits provided by an insurer for the benefit of its covered persons.

~~(5)~~ (7) "Prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes.

(c) Each health plan shall cover at least one type of insulin in all the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(d) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of this code which issues or renews a health insurance policy on or after ~~July 1, 2020~~ January 1, 2023, shall provide coverage ~~for prescription insulin drugs~~ pursuant to this section.

(e) (1) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall~~ may not exceed ~~$100~~ $35 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(2) Cost sharing for a device may not exceed $100 for a 30-day supply.

(3) Cost sharing for an insulin pump may not exceed $250, and is limited to one insulin pump purchase every 2 years.

(f) Nothing in this section prevents an insurer from reducing a covered person's cost sharing to an amount less than the amount specified in subsection (e) of this section.

(g) No contract between an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the insurer pursuant to subsection (e) of this ~~code~~ section.

(h) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: ~~Blood~~ blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(i) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code shall include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets.

(j) All health care plans must offer an appeals process for persons who are not able to take one or more of the offered prescription insulin drugs noted in subsection (c) of this ~~code~~ section. The appeals process shall be provided to covered persons in writing and afford covered persons and their health care providers a meaningful opportunity to participate with covered persons health care providers.

(k) Diabetes self-management education shall be provided by a health care practitioner who has been appropriately trained. The Secretary of the Department of Health and Human Resources shall promulgate legislative rules to implement training requirements and procedures necessary to fulfill provisions of this subsection~~: *Provided,* That any rules promulgated by the secretary shall be done after consultation with the Coalition for Diabetes Management, as established in §16-5Z-1 *et seq.* of this code~~.

(l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and ~~shall~~ may not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

(m) A prescription is not required to obtain a blood testing kit for ketones.

On motion of Senator Maroney, the following amendment to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 4252) was reported by the Clerk and adopted:

On page three, section seven-g, after line fifty, by inserting the following:

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.

(a) *Cost-sharing.* — The director shall provide under any contract or contracts entered into under the provisions of this article that the costs of any group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, or group life and accidental death insurance benefit plan or plans shall be paid by the employer and employee.

(b) *Eligible spouse and dependent coverage.* —

(1) Each employee is entitled to have his or her ~~spouse and~~ dependents included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate: *Provided,* That ~~the spouse and~~ dependent coverage is limited to excess or secondary coverage for each ~~spouse and~~ dependent who has primary coverage from any other source.

(2) Each employee is entitled to have his or her spouse included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate if his or her spouse does not have the option of obtaining primary coverage through the spouse's employer. The spouse of an employee who has the option of obtaining primary coverage through an employer that is not defined by §5-16-2 of this code is not eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article. Prior to being included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article, an employee's spouse must submit an affidavit to the Public Employees Insurance Agency certifying that the spouse does not have the option of obtaining primary coverage through an employer.

(3) The director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance, and resumption of any employee's coverage for his or her spouse and dependents.

(4) For purposes of this section: ~~the term "primary coverage" means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. For the purposes of this section,~~

(A) "Dependent" includes an eligible employee's unmarried child or stepchild under the age of 25 if that child or stepchild meets the definition of a "qualifying child" or a "qualifying relative" in Section 152 of the Internal Revenue Code. ~~the director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance and resumption of any employee's coverage for his or her spouse and dependents;~~

(B) "Eligible spouse" means a spouse that is eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article according to this subsection.

(C) "Primary coverage" means individual or group hospital and surgical insurance coverage, individual or group major medical insurance coverage, or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder.

(c) *Continuation after termination.* — If an employee participating in the plan is terminated from employment involuntarily or in reduction of workforce, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee and the employer shall continue to contribute the employer's share of plan premiums for the coverage. An employee discharged for misconduct shall not be eligible for extended benefits under this section. Coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge of misconduct are pursued. If the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within 12 months of his or her prior termination, he or she shall not be considered a new enrollee and may not be required to again contribute his or her share of the premium cost, if he or she had already fully contributed such share during the prior period of employment.

(d) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan before July 1988.* — Except as otherwise provided in subsection (g) of this section, when an employee participating in the plan, who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: The insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her eligible spouse and dependents, the insurance coverage shall continue one additional month for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.

(e) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan after June 1988.* — Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this section, when an employee participating in the plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her eligible spouse and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining premium cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an employee who has been a participant under eligible spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

(f) *Increased retirement benefits for retired employees with accrued annual and sick leave.* — In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days' retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee's retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system: *Provided,* That for a person who first becomes a member of the Teachers Retirement System as provided in article seven-a, chapter eighteen of this code on or after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not be applied for retirement service credit. However, the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education employees.* — Except as otherwise provided in subsection (l) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for 12 months, is compelled or required by law to retire before reaching the age of 65, or when such a participating employee voluntarily retires as provided by law, that employee's insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for 12 months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the University of West Virginia Board of Trustees and the board of directors of the state college system, for individual coverage, or one additional year for each five years of teaching service for family coverage.

(h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the conditions of the "retired employee" definition in section two of this article, shall be eligible for insurance coverage under the same terms and provisions of this article. The retired employee's premium contribution for any such coverage shall be established by the finance board.

(i) *Retiree participation.* — All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter retiring are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

(j) *Surviving spouse and dependent participation.* — A surviving <u>eligible</u> spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any comprehensive group health insurance coverage provided under this article to which the deceased employee was entitled, and the <u>eligible</u> spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

(k) *Elected officials*. — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave or personal leave to elected public officials and the very nature of those positions preclude the arising or accumulation of any leave, so as to be

thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.

(l) *Participation of certain former employees*. — An employee, eligible for coverage under the provisions of this article who has 20 years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for 20 years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays 105 percent of the cost of retiree coverage: *Provided,* That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

(m) *Prohibition on conversion of accrued annual and sick leave for extended coverage upon retirement for new employees who elect to participate in the plan after June 2001.* - Any employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: *Provided,* That any person who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she becomes reemployed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her reemployment.

(n) *Prohibition on conversion of accrued years of teaching service for extended coverage upon retirement for new employees who elect to participate in the plan July 2009*. — Any employee hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of teaching service toward the cost of premiums for extended insurance coverage upon his or her retirement.

(o) The amendments to this section enacted during the 2022 Regular Session of the Legislature shall become effective beginning July 1, 2023.

§5-16-20. Expense fund.

The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission, or department of the state which operates out of special revenue funds or federal funds or both shall pay its proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the State Employee Insurance Plan. All other employers not operating from the state General Revenue Fund shall pay their proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the Nonstate Employee Insurance Plan.

§5-16-25. Reserve fund.

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year and supplementing any reimbursements made to hospitals and emergency medical service providers or agencies in accordance with §5-16-30 of this code. Beginning with the fiscal year 2002 plan

and for each succeeding fiscal year plan, the finance board shall maintain the actuarily recommended reserve in an amount no less than 10 percent of the projected total plan costs for that fiscal year in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article.

§5-16-30. Hospital inpatient rates.

(a) By July 1, 2023, the plan shall reimburse any hospital that provides inpatient care to a beneficiary covered by the plan at a rate of 110 percent of the Inpatient Prospective Payment System Diagnostic Related Group assigned amount then in effect for the federal fee for service component of the Medicare program.

(b) By July 1, 2023, the plan shall reimburse any emergency medical services provider or agency as defined in §16-4C-1 *et seq.* at a rate of 110 percent of the Medicare rate.

(c) Nothing in this section limits the authority of the director under §5-16-3(c) and §5-16-9 of this code, including, but not limited to, his or her authority to manage provider contracting and payments and to designate covered and noncovered services.

(d) This section does not limit the authority of the director, the plan, or the plans under §5-16-11 of this code.

(e) This section shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after July 1, 2023.

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4252, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4252 pass?"

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

The nays were: Azinger, Karnes, and Martin—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4252) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4252—A Bill to amend and reenact §5-16-7g, §5-16-13, §5-16-20 and §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by creating a new section, designated §5-16-30; and to amend and reenact §33-59-1 of said code, all relating to health care; reducing copayments; adding coverage for devices under specified insurance plans including the Public Employees Insurance Agency; providing that Public Employees Insurance Agency coverage may only be extended to employee spouses who do not have the option of obtaining primary coverage through the spouse's employer; requiring the Public Employees Insurance Agency Finance Board to supplement reimbursements with reserve funds; providing for reimbursement of hospital inpatient rates by the plan; providing for reimbursement of emergency medical service providers and agencies rates by the plan; naming of funds within the Public Employees Insurance Agency; and permitting testing equipment to be purchased without a prescription under specified insurance plans.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Sypolt, unanimous consent being granted, it was ordered that the Journal show had Senator Sypolt been present in the chamber in earlier proceedings today, he would have voted "yea" on the passage of Engrossed Committee Substitute for House Bill 4001, Engrossed Committee Substitute for House Bill 4002, and Engrossed Committee Substitute for House Bill 4012.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions on March 11, 2022:

Senate Concurrent Resolution 61: Senators Stollings and Baldwin;

Senate Resolution 56: Senators Phillips, Stollings, Lindsay, Rucker, and Jeffries;

And,

Senate Resolution 57: Senators Phillips, Lindsay, and Jeffries.

Without objection, the Senate returned to the eighth order of business, the next bill coming up in numerical sequence being

Eng. House Bill 4307, Increase some benefits payable from Crime Victims Compensation Fund.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4307 was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4307) 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 4307—A Bill to amend and reenact §14-2A-3 of the Code of West Virginia, 1931, as amended, relating to increasing and expanding certain benefits payable from the Crime Victims' Compensation Fund; increasing the limit on the allowable benefit for mental health counseling for secondary victims; increasing the limits on allowable benefits for certain travel and relocation expenses; and expanding the definition of "work loss" to compensate claimants, victims, and parent and legal guardians of minor victims for work missed to attend certain court proceedings.

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 4340, Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 19. ANATOMICAL GIFT ACT.

§16-19-9. Who may make anatomical gift of decedent's body or part.

(a) Unless barred by §16-19-7 or §16-19-8 <u>of this code</u>, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available in the order of priority listed:

(1) A person holding a medical power of attorney or another agent of the decedent at the time of death who could have made an anatomical gift under §16-19-4 of this code immediately before the decedent's death;

(2) The spouse of the decedent, unless ~~in the six (6) months prior to the decedent's death the spouse has lived separate and apart from the decedent in a separate place of abode without cohabitation~~ an action for divorce is pending;

(3) Adult children of the decedent;

(4) The person acting as the guardian of the decedent at the time of death;

(5) An appointed health care surrogate;

(6) Parents of the decedent;

(7) Adult siblings of the decedent;

(8) Adult grandchildren of the decedent;

(9) Grandparents of the decedent; ~~or~~

(10) An adult who exhibited special care and concern for the decedent; or

(11) A person authorized or obligated to dispose of the decedent's body.

(b) If there is more than one member of a class entitled to make an anatomical gift, any member of the class may make the anatomical gift unless he or she, or a person to whom the anatomical gift may pass pursuant to §16-19-11 of this code, knows of an objection by another member of the class. If an objection is known, the majority of the members of the same class must be opposed to the donation in order for the donation to be revoked. In the event of a tie vote, ~~the attending physician or advanced nurse practitioner shall appoint a health care surrogate to decide whether to make an anatomical gift of the decedent's body or part for the purpose of transplantation, therapy, research or education~~ the anatomical gift may proceed despite the objection by a member or members of a class.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class is reasonably available to make, or to object to the making, of an anatomical gift.

§16-19-14. Rights and duties of procurement organization and others.

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Division of Motor Vehicles and any donor registry it knows of for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) The Division of Motor Vehicles shall allow a procurement organization reasonable access to information in the division's records to ascertain whether an individual at or near death is a donor. The Commissioner of the Division of Motor Vehicles shall propose legislative rules for promulgation pursuant to §29A-3-1 *et seq.* of this code to facilitate procurement agencies' access to records pursuant to this subsection.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the prospective donor expressed a contrary intent.

(d) Unless prohibited by law, at any time after a donor's death, a person to whom a decedent's part passes under §16-19-11 of this code may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in §16-19-9 of this code having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Except as provided in §16-19-22 of this code, the rights of the person to whom a part passes under §16-19-11 of this code are superior to the rights of all others. A person may accept or reject an anatomical gift, in whole or in part. Subject to the terms of the document of gift and this article, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to whom the part passes under §16-19-11 of this code shall, upon the death of the donor and before embalming, burial, or cremation, cause the part to be removed without unnecessary mutilation.

(i) Neither the physician or the physician assistant who attends the decedent at death, nor the physician or the physician assistant who determines the time of death, may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

(k) A medical examiner shall cooperate with any procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(l) A part may not be removed from the body of a decedent under a medical examiner's jurisdiction for transplantation, therapy, research, or education, nor delivered to a person for research or education, unless the part is the subject of an anatomical gift.

(m) Upon the request of a procurement organization, the medical examiner shall release to the procurement organization the name, contact information, name of the next of kin, and available medical and social history of a decedent whose body is under the medical examiner's

jurisdiction. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release the post-mortem examination results to the procurement organization. The procurement organization may not make a subsequent disclosure of the post-mortem examination results or other information received from the medical examiner unless the subsequent disclosure is relevant to transplantation, therapy, research, or education.

(n) If a hospital refers an individual whose death is imminent or who has died in a hospital to an organ procurement organization, and the organ procurement organization, in consultation with the individual's attending physician or a designee, determines based upon a medical record review and other information supplied by the individual's attending physician or a designee, that the individual may be a prospective donor; and the individual:

(1) Has not indicated in any document an intention to either limit the anatomical gifts of the individual to parts of the body which do not require a ventilator or other life-sustaining measures, or

(2) Has not indicated in any document an intention to deny making or refusing to make an anatomical gift; or

(3) Amended or revoked an anatomical gift in any document, the organ procurement organization may conduct a blood or tissue test or minimally invasive examination which is reasonably necessary to evaluate the medical suitability of a body part that is or may be the subject of an anatomical gift.

(o) Testing and examination conducted pursuant to subsection (n) shall comply with a denial or refusal to make an anatomical gift or any limitation expressed by the individual with respect to the part of the body to donate or a limitation the provision of a ventilator or other life-sustaining measures, or a revocation or amendment to an anatomical gift. The results of tests and examinations conducted pursuant to subsection (n) shall be used or disclosed only:

(1) To evaluate medical suitability for donation and to facilitate the donation process; and

(2) As otherwise required or permitted by law.

(p) A hospital may not withdraw or withhold any measures necessary to maintain the medical suitability of a body part that may be the subject of an anatomical gift until the organ procurement organization or designated requestor, as appropriate, has had the opportunity to advise the applicable persons under this article of the option to make an anatomical gift and has received or been denied authorization to proceed with recovery of the part.

(q) Subject to the individual's wishes under §16-19-11(c)(3) of this code, after an individual's death, persons who may receive anatomical gift pursuant to §16-19-11 of this code may conduct any test or examination reasonably necessary to evaluate the medical suitability of the body or part for its intended purpose.

(r) The provisions of this section may not be construed to preclude a medical examiner from performing an investigation of a decedent under the medical examiner's jurisdiction.

§16-19-22. Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.

(a) ~~Except as provided in subsection (e) of this section,~~ The medical examiner shall, upon request of a procurement organization, release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is in the custody of the medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release post-mortem examination results after being paid in accordance with the fee schedule established in rules to the procurement organization~~, subject to subsection (e) of this section~~. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the medical examiner only if relevant to transplantation or therapy.

(b) The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner which the medical examiner determines may be relevant to the investigation.

(c) A person with any information requested by a medical examiner pursuant to subsection (b) of this section shall provide that information as soon as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) If the medical examiner determines that a post-mortem examination is not required or that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research or education.

(e) ~~If the decedent's death is the subject of a criminal investigation, the medical examiner may not release the body or part that is the subject of an anatomical gift or the social history, medical history or post-mortem examination results without the express authorization of the prosecuting attorney of the county having jurisdiction over the investigation~~

~~(f)~~ If an anatomical gift of a part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the medical examiner shall consult with the procurement organization about the proposed recovery. After the consultation, the medical examiner may ~~allow~~ deny the recovery at his or her discretion. The medical examiner may attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part.

~~(g)~~ (f) If the medical examiner denies recovery of the part, he or she shall:

(1) Provide the procurement organization with a written explanation of the specific reasons for not allowing recovery of the part; and

(2) Include in the medical examiner's records the specific reasons for denying recovery of the part.

~~(h)~~ (g) If the medical examiner allows recovery of a part, the procurement organization shall, upon request, cause the physician or technician who removes the part to provide the medical examiner with a written report describing the condition of the part, a biopsy, a photograph or any other information, and observations that would assist in the post-mortem examination.

~~(i)~~ (h) A medical examiner who decides to be present at a removal procedure ~~pursuant to subsection (f) of this section~~ is entitled to reimbursement for the expenses associated with appearing at the recovery procedure from the procurement organization which requested his or her presence.

~~(j)~~ (i) A medical examiner performing any of the functions specified in this section shall comply with all applicable provisions of §61-12-1 *et seq.* of this code.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 12. POSTMORTEM EXAMINATIONS.

§61-12-3. Office of ~~cChief medical examiner~~ Chief Medical Examiner established; appointment, duties, etc., of ~~chief medical examiner~~ Chief Medical Examiner; assistants and employees; promulgation of rules.

(a) The Office of Chief Medical Examiner is ~~hereby established~~ continued within the ~~division of health~~ Bureau of Public Health in the Department of Health and Human Resources. The office shall be directed by a ~~chief medical examiner~~ Chief Medical Examiner, who may employ pathologists, toxicologists, other forensic specialists, laboratory technicians, and other staff members as needed to fulfill the responsibilities set forth in this article.

(b) All persons employed by the ~~chief medical examiner~~ Chief Medical Examiner shall be responsible to him or her and may be discharged for any reasonable cause. The ~~chief medical examiner~~ Chief Medical Examiner shall specify the qualifications required for each position in the Office of Chief Medical Examiner~~. and each position shall be subject to rules prescribed by the secretary of the Department of Health and Human Resources.~~

(c) The chief medical examiner shall be a physician licensed to practice medicine or osteopathic medicine in the State of West Virginia, who is a diplomat of the American ~~board of pathology~~ Board of Pathology in forensic pathology, or equivalent, and who has experience in forensic medicine. The ~~chief medical examiner~~ Chief Medical Examiner shall be appointed by the ~~director of the division of health~~ Commissioner for the Bureau of Public Health to serve a five-year term unless sooner removed, but only for cause, by the Governor or by the ~~director~~ commissioner.

(d) The ~~chief medical examiner~~ Chief Medical Examiner shall be responsible to the ~~director of the division of health~~ commissioner in all matters except that the chief medical examiner shall operate with independent authority for the purposes of:

(1) The performance of death investigations conducted pursuant to section eight of this article;

(2) The establishment of cause and manner of death; and

(3) The formulation of conclusions, opinions, or testimony in judicial proceedings.

(e) The ~~chief medical examiner~~ Chief Medical Examiner, or his or her designee, shall be available at all times for consultation as necessary for carrying out the functions of the ~~office of the chief medical examiner~~ Office of the Chief Medical Examiner.

(f) The Chief Medical Examiner shall cooperate with procurement organizations as defined in §16-19-3 of this code to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education. The Chief Medical Examiner may enter into contracts and agreements with a procurement organization when necessary to facilitate the efficient and economical recovery of anatomical gifts, including contracts or agreements authorizing persons approved or assigned by the procurement organization to perform a specific type of duty or duties at the office of the chief medical examiner.

~~(f)~~ (g) The Secretary of the Department of Health and Human Resources ~~is hereby directed to~~ shall propose legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code concerning:

(1) The proper conduct of medical examinations into the cause of death;

(2) The proper methods and procedures for postmortem inquiries conducted by county medical examiners and coroners;

(3) The examination of substances taken from human remains in order to determine the cause and manner of death; ~~and~~

(4) The training and certification of county medical examiners and coroners; and

(5) The procedures necessary to maximize the recovery of anatomical gifts for the purpose of transplantation, therapy, research, or education.

~~(g)~~ (h) The ~~chief medical examiner~~ Chief Medical Examiner ~~is authorized to~~ may prescribe specific forms for record books and official papers which are necessary to the functions and responsibilities of the office of the ~~chief medical examiner~~ Chief Medical Examiner.

~~(h)~~ (i) The ~~chief medical examiner~~ Chief Medical Examiner, or his or her designee, ~~is authorized to~~ may order and conduct an autopsy in accordance with the provisions of ~~this article and~~ this code. The ~~chief medical examiner~~ Chief Medical Examiner, or his or her designee, shall perform an autopsy upon the lawful request of any person authorized by the provisions of this code to request the performance of the autopsy.

~~(i)~~ (j) The salary of the ~~chief medical examiner~~ Chief Medical Examiner and the salaries of all assistants and employees of the office of the ~~chief medical examiner~~ Chief Medical Examiner shall be fixed by the Legislature from funds appropriated for that purpose. The ~~chief medical examiner~~ Chief Medical Examiner shall take an oath ~~and provide a bond~~ as required by law. ~~Within the discretion of the director of the division of health~~ The ~~chief medical examiner~~ Chief Medical Examiner and his or her assistants ~~shall~~ may lecture or instruct in the field of legal medicine and other related subjects to the West Virginia University or Marshall ~~university~~ University School of Medicine, the West Virginia ~~school of osteopathic medicine~~ School of Osteopathic Medicine, the West Virginia ~~state police~~ State Police, other law-enforcement agencies and other interested groups.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill (Eng. Com. Sub. for H. B. 4340) and the pending Health and Human Resources committee amendment was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4105, already placed in that position.

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

On motion of Senator Takubo, at 4:19 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:12 p.m.

At the request of Senator Takubo, unanimous consent being granted, Senator Takubo addressed the Senate regarding anticipated action on House messages.

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

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

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Rucker, Weld, and Beach.

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

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

Senate Concurrent Resolution 4, US Army SP4 Warner Ray Osborne Memorial Bridge.

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

Senate Concurrent Resolution 10, US Air Force TSGT Franklin A. Bradford Bridge.

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

Senate Concurrent Resolution 12, Raymond Jarrell, Jr., Memorial Road.

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

Senate Concurrent Resolution 14, US Army SSGT Elson M Kuhn Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 16, William Gregory "Greg" White, P.E., Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 18, US Army SSGT Fred E. Duty Memorial Highway.

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

Senate Concurrent Resolution 19, US Army PVT Thomas D. Beckett, Sr., Memorial Bridge.

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

Senate Concurrent Resolution 20, US Air Force LT COL Robert J. Hill Memorial Road.

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

Senate Concurrent Resolution 22, US Army PFC Clifford O. Eckard Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 24, USMC CPL Roger Lee Boothe Memorial Road.

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

Senate Concurrent Resolution 25, Firefighter Marvin Layton Hughes Memorial Bridge.

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

Senate Concurrent Resolution 26, US Army TEC5 William "Bill" Thurman King Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 30, McClintic Family Veterans Memorial Bridge.

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

Senate Concurrent Resolution 32, Curtis "Pap" and Millie "Mammie" Asbury Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 33, US Army SGT Lewis M. "Mike" Totten Memorial Bridge.

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

Senate Concurrent Resolution 36, USMC CPL Harry Edward Dean, Jr., Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 39, Walker Brothers' Veteran Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 40, Frye Brothers' Veterans Memorial Bridge.

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

Senate Concurrent Resolution 41, Henry Preston Hickman Memorial Bridge.

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

Com. Sub. for Senate Concurrent Resolution 42, USMC SSGT Herbert "Herbie" D. Barnes Memorial Bridge.

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

Senate Concurrent Resolution 48, US Army PFC Ronald Lee Berry Memorial Bridge.

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

Senate Concurrent Resolution 49, Establishing Honor Guard in each National Guard unit.

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

Com. Sub. for Senate Concurrent Resolution 50, US Army T/5 John William (J.W.) Cruse Jr. Memorial Bridge.

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

Senate Concurrent Resolution 51, Deputy Kenneth "Kenny" Ward Love, Sheriff Elvin Eugene "Pete" Wedge, and Jailer Ernest Ray "Ernie" Hesson Memorial Bridge.

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

Senate Concurrent Resolution 55, Respectfully urging current presidential administration to open federal lease sales onshore and offshore.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and adoption as amended, of

House Concurrent Resolution 70, Calvin H. Shifflett Memorial Bridge.

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

Eng. Com. Sub. for House Bill 4344, Relating to foster care.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4340, already placed in that position.

Eng. Com. Sub. for House Bill 4353, Relating to On Cycle Elections - Voter Turnout Act.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

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

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

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-30. Nomination and appointment of election officials and alternates; notice of appointment; appointment to fill vacancies in election boards.

(a) For any primary, general, or special election held throughout a county, poll clerks and election commissioners may be nominated as follows:

(1) The county executive committee for each of the two major political parties may, by a majority vote of the committee at a duly called meeting, nominate one qualified person for each team of poll clerks and one qualified person for each team of election commissioners to be appointed for the election;

(2) The appointing body shall select one qualified person as the additional election commissioner for each board of election officials;

(3) Each county executive committee shall also nominate qualified persons as alternates for at least 10 percent of the poll clerks and election commissioners to be appointed in the county and is authorized to nominate as many qualified persons as alternates as there are precincts in the county to be called upon to serve in the event any of the persons originally appointed fail to accept appointment or fail to appear for the required training or for the preparation or execution of their duties;

(4) When an executive committee nominates qualified persons as poll clerks, election commissioners, or alternates, the committee, or its chair or secretary on its behalf, shall file in writing with the appointing body, no later than the 70th day before the election, a list of those persons nominated and the positions for which they are designated.

(b) For any municipal primary, general, or special election, the poll clerks and election commissioners may be nominated as follows:

(1) In municipalities which have municipal executive committees for the two major political parties in the municipality, each committee may nominate election officials in the manner provided for the nomination of election officials by county executive committees in subsection (a) of this section;

(2) In municipalities which do not have executive committees, the governing body shall provide by ordinance for a method of nominating election officials or shall nominate as many eligible persons as are required, giving due consideration to any recommendations made by voters of the municipality or by candidates on the ballot.

(c) The governing body responsible for appointing election officials is:

(1) The county commission for any primary, general, or special election ordered by the county commission and any joint county and municipal election;

(2) ~~The board of education for any special election ordered by the board of education conducted apart from any other election;~~

~~(3)~~ The municipal governing body for any primary, general or special municipal election ordered by the governing body.

(d) The qualifications for persons nominated to serve as election officials may be confirmed prior to appointment by the clerk of the county commission for any election ordered by the county commission or for any joint county and municipal election and by the official recorder of the municipality for a municipal election.

(e) The appropriate governing body shall appoint the election officials for each designated election board no later than the 49th day before the election as follows:

(1) Those eligible persons whose nominations for poll clerk and election commissioner were timely filed by the executive committees and those additional persons selected to serve as an election commissioner are to be appointed; and

(2) The governing body shall fill any positions for which no nominations were filed.

(f) At the same time as the appointment of election officials or at a subsequent meeting the governing body shall appoint persons as alternates. Provided, That no alternate may be eligible for compensation for election training unless the alternate is subsequently appointed as an election official or is instructed to attend and actually attends training as an alternate and is available to serve on election day. Alternates shall be appointed and serve as follows:

(1) Those alternates nominated by the executive committees shall be appointed;

(2) The governing body may appoint additional alternates who may be called upon to fill vacancies after all alternates designated by the executive committees have been assigned, have declined to serve or have failed to attend training; and

(3) The governing body may determine the number of persons who may be instructed to attend training as alternates.

(g) The clerk of the county commission shall appoint qualified persons to fill all vacancies existing after all previously appointed alternates have been assigned, have declined to serve, or have failed to attend training.

(h) Within seven days following appointment, the clerk of the county commission shall notify, by first-class mail, all election commissioners, poll clerks and alternates of the fact of their appointment and include with the notice a response notice form for the appointed person to return indicating whether or not he or she agrees to serve in the specified capacity in the election.

(i) The position of any person notified of appointment who fails to return the response notice or otherwise confirm to the clerk of the county commission his or her agreement to serve within 14 days following the date of appointment is considered vacant and the clerk shall proceed to fill the vacancies according to the provisions of this section.

(j) If the governing body and the clerk of the county commission are unable to nominate a sufficient number of qualified persons agreeing to serve on a standard receiving board for each precinct, the clerk may assign members of one precinct’s standard receiving board to serve simultaneously on the standard receiving board of another precinct where the polling places of

both precincts are located within the same physical building or facility: *Provided*, That no more than three precincts within the same building or facility may share board members in this manner.

(k) On election day, if an appointed election official or a poll clerk working a full day fails to appear at the polling place by ~~45 minutes past five o'clock~~ 5:45 a.m. ~~on election day~~ or, for a poll clerk working a half day, later than a time designated by the clerk of the county commission, the election officials present shall contact the office of the clerk of the county commission for assistance in filling the vacancy. The clerk shall proceed as follows:

(1) The clerk may attempt to contact the person originally appointed, may assign an alternate nominated by the same political party as the person absent if one is available or, if no alternate is available, may appoint another eligible person;

(2) If the election officials present are unable to contact the clerk within a reasonable time, they shall diligently attempt to fill the position with an eligible person of the same political party as the party that nominated the person absent until a qualified person has agreed to serve;

(3) If two teams of election officials, as defined in §3-1-29 of this code, are present at the polling place, the person appointed to fill a vacancy in the position of the additional commissioner may be of either political party.

(l) In a municipal election, the recorder or other official designated by charter or ordinance to perform election responsibilities shall perform the duties of the clerk of the county commission as provided in this section.

(m) Nothing in this section shall be construed to require any county executive committee or county commission to offer half-day shifts for poll clerks during any election.

§3-1-31. Days and hours of elections; scheduling of local elections; extension or shortening of terms of certain elected local officials.

(a) General elections shall be held in the several election precincts of the state on the Tuesday next after the first Monday in November of each even year. Primary and special elections shall be held on the days provided by law therefor: *Provided,* That beginning July 1, 2022, all local municipal elections may be held concurrently with a regularly scheduled statewide primary or general election. In exercising this right, a municipality may negotiate an agreement with the county commission to establish the election date, election officials, registration books to be used, and other matters pertaining to changing the municipal election to be held on the same day as a regularly scheduled statewide primary or general election: *Provided, however,* That a municipality which enters into an agreement with a county commission to hold elections at the same time as a regularly scheduled statewide primary or general election day pursuant to §8-5-5 of this code shall share in the administrative costs of holding the election, but which costs shall not exceed the municipality's pro rata share of voters registered in the municipality compared with the total voters registered in the county: *Provided further,* That the municipality shall also comply with the requirements of §8-5-5 of this code regarding an agreement with the county regarding use of county election officials in municipal elections.

(b) At every primary, general, or special election the polls shall be opened in each precinct on the day of ~~such~~ the election at ~~six-thirty o'clock~~ 6:30 in the ~~forenoon~~ morning and be closed at ~~seven-thirty o'clock~~ 7:30 in the evening.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-19. Maintenance of active and inactive registration records for municipal elections.

(a) For municipal elections, the registration records of active and inactive voters shall be maintained as follows:

(1) Clerks of the county commissions shall prepare pollbooks or voter lists to be used in municipal elections when the county precinct boundaries and the municipal precinct boundaries are the same and all registrants of the precinct are entitled to vote in state, county, and municipal elections within the precinct or when the registration records of municipal voters within a county precinct are separated and maintained in a separate municipal section or book for that county precinct and can be used either alone or in combination with other pollbooks or voter lists to make up a complete set of registration records for the municipal election precinct.

(2) ~~Upon request of the municipality, and if the clerk of the county commission does not object, separate municipal precinct books shall be maintained in cases where municipal or ward boundaries divide county precincts and it is impractical to use county pollbooks or voter lists or separate municipal sections of those pollbooks or voter lists. If the clerk of the county commission objects to the request of a municipality for separate municipal precinct books, the State Election Commission must determine whether the separate municipal precinct books should be maintained~~

~~(3)~~ No registration record may be removed from a municipal registration record unless the registration is lawfully transferred or canceled pursuant to the provisions of this article in both the county and the municipal registration records.

(b) Within 30 days following the entry of any annexation order or change in street names or numbers, the governing body of an incorporated municipality shall file with the clerk of the county commission a certified current official municipal boundary map and a list of streets and ranges of street numbers within the municipality to assist the clerk in determining whether a voter's address is within the boundaries of the municipality.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-1a. Requirements for reforming, altering, or modifying a county commission; alternative forms of county government.

(a) A county government may be reformed, altered, or modified as follows:

(1) The county commission or county council of the county may pass a resolution making application to the Legislature to reform, alter, or modify an existing form of county government in accordance with the requirements of the West Virginia Constitution and this section; or

(2) Ten percent of the registered voters of the county may sign a petition requesting reformation, alteration, or modification of the existing form of county government in accordance with the requirements of the West Virginia Constitution and this section.

(b) A county commission or county council seeking to make application to reform, alter, or modify its county government pursuant to the provisions of section 13, article IX of the West Virginia Constitution shall adopt a resolution containing the following information:

(1) The reasons for the reformation, alteration, or modification of the county commission or county government;

(2) The form of the proposed county government selected from the alternatives authorized by this section;

(3) The proposed name of the county government;

(4) When the question of reformation, alteration, or modification of the county government ~~will~~ shall be on the ballot;

(5) How and when the officers of the proposed county government ~~will~~ shall be elected or appointed, taking into consideration the following:

(A) When the election on the question of reformation, alteration, or modification of the county government ~~will~~ shall be held;

(B) The normal election cycles for county officials; and

(C) The time frames for early and absentee voting provided in 3-3-1 *et seq.* of this code; and

(6) When the new county government ~~will~~ shall become effective.

(c) Prior to the adoption of a resolution seeking to reform, alter, or modify a county commission or county council, the governing body of the county shall publish by a Class II legal advertisement in one or more newspapers of general circulation throughout the county, in compliance with the provisions of §59-3-1 *et seq.* of this code, notice of the proposed changes to the current form of county government. The publication area shall be the entire county. The notice shall summarize the proposed changes to the county government and include the date, time, and place for the meeting or meetings in which the resolution ~~will~~ shall be considered.

(d) After the publication and adoption of the resolution, the following information shall be submitted by the county to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature:

(1) A certified copy of the adopted resolution;

(2) A copy of the required public notice;

(3) The vote on the adoption of the resolution; and

(4) The date the resolution was adopted.

(e) Registered voters of a county seeking to reform, alter, or modify the county commission or county council pursuant to section 13, article IX of the West Virginia Constitution shall submit a petition, signed by 10 percent of the registered voters in the county, to the county commission or county council, setting forth the information required in subsection (b) of this section. Upon receipt

of the petition, the county commission or county council shall verify that the signatures on the petition are: (1) Legally registered voters of the county; and (2) equal to 10 percent of the registered voters of the county.

(f) The county commission or county council shall, within 30 days of receipt of a constitutionally defective petition, return it to the petitioners with a written statement as to why the petition is defective. The petitioners may, within 90 days of receipt of the written statement from the county commission or council and after making the necessary changes, resubmit the petition to the county commission or county council.

(g) After verifying that the signatures on the petition meet the constitutional requirements, the county commission or council shall forward the petition to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature.

(h) After receipt of a certified resolution or verified petition by the Clerk of the Senate and the Clerk of the House of Delegates, the Legislature shall determine whether all constitutional and statutory requirements have been met. If such requirements have not been met, the certified resolution or verified petition shall be returned with a written statement of the deficiencies. A certified resolution or verified petition may be revised following the procedures set forth in this section for an original submission and then may be resubmitted to the Clerk of the Senate and the Clerk of the House of Delegates for consideration by the Legislature. The requirement that the petition be submitted prior to the 10th day of the legislative session shall not apply to resubmitted resolutions or petitions.

(i) Following passage of an act by the Legislature authorizing an election on the question of reforming, altering, or modifying a county commission or council, the question shall be placed on the ballot of the county at the next primary or general election following such passage ~~or, at the expense of the county, a special election~~.

(j) Following approval of the reformation, alteration, or modification of the county commission or council by a majority of the county's registered voters, nomination of the county commission or council members and, where authorized, the chief executive, shall be held in the next primary election or the primary election set forth in the resolution or petition to reform, alter, or modify the county commission or council. Election of the county commissioners or council members and, where authorized, the chief executive shall be held in the next general election or the general election set forth in the resolution or petition to change the form of the county commission.

(k) All elections required by this section shall be held in accordance with the provisions of §3-1-1 *et seq.* of this code.

(l) The following are guidelines for forms of county government:

(1) "*Chief executive - county commission plan*". — Under this plan:

(A) There shall be a chief executive elected by the registered voters of the county at large and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The chief executive shall have the exclusive authority to supervise, direct, and control the administration of the county government. The chief executive shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the chief executive shall be set by the Legislature;

(E) Other nonelected officers and employees shall be appointed by the chief executive subject to the approval of the county commission; and

(F) The chief executive shall not be a member of the county commission nor shall he or she hold any other elective office.

(2) "*County manager - county commission plan*". — Under this plan:

(A) There shall be a county manager appointed by the county commission and three county commissioners that may be elected at large;

(B) The commission shall be the governing body;

(C) The county manager shall have the exclusive authority to supervise, direct, and control the administration of the county government. The county manager shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county manager shall be set by the county commission;

(E) Other nonelected officers and employees shall be appointed by the county manager subject to the approval of the commission; and

(F) The county manager shall not be a member of the county commission nor shall he or she hold any other elective office.

(3) "*County administrator - county commission plan*". — Under this plan:

(A) There shall be a county administrator appointed by the county commission and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The county administrator shall have the authority to direct the administration of the county government under the supervision of the county commission. The county administrator shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county administrator shall be set by the county commission;

(E) The county administrator shall appoint or employ all subordinates and employees for whose duties or work he or she is responsible to the commission; and

(F) The county administrator shall not be a member of the county commission nor shall he or she hold any other elective office.

(4) A county council consisting of four or more members that shall be elected at large.

(5) Any form of county government adopted pursuant to section 13, article IX of the West Virginia Constitution and this section may, by the methods set forth in this section, return to the traditional county commission or change to another form of county government, as set out in this section.

(m) The purpose of this section is to establish the basic requirements for reforming, altering, or modifying a county commission or county council pursuant to section 13, article IX of the West Virginia Constitution. The structure and organization of a county government may be specified in greater detail by resolution or ordinance so long as such provisions do not conflict with the purposes and provisions set forth in this section, §7A-1-1 *et seq.* of this code, or the Constitution.

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS, AND LEGAL ADVICE.

§7-4-1. Duties of prosecuting attorney; further duties upon request of Attorney General.

(a) The prosecuting attorney shall attend to the criminal business of the state in the county in which he or she is elected and qualified and when the prosecuting attorney has information of the violation of any penal law committed within the county, the prosecuting attorney shall institute and prosecute all necessary and proper proceedings against the offender and may, in such case, issue or cause to be issued a summons for any witness the prosecuting attorney considers material. Every public officer shall give the prosecuting attorney information regarding the commission of any criminal offense committed within his or her county. The prosecuting attorney shall also attend to civil suits in the county in which the state or any department, commission, or board thereof, is interested, and to advise, attend to, bring, prosecute, or defend, as the case may be, all matters, actions, suits, and proceedings in which such county or any county board of education is interested.

(b) (1) In furtherance of a prosecuting attorney's duty to investigate and prosecute criminal offenses, a prosecuting attorney and assistant prosecuting attorneys under his or her supervision shall have the authority to arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States, or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure which occur within the office of the prosecuting attorney and committed in the presence of the prosecuting attorney or assistant prosecuting attorney.

(2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy sheriff within the geographic limitations set forth in said subdivision.

(3) Should a prosecuting attorney desire to establish a program authorizing prosecuting attorneys and assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U. S. C. §926B, the following criteria must be met:

(A) The prosecuting attorney's office shall have a written policy authorizing the prosecuting attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the office of the prosecuting attorney a requirement that the prosecuting attorney and assistant prosecuting attorneys must regularly qualify in the use of a firearm with standards therefor which are equal to or exceed those required of sheriff's deputies in the county in which the prosecuting attorney was elected or appointed;

(C) The office of the prosecuting attorney shall issue a photographic identification and certification card which identify the prosecuting attorney or assistant prosecuting attorneys as law-enforcement employees of the prosecuting attorney's office pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of the authority to participate in the program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any prosecuting attorney or assistant prosecuting attorney who participates in a program authorized by the provisions of this subsection shall be responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature to authorize prosecuting attorney's offices wishing to do so to allow prosecuting attorneys and assistant prosecuting attorneys to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(c) The prosecuting attorney shall keep his or her office open in the charge of a responsible person during the hours when polls are open during statewide general and primary ~~and special countywide~~ election days, and the prosecuting attorney, or the prosecuting attorney's assistant, if any, shall be available for the purpose of advising election officials. The prosecuting attorney, when requested by the Attorney General, shall perform or assist the Attorney General in performing, in the county in which the prosecuting attorney is elected, any legal duties required to be performed by the Attorney General and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of the county. The prosecuting attorney, when requested by the Attorney General, shall perform or assist the Attorney General in performing, any legal duties required to be performed by the Attorney General in any county other than that in which the prosecuting attorney is elected and for the performance of these duties in any county other than that in which the prosecuting attorney is elected, the prosecuting attorney shall be paid his or her actual expenses.

Upon the request of the Attorney General, the prosecuting attorney shall make a written report of the state and condition of the several causes in which the state is a party, pending in his or her county, and upon any matters referred to the prosecuting attorney by the Attorney General as provided by law.

ARTICLE 14B. CIVIL SERVICE FOR CORRECTIONAL OFFICERS.

§7-14B-21. County commission of counties with a population of less than 25,000 may place correctional officers under civil service; protest and election with respect thereto.

The county commission of any county having a population of less than 25,000 may by order entered of record provide that the provisions of this article providing civil service for correctional officers shall apply to such county on and after the effective date of this article. A copy of such order, together with a notice advising the qualified voters of such county of their right to protest the placing of correctional officers of such county under civil service, shall be published as a Class

II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

In the event 15 percent of the qualified voters of such county protest such order, by petition duly signed by them in their own handwriting (which petition may be signed in any number of counterparts) and filed with the county clerk of such county within 60 days after publication of such copy and notice, such order shall not become effective unless and until it is ratified by a majority of the legal votes cast with respect to the question of civil service coverage for the correctional officers of such county by the qualified voters of such county at a ~~regular or special~~ primary or general election. Any such election shall be conducted and superintended and the results thereof ascertained as provided by law for ~~regular or special~~ primary or general elections, as the case may be.

Whenever the correctional officers of any county are placed under civil service pursuant to the provisions of this section, such civil service system for the correctional officers of such county shall thereupon become mandatory and all of the provisions of this article shall apply to the correctional officers of such county with like effect as if said county had a population of 25,000 or more.

ARTICLE 17. COUNTY FIRE BOARDS.

§7-17-12. County fire service fees; petition; election; dedication; and amendment.

(a) Every county commission which provides fire protection services has plenary power and authority to provide by ordinance for the continuance or improvement of such service, to make regulations with respect thereto, and to impose by ordinance, upon the users of such services, reasonable fire service rates, fees, and charges to be collected in the manner specified in the ordinance.

(b) Any fees imposed under this article are dedicated to the county fire board for the purposes provided in this article.

(c) A county commission can impose by ordinance, upon the users of such service, a reasonable fire service fee, by one of two methods:

(1) Ten percent of the qualified voters shall present a petition duly signed by them in their own handwriting, and filed with the clerk of the county commission, directing that the county commission impose such a fee. The county commission shall not have a lien on any property as security for payments due under the ordinance. Any ordinance enacted under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located. In the event 30 percent of the qualified voters of the county by petition duly signed by them in their own handwriting and filed with the clerk of the county commission within 45 days after the expiration of such publication protest against such ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general ~~or special~~ election as the county commission directs. Voting thereon may not take place until after notice of the submission has been given by publication as above provided for the publication of the ordinance after it is adopted. The powers and authority hereby granted to county commissions are in addition to and supplemental to the powers and authority otherwise granted to them by other provisions of this code; or

(2) If the county fire board determines an amendment in the fee imposed in subsection (a) of this article is necessary, it may, by resolution, request the county commission for such a change. Upon receipt of the resolution from the county fire board, the county commission shall, by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee requested by the county fire board.

(A) This referendum, to determine whether it is the will of the voters of a county that an amendment to the fire fee is necessary, may be held at any regular primary or general election, or, in conjunction with any other countywide election. Any election at which the question of amending the fire fee is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The county commission shall, not less than 90 days before the election, order that the issue be placed on the ballot and referendum held at the next primary~~,~~ or general~~, or special~~ election to determine whether it is the will of the voters of the county that a fire fee be amended: *Provided*, That prior to issuing the order, the county commission shall publish the ordinance which must contain the anticipated allocation of any fees or charges and which would be enacted should the referendum succeed as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located.

(B) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be permitted to amend the fire fee in _____ County, West Virginia?

__ For the fee amendment.

__ Against the fee amendment.

(Place a cross mark in the square opposite your choice.)"

(C) If a majority of legal votes cast upon the question be for the fire fee amendment, the county commission shall, after the certification of the results of the referendum, thereinafter adopt an ordinance, within 60 days of certification, establishing the fire fee amendment in the county: *Provided*, That such program shall be implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the fire fee amendment, then the policy shall not take effect, but the question may again be submitted to a referendum at any subsequent election in the manner herein provided.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.

§7-20-7. Establishment of impact fees; levies may be used to fund existing capital improvements.

(a) Impact fees assessed against a development project to fund capital improvements and public services may not exceed the actual proportionate share of any benefit realized by such project relative to the benefit to the resident taxpayers.

Notwithstanding any other provision of this code to the contrary, those counties that meet the requirements of §7-20-6 of this code are hereby authorized to assess, levy, collect, and administer any tax or fee as has been or may be specifically authorized by the Legislature by general law to the municipalities of this state: *Provided,* That any assessment, levy, or collection shall be delayed 60 days from its regular effective date: *Provided, however,* That in the event 15 percent of the qualified voters of the county by petition duly signed by them in their own handwriting and filed with the county commission within 45 days after any impact fee or levy is imposed by the county commission pursuant to this article, the fee or levy protested may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general ~~or special~~ election as the county commission directs. Voting thereon may not take place until after notice of the subcommission of the fee a levy on the ballot has been given by publication of Class II legal advertisement and publication area shall be the county where such fee or levy is imposed: *Provided further,* That counties may not "double tax" by applying a given tax within any corporate boundary in which that municipality has implemented such tax. Any such taxes or fees collected under this law may be used to fund a proportionate share of the cost of existing capital improvements and public services where it is shown that all or a portion of existing capital improvements and public services were provided in anticipation of the needs of new development.

(b) In determining a proportionate share of capital improvements and public services costs, the following factors shall be considered:

(1) The need for new capital improvements and public services to serve new development based on an existing capital improvements plan that shows: (A) Any current deficiencies in existing capital improvements and services that serve existing development and the means by which any such deficiencies may be eliminated within a reasonable period of time by means other than impact fees or additional levies; and (B) any additional demands reasonably anticipated as the result of capital improvements and public services created by new development;

(2) The availability of other sources of revenue to fund capital improvements and public services, including user charges, existing taxes, intergovernmental transfers, in addition to any special tax or assessment alternatives that may exist;

(3) The cost of existing capital improvements and public services;

(4) The method by which the existing capital improvements and public services are financed;

(5) The extent to which any new development, required to pay impact fees, has contributed to the cost of existing capital improvements and public services in order to determine if any credit or offset may be due such development as a result thereof;

(6) The extent to which any new development, required to pay impact fees, is reasonably projected to contribute to the cost of the existing capital improvements and public services in the future through user fees, debt service payments, or other necessary payments related to funding the cost of existing capital improvements and public services;

(7) The extent to which any new development is required, as a condition of approval, to construct and dedicate capital improvements and public services which may give rise to the future accrual of any credit or offsetting contribution; and

(8) The time-price differentials inherent in reasonably determining amounts paid and benefits received at various times that may give rise to the accrual of credits or offsets due new development as a result of past payments.

(c) Each county shall assess impact fees pursuant to a standard formula so as to ensure fair and similar treatment to all affected persons or projects. A county commission may provide partial or total funding from general or other nonimpact fee funding sources for capital improvements and public services directly related to new development, when such development benefits some public purpose, such as providing affordable housing and creating or retaining employment in the community.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

§7-20-12. Countywide service fees.

(a) Notwithstanding any provision of this code to the contrary, every county shall have plenary power and authority to impose a countywide service fee upon each employee and self-employed individual for each week or part of a calendar week the individual works within the county, subject to the following:

(1) No individual shall pay the fee more than once for the same week of employment within the county.

(2) The fee imposed pursuant to this section is in addition to all other fees imposed by the jurisdiction within which the individual is employed.

(3) The fee imposed pursuant to this section may not take effect until the first day of a calendar month, as set forth in the order of the county commission establishing the fee, that begins at least 30 days after a majority of the registered voters of the county voting on the question approve imposition of the service fee, in a primary or general ~~or a special~~ election held in the county.

(4) The order of the county commission shall provide for the administration, collection, and enforcement of the service fee. Employers who have employees that work in the county imposing the service fee shall withhold the fee from compensation paid to the employee and pay it over to the county as provided in the order of the county commission. Self-employed individuals shall pay the service fee to the county commission in accordance with the order establishing the fee.

(5) The terms "employed", "employee", "employer" and "self-employed" have the following meaning:

(A) "Employed" shall include an employee working for an employer so as to be subject to any federal or state employment or wage withholding requirement and a self-employed individual working as a sole proprietor or member of a firm so as to be subject to self-employment tax. An employee shall be considered employed in a calendar week so long as the employee remains on the current payroll of an employer deriving compensation for such week and the employee has not been permanently assigned to an office or place of business outside the county. A self-employed individual shall be considered employed in a calendar week so long as such individual has not permanently discontinued employment within the county.

(B) "Employee" means any individual who is employed at or physically reports to one or more locations within the county and is on the payroll of an employer, on a full-time or part-time basis or temporary basis, in exchange for salary, wages, or other compensation.

(C) "Employer" means any person, partnership, limited partnership, limited liability company, association (unincorporated or otherwise), corporation, institution, trust, governmental body, or unit or agency, or any other entity (whether its principal activity is for-profit or not-for-profit) situated, doing business, or conducting its principal activity in the county and who employs an employee, as defined in this section.

(D) "Self employed individual" means an individual who regularly maintains an office or place of business for conducting any livelihood, job, trade, profession, occupation, business, or enterprise of any kind within the county's geographical boundaries over the course of four or more calendar weeks, which need not be consecutive, in any given calendar year.

(6) All revenues generated by the county service fee imposed pursuant to this section shall be dedicated to and shall be exclusively utilized for the purpose or purposes set forth in the referendum approved by the voters, including, but not limited to, the payment of debt service on any bonds issued pursuant to §7-20-13 of this code and any costs related to the administration, collection, and enforcement of the service fee.

(b) Any order entered by a county commission imposing a countywide service fee pursuant to this section, or increasing or decreasing a countywide service fee previously adopted pursuant to this section, shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for the publication shall be the county. The order shall not become effective until it is ratified by a majority of the lawful votes cast thereon by the qualified voters of the county at a primary or general ~~or special~~ election, as the county commission shall direct. Voting thereon shall not take place until after notice of the referendum shall have been given by publication as above provided for the publication of the order after it is adopted by the county commission. The notice of referendum shall at a minimum include: (1) The date of the referendum; (2) the amount of countywide service fee; (3) a general description of the capital improvement or improvements included in the special infrastructure project to be financed with the service fee; (4) whether revenue bonds ~~will~~ shall be issued; and (5) if bonds are to be issued, the estimated term of the revenue bonds. The county commission may include additional information in the notice of referendum.

(c) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL PROVISIONS; CONSTRUCTION.

PART II. DEFINITIONS.

§8-1-2. Definitions of terms.

(a) For the purpose of this chapter:

(1) "Municipality" is a word of art and shall mean and include any Class I, Class II, and Class III city, and any Class IV town or village, heretofore or hereafter incorporated as a municipal corporation under the laws of this state;

(2) "City" is a word of art and shall mean, include, and be limited to any Class I, Class II, and Class III city, as classified in section three of this article (except in those instances where the context in which used clearly indicates that a particular class of city is intended), heretofore or hereafter incorporated as a municipal corporation under the laws of this state, however created and whether operating under: (i) A special legislative charter; (ii) a home rule charter framed and adopted or revised as a whole or amended under the provisions of former §8A-1-1 *et seq.* of this code, or under the provisions of §8-3-1 or §8-4-1 of this code; (iii) general law, or (iv) any combination of the foregoing; and

(3) "Town or village" is a term of art and shall, notwithstanding the provisions of §2-2-10 of this code, mean, include, and be limited to any Class IV town or village, as classified in §8-3-1 of this code, heretofore or hereafter incorporated as a municipal corporation under the laws of this state, however created and whether operating under: (i) A special legislative charter; (ii) general law; or (iii) a combination of the foregoing.

(b) For the purpose of this chapter, unless the context clearly requires a different meaning:

(1) "Governing body" shall mean the mayor and council together, the council, the board of directors, the commission, or other board or body of any municipality, by whatever name called, as the case may be, charged with the responsibility of enacting ordinances and determining the public policy of such municipality; and in certain articles dealing with intergovernmental relations shall also mean the county ~~court~~ commission of any county or governing board of other units of government referred to in said articles;

(2) "Councilmen" shall mean the members of a governing body, by whatever name such members may be called;

(3) "Mayor" shall mean the individual called mayor unless as to a particular municipality a commissioner (in a commission form of government) or the city manager (in a manager form of government) is designated or constituted by charter provision as the principal or chief executive officer or chief administrator thereof, in which event the term "mayor" shall mean as to such municipality such commissioner or city manager unless as to any particular power, authority, duty or function specified in this chapter to be exercised, discharged or fulfilled by the mayor it is provided by charter provision or ordinance that such particular power, authority, duty, or function shall be exercised, discharged, or fulfilled by the individual called mayor and not by a commissioner or city manager, in which event such particular power, authority, duty, or function shall in fact be exercised, discharged, or fulfilled in and for such municipality by the individual called mayor: *Provided,* That in the exercise and discharge of the ex officio justice of the peace, conservator of the peace, and mayor's court functions specified in this chapter, the term "mayor" shall always mean the individual called mayor;

(4) "Recorder" shall mean the recorder, clerk, or other municipal officer, by whatever name called, charged with the responsibility of keeping the journal of the proceedings of the governing body of the municipality and other municipal records;

(5) "Treasurer" shall mean the treasurer or other municipal officer, by whatever name called, exercising the power and authority commonly exercised by a treasurer;

(6) "Administrative authority" shall mean the officer, commission, or person responsible for the conduct and management of the affairs of the municipality in accordance with the charter, general law, and the ordinances, resolutions, and orders of the governing body thereof;

(7) "Charter" shall mean, except where specific reference is made to a particular type of charter, either a special legislative charter (whether or not amended under the provisions of former §8A-1-1 *et seq.* of this code, or under article four of this chapter, and although so amended, such special legislative charter shall, for the purposes of this chapter, remain a special legislative charter), or a home rule charter framed and adopted or revised as a whole or amended by a city under the provisions of former §8A-1-1 *et seq.* of this code or under the provisions of article three or article four of this chapter;

(8) "Ordinance" shall mean the ordinances and laws enacted by the governing body of a municipality in the exercise of its legislative power, and in one or more articles of this chapter, ordinances enacted by a county ~~court~~ commission;

(9) "Inconsistent or in conflict with" shall mean that a charter or ordinance provision is repugnant to the constitution of this state or to general law because such provision: (i) Permits or authorizes that which the constitution or general law forbids or prohibits; or (ii) forbids or prohibits that which the constitution or general law permits or authorizes;

(10) "Qualified elector," "elector," "qualified voter," or "legal voter" shall mean any individual who, at the time he or she offers to vote or at the time he or she participates in any event or activity (such as signing a petition) under the provisions of this chapter for which he or she must be a qualified elector, elector, qualified voter, or legal voter, is a resident within the corporate limits of the municipality or within the boundaries of a territory referred to in this chapter, as the case may be, and who: (i) Has been a resident of the state for one year and of the municipality or territory in question for at 60 sixty days next preceding such election or date pertinent to any such event or activity; and (ii) in the case of a regular municipal election, special municipal election, municipal public question election, or any such municipal event or activity, is duly registered on the municipal registration books set up in the office of the clerk of the county ~~court~~ commission of the county in which the municipality or the major portion of the territory thereof is located under the integration of the municipal registration of voters with the "permanent registration system" of the state, or, in the event there be no such integration of the municipal registration of voters, is duly registered in the county in which he or she resides to vote in state-county elections; or (iii) in the case of a territory election, general election, or any such territory event or activity, is duly registered in the county in which he or she resides to vote in state-county elections; and any charter provision or ordinance establishing a voting residency requirement different than that in this definition provided shall be of no force and effect; and in any case where a particular percentage of the qualified electors, electors, qualified voters, or legal voters is required under the provisions of this chapter in connection with any such event or activity as aforesaid, the percentage shall be determined on the basis of the number of qualified electors, electors, qualified voters, or legal voters, as of the time of such event or activity, unless it is impracticable to determine such percentage as of such time and it is provided by ordinance, resolution or order that the percentage shall be determined on the basis of the number of qualified electors, electors, qualified voters, or legal voters, as of the date of the last preceding election (whether a general election, regular municipal election, or special municipal election, and whether or not they voted at such election) held in such municipality or territory, as the case may be;

(11) "Public question" shall mean any issue or proposition required to be submitted to the qualified voters of a municipality or of a territory referred to in this chapter for decision at an election, as the case may be;

(12) "Inhabitant" shall mean any individual who is a resident within the corporate limits of a municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

(13) "Resident" shall mean any individual who maintains a usual and bona fide place of abode within the corporate limits of a municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

(14) "Freeholder" shall mean any person (and in the case of an individual one who is sui juris and is not under a legal disability) owning a "freehold interest in real property";

(15) "Freehold interest in real property" shall mean any fee, life, mineral, coal, or oil or gas interest in real property, whether legal or equitable, and whether as a joint tenant or a tenant in common, but shall not include a leasehold interest (other than a mineral, coal, or oil or gas leasehold interest), a dower interest, or an interest in a right-of-way or easement, and the freehold interest of a church or other unincorporated association shall be considered as one interest and not as an individual interest of each member thereof;

(16) "County ~~court~~ commission" shall mean the governmental body created by section 22, article eight of the Constitution of this state, or any existing tribunal created in lieu of a county ~~court~~ commission;

(17) "Code" shall mean the Code of West Virginia, 1931, as heretofore and hereafter amended; and

(18) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint-stock association, or any other entity or organization of whatever character or description.

(c) The term "intergovernmental relations" is used in this chapter to mean undertakings and activities which may be undertaken or engaged in by two or more units of government acting jointly, and in certain headings in this chapter to call attention to the fact that the provisions under such headings apply to units of government in addition to municipalities.

(d) For the purpose of this chapter, unless the context clearly indicates to the contrary, words importing the masculine gender shall include both the masculine and feminine gender, and the phrase "charter-framed and adopted or revised as a whole or amended (or words of like import) under the provisions of former chapter eight-a of this code" shall include a charter-framed and adopted or revised as a whole or amended under the provisions of former article two of former chapter eight of this code.

ARTICLE 2. CREATION OF MUNICIPALITIES.

PART II. ELECTION.

§8-2-5. Special incorporation election — Voting precincts; time for election; supplies; commissioners and clerks; notice.

Upon receiving such a report from said enumerators, the county ~~court~~ commission shall forthwith fix a date for a special incorporation election, ~~not later than thirty days thereafter~~ to be held concurrently with the next regularly scheduled primary or general election if there are more

than 90 days preceding such election, and, if not, then, at the next succeeding regularly scheduled primary or general election, and at ~~on~~ which election all qualified electors of the territory shall vote upon the question of incorporation between such hours as may be fixed by order of said ~~court~~ commission. For the purpose of holding and conducting said election, the county ~~court~~ commission shall divide the territory into one or more precincts, consisting of not more than 500 qualified voters in each precinct; shall arrange for and provide at its expense polling places, registration books, challenges, and other election supplies as provided for by law in general elections; shall appoint three commissioners of election and two clerks from the qualified electors of said territory for each precinct so established, dividing the election officials as nearly as possible equally between those favoring incorporation and those opposed to incorporation; and shall give notice of the date and place or places of election and hours for voting by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the territory sought to be incorporated.

ARTICLE 3. FRAMING AND ADOPTING AN ORIGINAL CHARTER FOLLOWING INCORPORATION OF A CITY; REVISING OR AMENDING A CHARTER; EXPENSES OF INCORPORATION.

§8-3-6. Same — ~~Special election; time~~ Time for election; notice; voting precincts; supplies; officials; certification; canvass; declaration of results; recount.

The proposed charter shall be submitted to the qualified voters of the incorporated territory for approval or rejection at a special election ordered by the county ~~court~~ commission to be held ~~not less than thirty days nor more than ninety days following the date on which the two copies of the completed charter were filed with the clerk of the county court~~ concurrently with the next regularly scheduled primary or general election if there are more than 90 days preceding such election, and, if not, then, at the next succeeding regularly scheduled primary or general election, and at which election the officers provided for by said proposed charter and to be elected shall be voted upon in the manner provided in said proposed charter. The county ~~court~~ commission shall cause notice of the date, hours, place, and purpose of such election to be given by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the incorporated territory. The first of said publications shall be made not less than 30 days prior to the date fixed for the election. Each such notice of election shall state that upon request any qualified voter and any freeholder of the incorporated territory may obtain a copy of the proposed charter from a designated person at a designated place.

For the purpose of holding and conducting said election, the county ~~court~~ commission shall divide the incorporated territory into one or more temporary precincts, consisting of not more than 500 qualified voters in each temporary precinct; shall arrange for and provide at its expense polling places, registration books, challenges, and other election supplies as provided for by law in general elections; and shall appoint three commissioners of election and two clerks from the qualified voters of said incorporated territory for each temporary precinct so established, subject, however, to the provisions of §8-4-11 of this code. Such election shall be held and conducted under the supervision of the commissioners and clerks of election appointed by the county ~~court~~ commission as aforesaid and shall be conducted as nearly as may be in accordance with the laws of this state governing general elections. The results of such election, both as to approval or rejection of the proposed charter and the election of officers, shall be certified as in general elections, and the returns shall be canvassed and the results declared by the county ~~court~~ commission. In the event any commissioner or clerk designated to serve in said election shall fail or refuse to serve, such vacancy may be filled in like manner as such vacancies are filled in

general elections under the laws of this state governing general elections. A recount may be had, as in general elections, upon the party or parties desiring such recount providing adequate assurance to the county ~~court~~ commission that ~~he or they will~~ the party or parties shall pay all costs of such recount.

ARTICLE 4. FRAMING AND ADOPTING A CHARTER OTHER THAN IMMEDIATELY FOLLOWING INCORPORATION; REVISING OR AMENDING A CHARTER; ELECTIONS AND EXPENSES.

PART II. REVISING OR AMENDING A CHARTER.

§8-4-7. Revising or amending a charter — generally.

A special legislative charter or a charter framed and adopted or revised as a whole under the provisions of former §8A-1-1 *et seq.,* §8-3-1 *et seq.,* or §8-4-1 *et seq.* of this code, as the case may be, may be revised as a whole in like manner as a charter may be framed and adopted under the provisions of §8-4-1 *et seq.* of this code, except that the question submitted shall be "Shall the charter be revised as a whole by representatives of the people?", but no such revision as a whole shall be made within four years of the effective date of such a charter or of the last preceding revision as a whole, whichever be later, as the case may be. A revision as a whole may also be initiated in the manner specified in §8-3-9 of this code or in the manner specified in said section nine considered in pari materia with the provisions of §8-3-9 of this code. If a majority of the legal votes cast on the question be in the negative or if the proposed charter revised as a whole is rejected by a majority of the legal votes cast at the election thereon, the provisions of §8-4-2 and §8-4-3 of this code relating to a negative vote on the question of framing a charter and to rejection of a proposed charter shall govern and control.

The qualified voters of a city may amend a special legislative charter or a charter framed and adopted or revised as a whole under the provisions of former §8A-1-1 *et seq.* of this code, §8-3-1 *et seq.* of this code, or under §8-4-1 *et seq.* of this code, as the case may be, but no amendment shall be made within one year of the effective date of such a charter or of the last preceding revision of such charter as a whole, whichever be later, as the case may be. An amendment or amendments may be initiated in the same manner provided in this article for the framing of a charter, in the manner specified in §8-3-9 of this code, or in the manner specified in said section nine considered in pari materia with the provisions of §8-4-3 of this code. The governing body of a city shall provide by ordinance for a special municipal election to pass upon a proposed charter amendment or amendments if: (1) Such governing body by the affirmative vote of two-thirds of its members shall determine and specify that a special municipal election is necessary; or (2) a petition bearing the signatures, written in their own handwriting, of 15 percent of the qualified voters of the city, if a Class I or Class II city, or 10 percent of the qualified voters of the city, if a Class III city, expressly requesting that a special municipal election be called for the purpose has been filed with the governing body more than 120 days prior to the date of the next regular municipal election. In all other cases, a proposed charter amendment or amendments shall be submitted by ordinance at the next regular municipal election. Any proposed amendment or amendments shall be set out in full in the ordinance submitting same. The date of any special municipal election for the purpose shall be fixed by the ordinance providing for same, but any such special municipal election shall be held not less than 30 nor more than 60 days after such ordinance shall have been adopted. Notice of any election at which a proposed amendment or amendments shall be voted upon shall state the date and hours thereof, and shall set out the proposed amendment or amendments at length or state that copies may be obtained by any qualified voter or any freeholder of the city from a designated person at a stated place, upon

request. Such notice shall be published as in the case of a notice of an election on the question of whether a charter shall be framed, as specified in §8-4-2 of this code. A charter amendment or amendments approved, or such of them as may be approved, by a majority of the legal votes cast at the election thereon shall take effect on the date that the declaration of the results showing approval by the voters has been made by the governing body and entered in the minutes of the governing body. One copy of the amendment or amendments, together with a certified copy of the declaration of results attached thereto, shall be certified forthwith by the recorder of the city to the Clerk of the House of Delegates, as keeper of the rolls, and another to the clerk of the county ~~court~~ commission for recording in the office of such clerk of the county ~~court~~ commission. The same shall be preserved by said Clerk of the House of Delegates as an authentic public record. After the effective date of an amendment or amendments so filed, all courts shall take judicial notice of such amendment or amendments.

If a majority of the legal votes cast at the election thereon be against any amendment, such proposed amendment shall not be submitted again, without a petition of the qualified voters as provided for in §8-4-1(b) of this code considered in pari materia with the provisions of this section, for at least one year.

§8-4-8. Same — An alternate plan.

Whenever the governing body of any city shall deem it expedient to amend the charter of any such city (whether such charter be a special legislative charter or a charter framed and adopted or revised as a whole under the provisions of former §8A-1-1 *et seq.,* of this code, under §8-3-1 *et seq.,* of this code, or §8-4-1 of this code, as the case may be), it shall, by ordinance, set out in its proper record book the proposed amendment or amendments in full. The governing body shall set a date, time, and place for a public hearing thereon, which date shall be not less than 30 days after the date of the first publication hereinafter required. The governing body shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, to be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the city. The notice shall state that the proposed amendment or amendments ~~will~~ shall be considered on the date and at the time and place fixed by the governing body and that any qualified voter or any freeholder of the city may appear and file objections, in writing, and also that if no objections are filed the said amendment or amendments shall become operative on and after a date fixed in the notice, which date shall be not less than 10 days after the date of the hearing. If no objections are filed, or if objections are filed and are withdrawn at the time of the hearing, or within 10 days thereafter, the governing body shall, by ordinance, adopt the amendment or amendments as an amendment or amendments to the charter, and cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county ~~court~~ commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as aforesaid. After the effective date, all courts shall take judicial notice of such amendment or amendments.

If, on the date and at the time and place set for the hearing, objections to the amendment or amendments are filed and are not withdrawn then or within 10 days thereafter, the governing body may abandon the proposed amendment or amendments to which objections have been filed, or it may submit the proposed amendment or amendments, either as a unit or separately, at the next regular municipal election, or at a special municipal election if such governing body by the affirmative vote of two-thirds of its members shall determine and specify that a special municipal

election is necessary and if the date of such regular municipal election shall be more than six months from such date, for ratification or rejection. Notice of any election at which the proposed amendment or amendments shall be voted upon shall state the date and hours thereof and shall set out the proposed amendment or amendments at length or state that copies may be obtained by any qualified voter or any freeholder of the city from a designated person at a stated place, upon request. The governing body shall cause such notice to be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the city. The amendment or amendments approved, or such of them as may be approved, by a majority of the legal votes cast at the election thereon shall take effect on the date that the declaration of the results showing approval by the voters has been made by the governing body and entered in the minutes of the governing body. One copy of the amendment or amendments, together with a certified copy of the declaration of results attached thereto, shall be certified forthwith by the recorder of the city to the Clerk of the House of Delegates, as keeper of the rolls, and another to the clerk of the county ~~court~~ commission for recording in the office of such clerk of the county ~~court~~ commission. The same shall be preserved by said Clerk of the House of Delegates as an authentic public record. After the effective date of an amendment or amendments so filed, all courts shall take judicial notice of such amendment or amendments. If a majority of the legal votes cast at the election thereon be against any proposed amendment, the same shall not be proposed again under the provisions of this section for at least one year.

The method of charter amendment provided for in this section is not in lieu of but is in addition to the other methods prescribed in this chapter

PART III. ELECTIONS; EXPENSES.

§8-4-10. Conduct of elections; general provisions concerning canvass and declaration of results; election supplies; election officials.

The governing body of a city shall canvass the returns within relatively the same time with reference to an election held under the provisions of this article and in the same manner as county ~~court~~ commissions are required to do with respect to general elections, and shall declare the results of any such election. This requirement shall apply to any election held under the provisions of this article, whether it be a special municipal election or voting conducted in conjunction with a general election or a regular municipal election. The canvass and declaration of results shall be entered in the minutes of the governing body on the date made. Unless otherwise provided by charter provision, any such special municipal election or voting conducted in conjunction with a general election or a regular municipal election shall be held and conducted under the supervision at each precinct of three commissioners of election and two clerks who shall be appointed by the governing body and shall be conducted as nearly as may be in accordance with the laws of this state governing general elections, subject, however, in the case of a special municipal election to the provisions of §8-4-11 of this code. For any special municipal election or voting conducted in conjunction with a general election or a regular municipal election, in accordance with the provisions of this article, the governing body shall arrange for and provide at its expense registration books, challenges and other election supplies as provided by law in general elections, and polling places in any such special municipal election or with respect to any such voting conducted in conjunction with a regular municipal election. In the event any commissioner or clerk appointed by the governing body shall fail or refuse to serve, such vacancy may be filled in like manner as such vacancies are filled in general elections under the laws of this state governing general elections, except that the governing body shall act in the place and stead of the county ~~court~~ commission. A recount may be had, as in general elections, upon the party or parties

desiring such recount providing adequate assurance to the governing body that ~~he or they will~~ the party or parties shall pay all costs of such recount.

§8-5-5. Regular election of officers; establishment of longer terms.

(a) After the first election of officers of a city, town, or village, the regular election of officers shall be held on the second Tuesday in June of the appropriate year, unless otherwise provided in the charter of the city or the special legislative charters of the towns or villages.

(b) A municipal election date established by a charter provision may fall on the same day as ~~the county state~~ a regularly scheduled statewide primary ~~election~~ or general election only when the voting precinct boundaries in the municipality coincide with the voting precinct boundaries established by the county commission or when the charter provides for separate registration books. If a municipal election falls on the same day as ~~the county state~~ a regularly scheduled statewide primary or general election, the municipality and county may agree to use the county election officials in the municipal elections, if practicable, or the municipality may provide for separate election officials.

(c) A municipal election date established by charter provision may fall within 25 days of a ~~the county state~~ regularly scheduled statewide primary or general election only where separate registration books are provided and maintained for the municipal election.

(d) Any municipality which establishes its election date by charter provision must comply with the provisions of this section or the election date shall be the second Tuesday of June. The language of this section may not be construed to prevent any city, town, or village from amending the provisions of its charter or special legislative charter, to provide that its municipal election be held on some day other than the second Tuesday in June.

(e) Officers of a city may be elected for a four-year term at the same election at which a proposed charter, proposed charter revision, or charter amendment providing for four-year terms is voted upon. The ballots or ballot labels used for the election of officers must indicate that the officers ~~will~~ shall be elected for four-year terms if the proposed charter, revision or amendment is approved. Officers of a town or village may be elected for a four-year term upon approval by a majority of the legal votes cast at a regular municipal election of a proposition calling for four-year terms. The ballots or ballot labels used for the election of officers must indicate that the officers ~~will~~ shall be elected for four-year terms if the proposition is approved.

(f) Municipalities are authorized to stagger and/or change the terms of elected municipal officers. Prior to any changes being made to the terms of elected municipal officers, the procedure to stagger and/or change the terms shall be set by ordinance and must be approved by a majority of the voters.

(g) Beginning on July 1, 2022, any municipality that has not previously adopted a municipal charter may pass an ordinance that establishes a new municipal election day upon agreement with its county commission to hold any local elections, including the regular election of local officers, municipal bond elections, and municipal levy elections, on the same day as a regularly scheduled statewide primary or general election. The municipality shall publish notice of the public meeting during which the proposed ordinance shall be considered by the municipal governing body via Class II-0 legal advertisement in a publication area sufficient to reach a majority of the municipal residents, which notice shall include the public meeting date, time, and location, any

proposed extension or reduction of terms of office pursuant to paragraph (f) of this section, and the proposed election day change.

(h) The ordinance proposed pursuant to paragraph (g) of this section may call for an extension or reduction of the terms of office for the purpose of aligning the terms to coincide with the same date as a regularly scheduled statewide primary or general election day, which question shall be resolved by majority vote of the participating voters in the county: *Provided,* That the governing body shall not propose an extension of the terms of those offices by more than 18 months: *Provided, however,* That nothing in this section modifies a municipality's authority to reduce current elected officials' terms of office in any other manner provided by law.

(i) A municipality which enters into an agreement with the county commission to hold elections at the same time as a regularly scheduled statewide primary or general election day pursuant to this section is required to share in the administrative costs of holding the election, but which costs shall not exceed the municipality's pro rata share of voters registered in the municipality compared with the total voters registered in the county.

CHAPTER 8A. LAND USE PLANNING.

ARTICLE 7. ZONING ORDINANCE.

§8A-7-7. Election on a zoning ordinance.

(a) The governing body of a municipality or a county may submit a proposed zoning ordinance for approval or rejection at any primary election or general election ~~or special election~~, to the qualified voters residing:

(1) Within the entire jurisdiction of the governing body, if the proposed zoning ordinance is for the entire jurisdiction; or

(2) In the specific area to be zoned by the proposed zoning ordinance, if the proposed zoning ordinance only applies to part of the governing body's jurisdiction.

(b) The election laws of this state apply to any election on a proposed zoning ordinance.

(c) If a petition for an election on a zoning ordinance is filed with the clerk of a governing body within 90 days after the enactment of a zoning ordinance by a governing body without an election, then a zoning ordinance does not take effect until an election is held and a majority of the voters approves it. At least 10 percent of the total eligible voters in the area to be affected by the proposed zoning ordinance must sign, in their own handwriting, the petition for an election on a zoning ordinance.

(d) Notice for an election on a proposed zoning ordinance must be published in a local newspaper of general circulation in the area affected by the proposed zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 of this code.

(e) The ballots for an election on a zoning ordinance shall have the following:

/ / For Zoning

/ / Against Zoning

(f) The zoning ordinance is adopted if it is approved by a majority of the voters and is effective on the date the results of an election are declared. If a zoning ordinance is rejected, the zoning ordinance does not take effect. The governing body may submit the zoning ordinance to the voters again at the next primary or general election.

§8A-7-8a. Requirements for adopting an amendment to the zoning ordinance.

(a) After the enactment of the zoning ordinance, the governing body of the municipality may amend the zoning ordinance in accordance with §8A-7-8 of this code, without holding an election.

(b) After the enactment of the zoning ordinance, the governing body of the county may amend the zoning ordinance in accordance with §8A-7-8 of this code, as follows:

(1) Without holding an election;

(2) Holding an election on the proposed amendment; or

(3) Holding an election on the proposed amendment pursuant to a petition.

(c) If the governing body of the county chooses to hold an election on the proposed amendment, then it must:

(1) Publish notice of the election and the proposed amendment to the zoning ordinance in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code; and

(2) Hold an election on the question of adopting or rejecting the proposed amendment to the zoning ordinance at any primary~~,~~ or general ~~or special~~ election for the qualified voters residing in:

(A) The entire jurisdiction of the county, if the zoning ordinance applies to the entire county; or

(B) The specific area to which the zoning ordinance applies, if the zoning ordinance only applies to a part of the county.

(d) The governing body of a county must hold an election on an amendment to a zoning ordinance if a petition, signed by at least 10 percent of the eligible voters in the area to which the zoning ordinance applies, is filed:

(1) With the governing body of the county prior to enactment of an amendment to a zoning ordinance; or

(2) After the enactment of an amendment to a zoning ordinance without an election, if the petition for an election on the amendment to a zoning ordinance is filed with the governing body of the county within 90 days.

(e) The governing body of the county holding an election on the proposed amendment pursuant to a petition must:

(1) Publish notice of the election and the proposed amendment to the zoning ordinance in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code; and

(2) Hold an election on the question of adopting or rejecting the proposed amendment to the zoning ordinance at any primary~~,~~ or general ~~or special~~ election for the qualified voters residing in:

(A) The entire jurisdiction of the county, if the zoning ordinance applies to the entire county; or

(B) The specific area to which the zoning ordinance applies, if the zoning ordinance only applies to a part of the county.

(f) If an election is held, then the proposed amendment to the zoning ordinance does not take effect until a majority of the voters approve it.

(g) If an election is held and the proposed amendment to the zoning ordinance is rejected, then the proposed amendment does not take effect. The governing body of the county may resubmit the proposed amendment to the zoning ordinance to the voters at another election.

(h) ~~A special election may be held upon written request to the governing body of the county.~~

(i) The election laws of this state apply to any election on a proposed amendment to a zoning ordinance.

§8A-7-13. Process to replace nontraditional zoning ordinance.

(a) A governing body that has adopted or enacted a nontraditional zoning ordinance may replace the nontraditional zoning ordinance with a zoning ordinance. A nontraditional zoning ordinance may be replaced with a zoning ordinance by:

(1) The governing body; or

(2) A petition by the voters in the affected area. If the voters petition to replace the nontraditional zoning ordinance with a zoning ordinance, then the provisions of this section and this chapter shall be followed.

(b) At least 10 percent of the total eligible voters in the affected area may petition the governing body to replace the nontraditional zoning ordinance with a zoning ordinance. The petition must include:

(1) The governing body’s name to which the petition is addressed;

(2) The reason for the petition, including:

(A) Replacing the nontraditional zoning ordinance with a zoning ordinance; and

(B) That the question of replacing the nontraditional zoning ordinance with a new zoning ordinance be put to the voters of the affected area; and

(3) Signatures in ink or permanent marker.

(c) Each person signing the petition must be a registered voter in the affected area and in the governing body’s jurisdiction. The petition must be delivered to the clerk of the affected governing body. There are no time constraints on the petition.

(d) Upon receipt of the petition with the required number of qualifying signatures, the governing body shall place the question on the next ~~special,~~ primary or general election ballot.

Notice for an election on replacing a zoning ordinance must be published in a local newspaper of general circulation in the area affected by the nontraditional zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code.

(e) The ballots for an election on replacing a zoning ordinance shall have the following:

"Shall _____ (name of governing body) replace _____ (name of commonly known nontraditional zoning ordinance) with a zoning ordinance?

___ Yes ___ No"

(f) Upon a majority vote of the voters voting in favor of replacing a nontraditional zoning ordinance with a zoning ordinance, the governing body shall immediately begin the process of adopting and enacting a zoning ordinance, in accordance with the provisions of this chapter. The governing body has a maximum of three years from the date of the election to adopt a zoning ordinance.

(g) The governing body may amend its nontraditional zoning ordinance during the process of adopting and enacting a zoning ordinance.

(h) If a majority of the voters reject replacing the nontraditional zoning ordinance with a zoning ordinance, the affected voters may not petition for a vote on the issue for at least two years from the date of the election.

(i) Nothing in this section shall prevent a governing body from amending its zoning ordinance in accordance with this chapter.

(j) If a governing body of a county chooses to replace a nontraditional zoning ordinance with a traditional zoning ordinance without holding an election, a petition, signed by at least 10 percent of the eligible voters who reside in the area affected by the zoning ordinance, for an election on the question of adopting a traditional zoning ordinance may be filed with the governing body of the county within 90 days after the enactment of the traditional zoning ordinance by the governing body of the county. If a petition is timely filed, then the traditional zoning ordinance does not take effect until:

(1) Notice of the election and the zoning ordinance is published in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code;

(2) An election is held; and

(3) A majority of the voters approve it.

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-16. What order for election to increase levies to show; vote required; amount and continuation of additional levy; issuance of bonds.

A local levying body may provide for an election to increase the levies by entering on its record of proceedings an order setting forth:

(1) The purpose for which additional funds are needed;

(2) The amount for each purpose;

(3) The total amount needed;

(4) The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction;

(5) The proposed additional rate of levy in cents on each class of property;

(6) The proposed number of years, not to exceed five, to which the additional levy applies;

(7) The fact that the local levying body ~~will~~ shall or ~~will~~ shall not issue bonds, as provided by this section, upon approval of the proposed increased levy.

The local levying body shall submit to the voters within their political subdivision the question of the additional levy at either a regularly scheduled primary~~,~~ or general~~, or special~~ election in accordance with the requirements of §3-1-31 of this code. If at least 60 percent of the voters cast their ballots in favor of the additional levy, the county commission or municipality may impose the additional levy. If at least a majority of voters cast their ballot in favor of the additional levy, the county board of education may impose the additional levy: *Provided,* That any additional levy adopted by the voters, including any additional levy adopted prior to the effective date of this section, shall be the actual number of cents per each $100 of value set forth in the ballot provision, which number shall not exceed the maximum amounts prescribed in this section, regardless of the rate of regular levy then or currently in effect, unless such rate of additional special levy is reduced in accordance with the provisions of §11-8-6g of this code or otherwise changed in accordance with the applicable ballot provisions. For county commissions, this levy shall not exceed a rate greater than seven and fifteen hundredths cents for each $100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For municipalities, this levy shall not exceed a rate greater than six and twenty-five hundredths cents for each $100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For county boards of education, this levy shall not exceed a rate greater than twenty-two and ninety-five hundredths cents for each $100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties.

Levies authorized by this section shall not continue for more than five years without resubmission to the voters.

Upon approval of an increased levy as provided by this section, a local levying body may immediately issue bonds in an amount not exceeding the amount of the increased levy plus the total interest thereon, but the term of the bonds shall not extend beyond the period of the increased levy.

Insofar as they might concern the issuance of bonds as provided in this section, the provisions of §13-1-3 and §13-1-4 of this code shall not apply.

In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

§11-8-17. Special levy elections; notices; ~~election officers~~ conduct of election; supplies; canvass of returns; form of ballot.

(a) The local levying body shall publish a notice, calling the election, as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the territory in which the election is held. Such notice shall be so published within 14 consecutive days next preceding the election.

(b) All the provisions of the law concerning general elections shall apply so far as they are practicable: *Provided*, That notwithstanding any provision of this code to the contrary, in the case of a levy which expires at a time after July 1, 2022, and which shall not be up for renewal at the next regularly scheduled primary or general election thereafter, the local levying body shall by ordinance choose to hold the election to renew that levy either at the next regularly scheduled primary or general election in accordance with §3-1-31 of this code: *Provided, however,* That notwithstanding any other provision of this code, a local levying body may enter an order authorizing a special election prior to the expiration of the existing or expiring levy for the purpose of presenting to the voters the question of synchronizing the renewal of an existing or expiring levy with a future regularly scheduled primary or general election, which question shall pass upon adoption by a majority of participating voters. ~~except as follows: (1) Where a special election is held, the local levying body, having due regard to the minimum expense involved, shall determine the number of election officials necessary to properly conduct said election, which number shall in no case be less than three commissioners and two clerks, and shall appoint the same and fix and pay their compensation, but otherwise the election officials shall be such as are appointed to serve with respect to the general election held at the same time~~

~~(2) The local levying body shall provide the election supplies necessary for such election and shall canvass the returns thereof: *Provided*, That the county commission is the board of canvassers to canvass the returns of levy elections called by the board of education.~~

(c) ~~A separate ballot shall be used at a levy election held in connection with any other election~~ The question on the special levy shall be placed on the ballot in accordance with the ballot placement order prescribed by §3-5-13a(a) of this code. The ~~ballot~~ question heading shall be entitled: "Special Levy Election" and the question shall be significantly in the following form: "Special election to authorize additional levies for the year(s) _____ and for the purpose of _____ according to the order of the _____ entered on the _____ day of _____."

The additional levy shall be on Class I property _____ cents; on Class II property _____ cents; on Class III property (if any) _____ cents; on Class IV property (if any) _____ cents.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.

§13-1-7. When election to be held.

Elections for the purpose of voting upon questions of issuing bonds may be held at any general~~,~~ or primary ~~or special~~ election which the fiscal body in its order submitting the same to a vote may designate, except that, when a petition is filed asking that bonds be issued, the fiscal body with which the same is filed, ~~if it be not designated in the petition that~~ shall order a special election and the election shall be held concurrently at ~~a~~ the next regularly scheduled general or primary election~~, shall order a special election to be held within sixty days from the date of the filing of such petition; or, if it be a petition for bonds for the construction of county district roads or bridges thereon, the election shall be held within sixty days from the filing of the engineer's report as provided for in section five of this article~~.

In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

§13-1-11. General election laws to apply; recorders and secretaries to act in lieu of circuit clerks.

All the provisions of the general election laws of this state concerning general~~,~~ or primary ~~or special~~ elections, when not in conflict with the provisions of this article, shall apply to bond elections hereunder, insofar as practicable: *Provided,* That in bond elections for municipalities, school, or independent school districts, the recorders and secretaries, respectively, shall procure and furnish to the election commissioners at each voting precinct the ballots, pollbooks, tally sheets, and other things necessary for conducting the election, and perform all duties imposed by law upon clerks of the circuit courts in relation to general elections.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-13. Limitations upon members; exceptions.

(a) No member of the West Virginia state police may in any way interfere with the rights or property of any person except for the prevention of crime.

(b) No member of the State Police may in any way become active or take part in any political contest or at any time participate in any political party caucus, committee, ~~primary,~~ assembly or convention or in any primary, general, or special election while in uniform, except to cast his or her ballot.

(c) No member of the State Police may be detailed or ordered to duty at or near any voting precinct where any election or convention is held on the day of an election or convention; nor may any member thereof remain in, about or near the voting precinct or place of convention, except to cast his or her vote. After voting he or she shall forthwith retire from the voting precinct. No member may act as an election official. If any member of the State Police is found guilty of

violating any of the provisions of this section, he or she shall be dismissed by the superintendent as hereinafter provided.

(d) While out of uniform and off duty, no member of the State Police may participate in any political activity except to:

(1) Campaign for and hold office in political clubs and organizations;

(2) Actively campaign for candidates for public office in partisan and nonpartisan elections; and

(3) Contribute money to political organizations and attend political fund-raising functions.

(e) No member of the State Police may at any time:

(1) Be a candidate for public office in a nonpartisan or partisan election;

(2) Use official authority or influence to interfere with or affect the results of an election or nomination; or

(3) Directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

(f) No officer or member of the State Police may, in any labor trouble or dispute between employer and employee, aid or assist either party thereto, but shall in these cases see that the statutes and laws of this state are enforced in a legal way and manner.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 12. SANITARY DISTRICTS FOR SEWAGE DISPOSAL.

§16-12-1. Incorporation as sanitary district for sewage disposal; petition, notice and hearing; election; form of ballot; expenses of election.

Whenever any area of contiguous territory shall contain one or more incorporated cities, towns, and/or villages, and shall be so situated that the construction and maintenance of a plant or plants for the purification and treatment of sewage and the maintenance of one or more outlets for the drainage thereof, after having been so treated and purified by and through such plant or plants will conduce to the preservation of the public health, comfort, and convenience, the same may be incorporated as a sanitary district under this article in the manner following, to wit:

Any 400 legal voters, residents within the limits of such proposed sanitary district, may petition the county ~~court~~ commission of the county in which the proposed sanitary district, or the major portion thereof, is located, to cause the question to be submitted to the legal voters of such proposed sanitary district, whether such proposed territory shall be organized as a sanitary district under this article; such petition shall be addressed to the county ~~court~~ commission and shall contain a definite description of the boundaries of the territory to be embraced in the such sanitary district, and the name of such proposed sanitary district: *Provided,* That no territory shall be included within more than one sanitary district organized under this article.

Notice shall be given by such county ~~court~~ commission within 10 days after receiving the petition, of the time and place when a hearing on the petition for a sanitary district ~~will~~ shall be held, by publication of such notice as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area of the sanitary district. The first publication shall be made at least 20 days prior to such hearing. The hearing on the petition for a sanitary district shall be held not later than 30 days after the county ~~court~~ commission receives the said petition. At such hearing the president of the county ~~court~~ commission shall preside, and all persons resident within the limits of such proposed sanitary district shall have an opportunity to be heard upon the question of the location and boundary of such proposed sanitary district, and to make suggestions regarding the same, and the said county ~~court~~ commission, after hearing statements, evidence, and suggestions, shall fix and determine the limits and boundaries of such proposed sanitary district as stated in the original petition unless by a vote of the majority of the legal voters resident within the limits of such proposed sanitary district, present at the said hearing, it should be decided to alter and amend such petition to change and redetermine the limits and boundaries of such proposed sanitary district.

After such determination by the county ~~court~~ commission~~,~~ the same shall be incorporated in an order which shall be spread at length upon the records of the county ~~court~~ commission. Upon the entering of such order, the county ~~court~~ commission shall submit to the legal voters of the proposed sanitary district, the question of organization and establishment of the proposed sanitary district as determined by said county ~~court~~ commission, at ~~a special~~ an election, to be held ~~within sixty days after the entering of such order~~ concurrently with the next regularly scheduled primary or general election, notice whereof shall be given by the county ~~court~~ commission at least 20 days prior thereto by publication of such notice as a Class II-O legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area of the proposed sanitary district. Such notice shall specify briefly the purpose of such election, with the description of such proposed sanitary district, and the time and place for holding such election.

Each legal voter resident within such proposed sanitary district shall have the right to cast a ballot at such election. Ballots at elections held under this section shall be in substantially the following form, to wit:

/ / For sanitary district.

/ / Against sanitary district.

The ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers as is provided by law in the case of ballots cast for county officers, except as herein modified. The county ~~court~~ commission shall cause a statement of the result of such election to be spread on the records of the county ~~court~~ commission. If a majority of the votes cast upon the question of the incorporation of the proposed sanitary district shall be in favor of the proposed sanitary district, such proposed sanitary district shall thenceforth be deemed an organized sanitary district under this article. All courts in this state shall take judicial notice of the existence of all sanitary districts organized under this article.

The expenses of holding said special election shall be paid by the county ~~court~~ commission of said county, in which said proposed sanitary district, or the major portion thereof, is located, out of the general funds of said county: *Provided,* That in the event such sanitary district is established and incorporated under this article, then said sanitary district shall repay to said

county the expenses incurred in holding said special election within two years from the date of incorporating said sanitary district.

CHAPTER 18. EDUCATION.

ARTICLE 9. SCHOOL FINANCES.

§18-9-1. School levies; when levy election necessary; special election.

[Repealed.]

§18-9-2. Elections under this chapter; procedure.

[Repealed.]

§18-9-2a. Levies.

[Repealed.]

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 5K. COMMERCIAL INFECTIOUS MEDICAL WASTE FACILITY SITING APPROVAL.

§20-5K-3. Procedure for public participation.

(a) From and after the effective date of this article, in order to obtain approval to locate a commercial infectious medical waste facility, currently not under permit to operate, an applicant shall:

(1) File a presiting notice with the county commission and local solid waste authority of the county or counties in which the facility is to be located or proposed. Such notice shall be submitted on forms prescribed by the secretary;

(2) File a presiting notice with the secretary; and

(3) File a presiting notice with the Division of Environmental Protection.

(b) If a presiting notice is filed in accordance with subsection (a) of this section, the county commission shall publish a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in a newspaper of general circulation in the counties wherein the commercial infectious medical waste facility is to be located. Upon an affirmative vote of the majority of the county commissioners or upon the written petition of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, which petition shall be filed with the county commission within 60 days after the last date of publication of the notice provided in this section, the county commission shall, upon verification of the required number of signatures on the petition, and not less than 56 days before the election, order a referendum be placed upon the ballot. Any referendum conducted pursuant to this section shall be held at the next primary~~,~~ or general ~~or other county-wide~~ election:

(1) Such referendum is to determine whether it is the will of the voters of the county that a commercial infectious medical waste management facility be located in the county. Any election

at which such question of locating a commercial infectious medical waste management facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address, and date of birth of each person whose signature appears on the petition.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following depending upon the type of facility to be located within the county:

Shall a commercial infectious medical waste management facility be located within _____ County.

[ ] For the facility

[ ] Against the facility

(Place a cross mark in the square opposite your choice.)

(3) If a majority of the legal votes cast upon the question is against the facility, then the county commission shall notify the local solid waste authority, the Division of Environmental Protection, and the Secretary of the Department of Health and Human Resources of the result and the commercial infectious medical waste management facility may not proceed any further with the application. If a majority of the legal votes cast upon the question is for the facility, then the application process as set forth in §20-5j-1 *et seq.* of this code may proceed: *Provided,* That such vote is not binding on nor does it require the secretary to issue the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however,* That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-18. Establishment of county recycling programs for solid waste; petition for referendum; ballot contents; election procedure; effect of such election.

(a) On or before October 18, 1992, each municipality described in subsection (b) of this section shall submit a proposal to the Solid Waste Management Board, consistent with the provisions of this section, describing the establishment and implementation of the mandatory recycling program. The Solid Waste Management Board shall review the submitted plans for consistency with the criteria provided in this section, the county or regional solid waste management plan, and the statewide management plan. The Solid Waste Management Board may make suggested changes to the plan and shall provide technical assistance to the municipalities in the development of the plans.

(b) On or before October 18, 1993, each municipality with a population of 10,000 or more people, as determined by the most recent decennial census by the Bureau of the Census of the United States Department of Commerce, shall establish and commence implementation of a

source separation and curbside collection program for recyclable materials. Implementation shall be phased in by July 1, 1995. Such program shall include, at a minimum, the following:

(1) An ordinance adopted by the governing body of the municipality requiring that each person, partnership, corporation, or other entity in the municipality shall separate at least three recyclable materials, as deemed appropriate by the municipality, from other solid waste: *Provided,* That the list of recyclables to be separated may be adjusted according to whether the generator is residential, commercial or other type of establishment.

(2) A scheduled day, at least one per month, during which separated materials are to be placed at the curbside, or similar location, for collection.

(3) A system that collects recyclable materials from the curbside, or similar location, at least once per month: *Provided,* That to encourage full participation, the program shall, to the maximum extent possible, provide for the collection of recyclables at the same rate of frequency, and simultaneous with, the regular collection of solid waste.

(4) Provisions to ensure compliance with the ordinance, including incentives and penalties.

(5) A comprehensive public information and education program covering the importance and benefits of recycling, as well as the specific features and requirements of the recycling program. As part of the education program, each municipality shall, at a minimum, notify all persons occupying residential, commercial, institutional, or other premises within its boundaries of the requirements of the program, including how the system will operate, the dates of collection, the responsibilities of persons within the municipality and incentives and penalties.

(6) Consultation with the county or regional solid waste authority in which the municipality is located to avoid duplication, ensure coordination of solid waste programs, and maximize the market for recyclables.

(c) Notwithstanding the provisions of subsection (b) of this section, a comprehensive recycling program for solid waste may be established in any county of this state by action of a county commission in accordance with the provisions of this section. Such program shall require:

(1) That, prior to collection at its source, all solid waste shall be segregated into separate identifiable recyclable materials by each person, partnership, corporation, and governmental agency subscribing to a solid waste collection service in the county or transporting solid waste to a commercial solid waste facility in the county;

(2) Each person engaged in the commercial collection, transportation, processing, or disposal of solid waste within the county shall accept only solid waste from which recyclable materials in accordance with the county's comprehensive recycling program have been segregated; and

(3) That the provisions of the recycling plan prepared pursuant to §22-15A-17 of this code shall, to the extent practicable, be incorporated in the county's comprehensive recycling program.

(d) For the purposes of this article, recyclable materials shall include, but not be limited to, steel and bimetallic cans, aluminum, glass, paper, and such other solid waste materials as may be specified by either the municipality or county commission with the advice of the county or regional solid waste authority.

(e) A comprehensive recycling program for solid waste may be established in any county of this state by: (1) A petition filed with the county commission bearing the signatures of registered voters of the county equal to not less than five percent of the number of votes cast within the county for Governor at the preceding gubernatorial election; and (2) approval by a majority of the voters in a subsequent referendum on the issue. A referendum to determine whether it is the will of the voters of a county that a comprehensive recycling program for solid waste be established in the county may be held at any regular primary or general election ~~or in conjunction with any other countywide election~~. Any election at which the question of establishing a policy of comprehensive recycling for solid waste is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address, and date of birth of each person whose signature appears on the petition. Upon verification of the required number of signatures on the petition, the county commission shall, not less than 70 days before the election, order that the issue be placed on the ballot and referendum held at the next primary~~,~~ or general ~~or special~~ election to determine whether it is the will of the voters of the county that a policy of comprehensive recycling of solid waste be established in the county: *Provided,* That the petition bearing the necessary signatures has been filed with the county commission at least 100 days prior to the election.

The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be required to establish a comprehensive recycling program for solid waste in _____ County, West Virginia?

For Recycling

Against Recycling

(Place a cross mark in the square opposite your choice.)"

If a majority of legal votes cast upon the question be for the establishment of a policy of comprehensive recycling of solid waste, the county commission shall, after the certification of the results of the referendum, thereafter adopt an ordinance, within 180 days of certification, establishing a comprehensive recycling program for solid waste in the county: *Provided,* That such program shall be implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the establishment of a policy of comprehensive recycling of solid waste, the policy shall not take effect, but the question may again be submitted to a vote at any subsequent election in the manner herein provided.

(f) A comprehensive recycling program for solid waste established by petition and referendum may be rescinded only pursuant to the procedures set out herein to establish the program.

To rescind the program, the ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be required to terminate the comprehensive recycling program for solid waste in _____ County, West Virginia?

Continue Recycling

End Recycling

(Place a cross mark in the square opposite your choice.)"

(g) If a majority of legal votes cast upon the question be for the termination of a policy of comprehensive recycling of solid waste previously established in the county, the county commission shall, after the certification of the results of the referendum, thereafter rescind by ordinance the comprehensive recycling program for solid waste in the county within 90 days of certification. If a majority of the legal votes cast upon the question be for the continuation of the policy of comprehensive recycling of solid waste, the ordinance shall not be rescinded, but the question may again be submitted to a vote at any subsequent election in the manner herein provided.

(h) In the case of any municipality having a population greater than 30,000 persons, as indicated by the most recent decennial census conducted by the United States, the governing body of such municipality may by ordinance establish a materials recovery facility in lieu of or in addition to the mandatory recycling program required under the provisions of this section: *Provided,* That a materials recovery facility shall be subject to approval by both the Public Service Commission and the Solid Waste Management Board upon a finding by both the Public Service Commission and the Solid Waste Management Board that the establishment of a materials recovery facility will not hinder, and will be consistent with, the purposes of this article.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS, AND COMPACTS.

ARTICLE 4A. LOCAL PARTICIPATION; REFERENDUM.

§22C-4A-2. Approval of new Class A facility.

(a) The purpose of the mandatory referendum for approval of new Class A facilities is to verify for the local community that the local infrastructure and environment are appropriate for a new Class A facility and to assure that the local community accepts the associated benefits and detriments of having a new Class A facility located in their county.

(b) Following receipt of a certificate of need from the Public Service Commission as required by §24-2-1c of this code, and local solid waste approval as required in §22C-4-6 of this code for a new Class A facility, the county commission shall cause a referendum to be placed on the ballot not less than 56 days before the next primary~~,~~ or general ~~or other countywide~~ election:

(1) Such referendum is to determine whether it is the will of the voters of the county that a new Class A facility be constructed. Any election at which such question of locating a solid waste facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"The West Virginia Legislature has found that the location of a Class A solid waste facility has impact upon the county in which it will be located, and further that local citizens should be given the opportunity to participate in the decision of locating a new Class A facility in their community. A Class A facility is authorized to receive between ten and thirty thousand tons of solid waste per month.

The _____ county commission finds the following:

I. The _____ (name of applicant) has obtained site approval for a Class A commercial facility from the _____ (name of the county or regional solid waste authority). The authority has determined that the proposed landfill meets all local siting plan requirements. The local siting plan evaluates local environmental conditions and other factors and authorizes commercial landfills in areas of a county where a commercial landfill can be appropriately located.

II. The West Virginia Public Service Commission has issued a certificate of need, and has approved the operation of the Class A landfill. The Public Service Commission has determined that the landfill complies with the state solid waste management plan and based on the anticipated volume of garbage expected to be received at the landfill, that the proposal is consistent with public convenience and necessity.

Please vote whether to approve construction of the facility by responding to the following question:

Shall the _____ commercial solid waste facility located within _____ County, be permitted to handle between ten and thirty thousand tons of solid waste per month?

/ / For the facility

/ / Against the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, the Division of Environmental Protection shall not proceed any further with the application. If a majority of the legal votes cast upon the question be for the facility, then the application process as set forth in this article and §22-15-1 *et seq.* of this code may proceed: *Provided,* That such vote is not binding on nor does it require the Division of Environmental Protection to issue the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however,* That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

§22C-4A-3. Referendum for approval of conversion of a Class B facility to a Class A facility.

(a) The purpose of the petition and referendum for approval of conversions of Class B facilities to Class A facilities is to allow the local community an opportunity to participate in the decision of whether the local infrastructure and environment are appropriate for expansion of a Class B facility to a Class A facility, and to assure that the local community accepts the associated benefits and detriments of having a Class A facility located in their county.

(b) Within 21 following receipt of a certificate of need from the Public Service Commission as required by §24-2-1c of this code, and local solid waste authority approval as required in §22C-4-26 of this code, the county commission shall complete publication of a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in the qualified newspaper of general circulation in the county wherein the solid waste facility is located. Registered voters residing in the county may petition the county commission to place the issue of whether a Class B facility be expanded to a Class A facility be placed on the ballot at the next primary~~,~~ or general ~~or other countywide~~ election held not less than 100 days after the deadline for filing the petition. The petition shall be in writing, in the form prescribed by the Secretary of State, and shall include the printed name, residence address, and date of birth of each person whose signature appears on the petition. The petition shall be filed with the county commission not less than 60 days after the last date of publication of the notice provided in this section. Upon receipt of completed petition forms, the county commission shall immediately forward those forms to the clerk of the county commission for verification of the signatures and the voter registration of the persons named on the petition. If a primary~~,~~ or general ~~or other countywide~~ election is scheduled not more than 120 days and not less than 100 days following the deadline for filing the petitions, the clerk of the county commission shall complete the verification of the signatures within 30 days and shall report the number of valid signatures to the county commission. In all other cases, the clerk of the county commission shall complete verification in a timely manner. Upon verification of the signatures of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, and not less than 70 days before the election, the county commission shall order a referendum be placed upon the ballot:

(1) Such referendum is to determine whether it is the will of the voters of the county that the Class B facility be converted to a Class A facility. Any election at which such question of locating a solid waste facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address and date of birth of each person whose signature appears on the petition. Should the petition fail to meet the requirements set forth above, the application process as set forth in this article and §22-15-1 *et seq.* of this code, may proceed.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"The West Virginia Legislature finds that expansion of a Class B solid waste facility to a Class A solid waste facility has impact to the county in which it will be located, and further that local citizens should be afforded the opportunity to participate in the decision of locating a Class A facility in their community. A Class A facility is authorized to receive between 10 and 30 thousand tons of solid waste per month. Fifteen percent of the registered voters in _____ county have signed a petition to cause a referendum to determine the following question:

The _____ county commission finds the following:

I. The _____ (name of applicant) has obtained site approval for a Class A commercial facility from the _____ (name of the county or regional solid waste authority). The authority has determined that the proposed landfill meets all local siting plan requirements. The local siting plan evaluates local environmental conditions and other factors and authorizes commercial landfills where a commercial landfill can be appropriately located.

II. The West Virginia Public Service Commission has issued a certificate of need, and has approved the operation of the Class A landfill. The Public Service Commission has determined that the landfill complies with the state solid waste management plan and that based on the anticipated volume of garbage expected to be received at the landfill, that the proposal is consistent with public convenience and necessity.

Please vote whether to approve construction of the facility by responding to the following question:

Shall the _____ solid waste facility, located within _____ County, West Virginia, be permitted to handle between 10 and 30 thousand tons of solid waste per month?

/_/ For conversion of the facility

/_/ Against conversion of the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, then the Division of Environmental Protection shall not proceed any further with the application. If a majority of the legal votes cast upon the question be for the facility, then the application process as set forth in this article and §22-15-1 *et seq.* of this code may proceed: *Provided,* That such vote is not binding on nor does it require the Division of Environmental Protection to modify the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however,* That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

ARTICLE 6. HAZARDOUS WASTE FACILITY SITING APPROVAL.

§22C-6-3. Procedure for public participation.

(a) From and after June 5, 1992, in order to obtain approval to locate either a commercial hazardous waste management facility or a hazardous waste management facility which disposes of greater than 10,000 tons per annum on site in this state, an applicant shall:

(1) File a presiting notice with the county or counties in which the facility is to be located or proposed. Such notice shall be submitted on forms prescribed by the commercial hazardous waste management facility siting board;

(2) File a presiting notice with the commercial hazardous waste management facility siting board; and

(3) File a presiting notice with the Division of Environmental Protection.

(b) If a presiting notice is filed in accordance with subsection (a) of this section, the county commission shall publish a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in a newspaper of general circulation in the counties wherein the hazardous waste management facility is to be located. Upon an affirmative vote of the majority of the county commissioners or upon the written petition of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at

the preceding gubernatorial election, which petition shall be filed with the county commission within 60 days after the last date of publication of the notice provided in this section, the county commission shall, upon verification of the required number of signatures on the petition, and not less than 56 days before the election, order a referendum be placed upon the ballot: *Provided,* That such a referendum is not required for a hazardous waste management facility for which at least 90 percent of the capacity is designated for hazardous waste generated at the site of disposal. Any referendum conducted pursuant to this section shall be held at the next primary~~,~~ or general ~~or other countywide~~ election.

(1) Such referendum is to determine whether it is the will of the voters of the county that a commercial hazardous waste management facility be located in the county or that a hazardous waste management facility disposing of greater than 10,000 tons of hazardous waste per annum on site be located in the county. Any election at which such question of locating a hazardous waste management facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address and date of birth of each person whose signature appears on the petition.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following depending upon the type of facility to be located with the county:

"Shall a commercial hazardous waste management facility be located within _____ County, West Virginia?

/ / For the facility

/ / Against the facility

(Place a cross mark in the square opposite your choice.)" or,

"Shall a hazardous waste management facility disposing of greater than 10,000 tons per annum on site be located within _____ County, West Virginia?

/ / For the facility

/ / Against the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, then the county commission shall notify the Division of Environmental Protection and the commercial hazardous waste management facility siting board, in the case of a commercial facility, of the result and the commercial hazardous waste management facility siting board or Division of Environmental Protection, as the case may be, shall not proceed any further with the application. If a majority of the legal votes cast upon the question is for the facility, then the application process as set forth in §22-18-1 *et seq.* of this code and §22C-5-1 *et seq.* in the case of a commercial hazardous waste management facility, may proceed: *Provided,* That such vote is not binding on nor does it require the commercial hazardous waste management facility siting board to grant a certificate of site approval or the Division of Environmental Protection to issue the permit, as the case may be. If the majority of the legal votes cast is against the question, the question may be submitted to a

vote at any subsequent election in the manner herein specified: *Provided, however*, That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 20. CHARITABLE BINGO.

§47-20-26. County option election.

The county commission of any county is authorized to call a local option election for the purpose of determining the will of the voters as to whether the provisions of this article shall continue in effect in said county: *Provided,* That no local option election may be called to disapprove the playing of bingo games at the state fair in accordance with the provisions of this article.

A petition for local option election shall be in the form specified in this section and shall be signed by qualified voters residing within said county equal to at least 10 percent of the persons qualified to vote within said county at the last general election. The petition may be in any number of counterparts and is sufficient if substantially in the following form:

PETITION ON LOCAL OPTION ELECTION RESPECTING THE CONDUCT OF BINGO GAMES FOR CHARITABLE PURPOSES IN ..... COUNTY, WEST VIRGINIA

Each of the undersigned certifies that he or she is a person residing in ..... County, West Virginia, and is duly qualified to vote in that county under the laws of the state, and that his or her name, address, and the date of signing this petition are correctly set forth below.

The undersigned petition the county commission to call and hold a local option election at ~~(1) a special or (2)~~ concurrent with the next primary~~,~~ or general ~~or special~~ election ~~(the petition shall specify (1) or (2))~~ upon the following question: Shall the provisions of Article Twenty, Chapter Forty-Seven of the Code of West Virginia, 1931, as amended, continue in effect in ..... County, West Virginia?

Name	Address	Date
.....		.....

(Each person signing must specify either his or her post-office address or his or her street number.)

Upon the filing of a petition for a local option election in accordance with the provisions of this section, the county commission shall enter an order calling a local option election as specified in the petition. The county commission shall give notice of such local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication is the county. The notice shall be so published within 14 consecutive days next preceding the election.

Each person qualified to vote in the county at any primary, general, or special election shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at any primary, general, or special election shall conduct the local option

election. If the local option election is to be held at the same time as a primary~~,~~ or general ~~or special~~ election, it shall be held in connection with and as a part of that primary~~,~~ or general ~~or special~~ election. The ballots in the local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to said county commission which shall canvass the ballots, all in accordance with the laws of the State of West Virginia relating to primary and general elections insofar as the same are applicable. The county commission shall, without delay, canvass the ballots cast at said local option election and certify the result thereof.

The ballot to be used in said local option election shall have printed thereon substantially the following:

"Shall the playing of bingo to raise money for charitable or public service organizations continue in effect in ..... County of West Virginia?

/ / Yes / / No

(Place a cross mark in the square opposite your choice.)"

If a majority of the voters voting at any local option election vote no on the foregoing question, the provisions of §47-20-1 *et seq.* of this code, no longer continue in effect in said county.

No local option election may be called in a county to resubmit said question to the voters of that county, whether the question was approved or disapproved at the previous local option election, sooner than five years after the last local option election.

ARTICLE 21. CHARITABLE RAFFLES.

§47-21-24. County option election.

The county commission of any county is authorized to call a local option election for the purpose of determining the will of the voters as to whether the provisions of this article shall continue in effect in such county.

A petition for a local option election shall be in the form specified in this section and shall be signed by qualified voters residing within such county equal to at least 10 percent of the individuals qualified to vote within such county at the last general election. The petition may be in any number of counterparts and is sufficient if substantially in the following form:

PETITION ON LOCAL OPTION ELECTION RESPECTING THE CONDUCT OF RAFFLES FOR CHARITABLE PURPOSES IN _____ COUNTY, WEST VIRGINIA

Each of the undersigned certifies that he or she is an individual residing in _____ County, West Virginia, and is duly qualified to vote in that county under the laws of the state, and that his or her name, address, and the date of signing this petition are correctly set forth below.

The undersigned petition the county commission to call and hold a local option election at ~~(1) a special or (2)~~ the next primary~~,~~ or general ~~or special~~ election ~~(the petition shall specify (1) or (2)) upon the following question~~: Shall the provisions of article twenty-one, chapter forty-seven of the Code of West Virginia, 1931, as amended, continue in effect in _____ County, West Virginia?

Name Address Date

_____ _____ _____

(Each individual signing must specify either his or her post-office address or his or her street number.)

Upon the filing of a petition for a local option election in accordance with the provisions of this section, the county commission shall enter an order calling a local option election as specified in the petition. The county commission shall give notice of such local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county. The notice shall be so published within 14 consecutive days next preceding the election.

Each individual qualified to vote in the county at any primary, general, or special election, shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at any primary, general, or special election shall conduct the local option election. If the local option election is to be held at the same time as a primary~~,~~ or general ~~or special~~ election, it shall be held in connection with and as a part of that primary~~,~~ or general ~~or special~~ election. The ballots in the local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to such county commission which shall canvass the ballots, all in accordance with the laws of the State of West Virginia relating to primary and general elections insofar as the same are applicable. The county commission shall, without delay, canvass the ballots cast at said local option election and certify the result thereof.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 5. LOCAL OPTION ELECTIONS.

§60-5-1. Election in county, magisterial district, or municipality.

A county or any municipality may in an election held especially for the purpose, determine whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county or municipality.

A local option election shall ~~not~~ be held ~~within 60 days of a general or municipal election~~ at the same time as the next regularly scheduled primary or general election.

§60-5-3. Form of petition.

The petition shall be in the following form:

Petition for Local Option Election

We, the undersigned legally qualified voters, resident within the county (municipality) of_____, do hereby petition that a special election be held within the county (city, town) of _____ on the~~_____ day of _____, 20____,~~ at the date of the next regularly scheduled primary or general election upon the following question:

Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control Commissioner be (permitted) (prohibited) in _____?

Name Address Date

(Post office or street and number)

§60-5-4. Notice of election; when held; election officers.

The county commission or governing body of the municipality shall give notice of the special local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area in which the election is to be held. Such notice shall be so published within 14 consecutive days next preceding the election. The election shall be held ~~not more than 90 nor less than 60 days from the filing of the petition~~ at the same time as the next regularly scheduled primary or general election. The regular election officers of the county or municipal corporation shall open the polls and conduct the election in the same manner provided for general elections.

Engrossed Committee Substitute for House Bill 4353, as just amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo and Romano—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4353) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4353—A Bill to repeal §18-9-1, §18-9-2, and §18-9-2a of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1-30 and §3-1-31 of said code; to amend and reenact §3-2-19 of said code; to amend and reenact §7-1-1a of said code; to amend and reenact §7-4-1 of said code; to amend and reenact §7-14B-21 of said code; to amend and reenact §7-17-12 of said code; to amend and reenact §7-20-7 and §7-20-12 of said code; to amend and reenact §8-1-2 of said code; to amend and reenact §8-2-5 of said code; to amend and reenact §8-3-6 of said code; to amend and reenact §8-4-7, §8-4-8, and §8-4-10 of said code; to amend and reenact §8-5-5 of said code; to amend and reenact §8A-7-7, §8A-7-8a, and §8A-7-13 of said code; to amend and reenact §11-8-16, and §11-8-17 of said code; to amend and reenact §13-1-7, and §13-1-11 of said code; to amend and reenact §15-2-13 of said code; to amend and reenact §16-12-1 of said code; to amend and reenact §20-5K-3 of said code; to amend

and reenact §22-15A-18 of said code; to amend and reenact §22C-4A-2, and §22C-4A-3 of said code; to amend and reenact §22C-6-3 of said code; to amend and reenact §47-20-26 of said code; to amend and reenact §47-21-24 of said code; and to amend and reenact §60-5-1, §60-5-3, and §60-5-4 of said code, all relating to synchronizing certain local elections with regular statewide primary or general elections; eliminating requirement that board of education serve as the governing body responsible for appointing election officials for certain special elections; authorizing poll clerks to work and be compensated for both full and half days worked during an election; authorizing local municipal elections to be held concurrently with a regularly scheduled statewide primary or general election; removing requirement to maintain separate municipal precinct books upon request of municipality; requiring question of reforming, altering, or modifying a county commission or council to be placed on primary or general election ballot; requiring question of civil service coverage for county correctional officers to be placed on primary or general election ballot; requiring certain questions regarding county fire service ordinances or fire fees to be placed on primary or general election ballot; requiring certain questions regarding county taxes and fees to be placed on primary or general election ballot; requiring certain questions regarding countywide service fees to be placed on primary or general election ballot; updating references to county commissions; requiring certain questions regarding incorporation of new municipality to be placed on primary or general election ballot; providing for proposed municipal charter to be placed on ballot concurrent with primary or general election; providing for division of incorporated territory into temporary precincts for purpose of holding election; providing for municipal election date established by charter to be concurrent with primary or general election; providing for municipal election date established by charter to be within 25 days of primary or general election; authorizing municipality without previously adopted municipal charter to establish municipal election day concurrent with primary or general election by ordinance and providing requirements therefor; providing for extension or reduction in terms of office; authorizing agreement between municipality and county regarding certain concurrent election matters; providing for shared administrative costs of municipality and county commission holding elections concurrently with primary or general election; requiring certain questions regarding zoning ordinances to be placed on primary or general election ballot; requiring certain questions regarding additional levies to be placed on primary or general election ballot; authorizing one-time special levy elections on certain questions regarding levy renewal; requiring certain questions regarding levy renewal to be placed on primary or general election ballot; requiring certain questions regarding issuance of certain bonds to be placed on primary or general election ballot; clarifying limitations on members of State Police with respect to participation in elections; requiring certain questions regarding organization and establishment of proposed sanitary district to be placed on primary or general election ballot; repealing certain provisions regarding school levies and elections for same; repealing certain provisions regarding certain elections authorized for school purposes; requiring certain questions regarding commercial infectious medical waste management facility siting to be placed on primary or general election ballot; requiring certain questions regarding county comprehensive recycling programs for solid waste to be placed on primary or general election ballot; requiring certain questions regarding certain solid waste facilities to be placed on primary or general election ballot; requiring certain questions regarding certain hazardous waste facilities to be placed on primary or general election ballot; requiring certain questions regarding charitable bingo to be placed on primary or general election ballot; requiring certain questions regarding charitable raffles to be placed on primary or general election ballot; requiring certain questions regarding sale of alcoholic liquors within the county to be placed on primary or general election ballot; and authorizing certain ballot questions rejected at primary election to be again submitted to the voters at the next succeeding general election.

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 4377, To update the involuntary commitment process.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk:

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

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-1b. Pilot projects and other initiatives.

(a) *Duties of the Department of Health and Human Resources.* — The Secretary shall, in collaboration with designees of the Supreme Court of Appeals, the Sheriff's Association, the Prosecuting Attorney's Association, the Public Defender Services, the Behavioral Health Providers Association, Disability Rights of West Virginia, and a designee of the Dangerousness Assessment Advisory Board, undertake an evaluation of the utilization of alternative transportation providers and the development of standards that define the role, scope, regulation, and training necessary for the safe and effective utilization of alternative transportation providers and shall further identify potential financial sources for the payment of alternative transportation providers. Recommendations regarding such evaluation shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2022. The Legislature requests the Supreme Court of Appeals cooperate with the listed parties and undertake this evaluation.

(b) *Civil Involuntary Commitment Audits.* — The secretary shall establish a process to conduct retrospective quarterly audits of applications and licensed examiner forms prepared by certifiers for the involuntary civil commitment of persons as provided in §27-5-1 *et seq.* of this code. The process shall determine whether the licensed examiner forms prepared by certifiers are clinically justified and consistent with the requirements of this code and, if not, develop corrective actions to redress identified issues. The Legislature requests the Supreme Court of Appeals participate in this process with the secretary. The process and the findings thereof shall be confidential, not subject to subpoena, and not subject to the provisions of §6-9A-1 *et seq.* and §29B-1-1 *et seq.* of this code.

(i) *Duties of the Mental Health Center for Purposes of Evaluation for Commitment.* — Each mental health center shall make available as necessary a qualified and competent licensed person to conduct prompt evaluations of persons for commitment in accordance with §27-5-1 *et seq.* of this code. Evaluations shall be conducted in person, unless an in-person evaluation would create a substantial delay to the resolution of the matter, and then the evaluation may be conducted by videoconference. Each mental health center that performs these evaluations shall exercise reasonable diligence in performing the evaluations and communicating with the state hospital to provide all reasonable and necessary information to facilitate a prompt and orderly admission to the state hospital of any person who is or is likely to be involuntarily committed to such hospital. Each mental health center that performs these evaluations shall explain the involuntary commitment process to the applicant and the person proposed to be committed and

further identify appropriate alternative forms of potential treatment, loss of liberty if committed, and the likely risks and benefits of commitment.

(k) Notwithstanding any provision of this code to the contrary, the Supreme Court of Appeals, mental health facilities, law enforcement, and the Department of Health and Human Resources may participate in pilot projects in Cabell, Berkeley, and Ohio Counties to implement an involuntary commitment process. Further, notwithstanding any provision of this code to the contrary, no alternative transportation provider may be utilized until standards are developed and implemented that define the role, scope, regulation, and training necessary for an alternative transportation provider as provided in subsection (a) of this section.

§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined has a substance use disorder as defined by the most recent edition of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, inclusive of substance use withdrawal, or is mentally ill and because of his or her substance use disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician, psychologist, licensed professional counselor, licensed independent social worker, an advanced nurse practitioner, or physician assistant as provided in subsection (e) of this section: *Provided,* That a diagnosis of dementia, epilepsy, or intellectual or developmental disability alone ~~may not serve as~~ may not be a basis for involuntary commitment to a state hospital.

(b) Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application, and the application must include the additional statement that the correctional facility itself cannot reasonably provide treatment and other services necessary to treat ~~for~~ the individual's mental illness or substance use.

~~(b) The person making the application shall make the application under oath.~~

(c) Application for involuntary custody for examination may be made to the circuit court, magistrate court, or a mental hygiene commissioner of the county in which the individual resides, or of the county in which he or she may be found. A magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or magistrate may enter an order for the individual named in the application to be detained and taken into custody as provided in §27-5-1 and §27-5-10 of this code for the purpose of holding a probable cause hearing as provided in §27-5-2 of this code. ~~for the purpose of~~ An examination of the individual to determine whether the individual meets involuntary hospitalization criteria shall be conducted in person unless an in

person examination would create a substantial delay in the resolution of the matter in which case the examination may be by video conference, and shall be performed by a physician, psychologist, a licensed professional counselor practicing in compliance with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, a physician~~'s~~ assistant practicing in compliance with §30-3-1 *et seq.* of this code, or a physician~~'s~~ assistant practicing in compliance with §30-3E-1 *et seq.* of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical social worker, a physician~~'s~~ assistant, or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician~~'s~~ assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or substance use disorder sufficient to make the determinations required by the provisions of this section. The examination ~~is to~~ shall be provided or arranged by a community mental health center designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the ~~hearing~~ evaluation be held ~~immediately~~ within a reasonable period of time not to exceed two hours ~~is to~~ and shall provide for the appointment of counsel for the individual: *Provided, however*, ~~That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than immediately if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons: *Provided further*~~ That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or ~~in the event of~~ if there is a medical or psychiatric emergency, the individual may receive treatment. The medical provider shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, "psychiatric emergency" means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician~~'s~~ assistant, or advanced nurse practitioner with psychiatric certification has, within the preceding 72 hours, performed the examination required by ~~the provisions of~~ this subsection the community mental health center may waive the duty to perform or arrange another examination upon approving the previously performed examination. Notwithstanding ~~the provisions of~~ this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or has no substance use disorder, or is determined to be mentally ill or has a substance use disorder but not likely to cause harm to himself, herself, or others, the individual shall be immediately released without the need for a probable cause hearing and the examiner is not civilly liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately, but no later than 60 minutes after completion of the examination, provide the mental hygiene commissioner, circuit court, or magistrate before whom the matter is pending, and the state hospital to which the individual may be involuntarily hospitalized, the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing ~~is to~~ shall be held promptly before a magistrate, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where

he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours. Hearings may be conducted via videoconferencing unless the individual or his or her attorney object for good cause or unless the magistrate, mental hygiene commissioner, or circuit judge orders otherwise. The Supreme Court of Appeals is requested to develop regional mental hygiene collaboratives where mental hygiene commissioners can share on-call responsibilities, thereby reducing the burden on individual circuits and commissioners.

The individual ~~must~~ shall be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or to others. Any such order entered shall be provided to the state hospital to which the individual may or will be involuntarily hospitalized within 60 minutes of filing absent good cause.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: ~~U~~use videoconferencing and telephonic technology; permit persons hospitalized for substance use disorder to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article to promote a prompt, orderly, and efficient hearing. The alternative or modified procedures shall fully and effectively guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or a mental hygiene commissioner or circuit judge at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a direct result of mental illness or substance use disorder is likely to cause serious harm to himself, herself, or others and because of mental illness or a substance use disorder requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or others. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental

hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or substance use disorder remains likely to cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to ~~the provisions of~~ §27-5-3 of this code may be entered. Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment, or as obligating any person or agency to provide outpatient services or treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided*, That release pursuant to a voluntary treatment agreement may not be for a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.

~~Notwithstanding anything in this article to the contrary,~~ The commitment of any individual as provided in this article shall be in the least restrictive setting and in an outpatient community-based treatment program to the extent resources and programs are available, unless the clear and convincing evidence of the certifying professional under subsection (e) of this section, who is acting in a manner consistent with the standard of care establishes that the commitment or treatment of that individual requires an inpatient hospital placement. Outpatient treatment will be based upon a plan jointly prepared by the department and the comprehensive community mental health center or licensed behavioral health provider.

(i) If the certifying professional determines that an individual requires involuntary hospitalization for a substance use disorder <u>as permitted by §27-5-2(a) of this code</u> which, due to the degree of the disorder, creates a reasonable likelihood that withdrawal or detoxification will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible medical complications. If the magistrate, mental hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.

(a) *Admission to a mental health facility for examination*. — ~~Any~~ An individual ~~may~~ shall be admitted to a mental health facility for examination and treatment upon entry of an order finding probable cause as provided in §27-5-2 of this code. ~~upon a finding by a licensed physician that the individual is medically stable, and~~ Upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code with advanced duties in psychiatric medicine that he or she has examined the individual and is of the opinion that the individual is mentally ill or has a substance use disorder and, because of the mental illness or substance use disorder, is likely to cause serious harm to himself, herself, or to others if not immediately restrained and treated: *Provided*, That the opinions offered by an independent clinical social worker, an advanced nurse practitioner with psychiatric certification, or a physician~~'s~~ assistant with advanced duties in psychiatric medicine ~~must~~ shall be within his or her particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination*. — If the examination does not take place within three days from the date the individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or has a substance use disorder, the individual shall be released.

(c) *Three-day time limitation on certification*. — The certification required in §27-5-3(a) of this code is valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification*. — A certification under this section ~~must~~ shall include findings and conclusions of the mental examination, the date, time, and place of the examination, and the facts upon which the conclusion that involuntary commitment is necessary is based, including facts that less restrictive interventions and placements were considered but are not appropriate and available and that the risks and benefits were explained as required by §27-5-1(i) of this code.

(e) *Notice requirements*. — When an individual is admitted to a mental health facility or a state hospital pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) *Three-day time limitation for examination and certification at mental health facility or state hospital*. — After the individual's admission to a mental health facility or state hospital, he or she may not be detained more than three days, excluding Sundays and holidays, unless, within the three-day period, the individual is examined by a staff physician and the physician certifies that in his or her opinion the patient is not suffering from a physical ailment manifesting behaviors which mimic mental illness but is mentally ill or has a substance use disorder and is likely to injure

himself, herself, or others and requires continued commitment and treatment. ~~if allowed to be at liberty. In the event~~ If the staff physician determines that the individual does not meet the criteria for continued commitment, that the individual can be treated in an available outpatient community-based treatment program and poses no present danger to himself, herself or others, or that the individual has an underlying medical issue or issues that resulted in a determination that the individual should not have been committed, the staff physician shall release and discharge the individual as appropriate as soon as practicable.

(g) ~~*Ten*~~ *Twenty-day time limitation for institution of final commitment proceedings*. — If, in the opinion of the examining physician, the patient is mentally ill or has a substance use disorder and because of the mental illness or substance use disorder is likely to injure himself, herself, or others if allowed to be at liberty, the chief medical officer shall, within ~~10~~ 20 calendar days from the date of admission, institute final commitment proceedings as provided in §27-5-4 of this code. If the proceedings are not instituted within the ~~10~~ 20-day period absent good cause, the individual shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) ~~*Twenty*~~ *Thirty-five day time limitation for conclusion of all proceedings*. — If all proceedings as provided in §27-3-1 *et seq.* and §27-4-1 *et seq.* of this code are not completed within ~~20~~ 35 days from the date of ~~institution of the proceedings~~ filing the Application for Involuntary Custody for Mental Health Examination, the individual shall be immediately released.

§27-5-3a. Legal effect of commitment after determined not to be based on mental illness or addiction.

(a) In the event that a person is involuntarily hospitalized, and it is determined after the entry of the order that the behavior which led to the entry of the order of involuntary hospitalization was caused by a physical condition or disorder rather than mental illness or addiction, the hospitalization shall not serve to make him or her a proscribed person under state laws relating to firearms possession or to negatively affect a person's professional licensure, employment, employability, or parental rights. Furthermore, while it is clear that it is the government of the United States and not the government of West Virginia, which has authority under 18 U.S.C. 922(g)(4), to determine whether a person has been "committed to a mental institution" the Legislature notes that "federal courts often look to state law to help determine whether a commitment has occurred." *United States v. Vertz, 40 F. App'x 69* (6th Cir. 2002). Under such principles of interpretation, it is the express intent of the legislature to make clear that in circumstances under which there is a judicial determination that a person's involuntary hospitalization was necessitated and ordered as a result of a physical condition or disorder, the legislature does not deem this to be a "commitment," under state law, and the Legislature's determination that such an involuntary hospitalization is not a "commitment" should be viewed by the government of the United States as consistent with the provisions of the amendments to the NICS Improvement Amendments Act of 2007, Public Law 110-180, Tit. 1, Sec 101(c)(1), 121 Stat. 2559, 2562-63 (2008).

(b) Consistent with subsection (a) of this section, whenever a mental hygiene commissioner, magistrate, or circuit judge is made aware that the circumstances addressed in subsection (a) of this section have occurred, the mental hygiene commissioner, magistrate, or circuit judge shall enter an order finding that the person was not suffering from a mental illness or addiction and not committed therefor.

§27-5-4. Institution of final commitment proceedings; hearing requirements; release.

(a) *Involuntary commitment*. — Except as provided in §27-5-2 and §27-5-3 of this code, no individual may be involuntarily committed to a mental health facility or state hospital except by order entered of record at any time by the circuit court of the county in which the person resides or was found, or if the individual is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or was found, in the county of the mental health facility and then only after a full hearing on issues relating to the necessity of committing an individual to a mental health facility or state hospital. If the individual objects to the hearing being held in the county where the mental health facility is located, the hearing shall be conducted in the county of the individual's residence. Notwithstanding the provisions of this code to the contrary, all hearings for the involuntary final civil commitment of a person who is committed in accordance with §27-6A-1 et al. of this code shall be held by the circuit court of the county that has jurisdiction over the person for the criminal charges and such circuit court shall have jurisdiction over the involuntary final civil commitment of such person.

(b) *How final commitment proceedings are commenced*. — Final commitment proceedings for an individual may be commenced by the filing of a written application under oath by an adult person having personal knowledge of the facts of the case. The certificate or affidavit is filed with the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a resident or where he or she may be found, or the county of a mental health facility if he or she is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or may be found. Notwithstanding anything any provision of this code to the contrary, all hearings for the involuntary final civil commitment of a person who is committed in accordance with §27-6A-1 *et seq.* of this code shall be commenced only upon the filing of a Certificate of the Licensed Certifier at the mental health facility where the person is currently committed.

(c) *Oath; contents of application; who may inspect application; when application cannot be filed. —*

(1) The person making the application shall do so under oath.

(2) The application shall contain statements by the applicant that the individual is likely to cause serious harm to self or others due to what the applicant believes are symptoms of mental illness or substance use disorder. ~~The~~ Except for persons sought to be committed as provided in §27-6A-1 *et seq.* of this code, the applicant shall state in detail the recent overt acts upon which the ~~belief~~ clinical opinion is based.

(3) The written application, certificate, affidavit, and any warrants issued pursuant thereto, including any related documents~~,~~ filed with a circuit court, mental hygiene commissioner, or magistrate for the involuntary hospitalization of an individual are not open to inspection by any person other than the individual, unless authorized by the individual or his or her legal representative or by order of the circuit court. The records may not be published unless authorized by the individual or his or her legal representative. Disclosure of these records may, however, be made by the clerk, circuit court, mental hygiene commissioner, or magistrate to provide notice to the Federal National Instant Criminal Background Check System established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. §922, and the central state mental health registry, in accordance with §61-7A-1 *et seq.* of this code, and the sheriff of a county performing background investigations pursuant to §61-7-1 *et seq.* of this code. Disclosure may

also be made to the prosecuting attorney and reviewing court in an action brought by the individual pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

(4) Applications ~~may not be accepted~~ shall be denied for individuals ~~who only have epilepsy, dementia, or an intellectual or developmental disability.~~ as provided in §27-5-2(a) of this code.

(d) *Certificate filed with application; contents of certificate; affidavit by applicant in place of certificate.* —

(1) The applicant shall file with his or her application the certificate of a physician or a psychologist stating that in his or her opinion the individual is mentally ill or has a substance use disorder and that because of the mental illness or substance use disorder, the individual is likely to cause serious harm to self or others ~~if allowed to remain at liberty and, therefore~~ and requires continued commitment and treatment, and should be hospitalized. Except for persons sought to be committed as provided in §27-6A-1 *et seq.* of this code, the certificate shall state in detail the recent overt acts on which the conclusion is based, including facts that less restrictive interventions and placements were considered but are not appropriate and available. The applicant shall further file with his or her application the names and last known addresses of the persons identified in §27-5-4(e)(3) of this code.

(2) A certificate is not necessary when an affidavit is filed by the applicant showing facts and the individual has refused to submit to examination by a physician or a psychologist.

(e) *Notice requirements; eight days' notice required.* — Upon receipt of an application, the mental hygiene commissioner or circuit court shall review the application, and if it is determined that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, immediately fix a date for and have the clerk of the circuit court give notice of the hearing:

(1) To the individual;

(2) To the applicant or applicants;

(3) To the individual's spouse, one of the parents or guardians, or, if the individual does not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next of kin is not the applicant;

(4) To the mental health authorities serving the area;

(5) To the circuit court in the county of the individual's residence if the hearing is to be held in a county other than that of the individual's residence; and

(6) To the prosecuting attorney of the county in which the hearing is to be held.

(f) The notice shall be served on the individual by personal service of process not less than eight days prior to the date of the hearing and shall specify:

(1) The nature of the charges against the individual;

(2) The facts underlying and supporting the application of involuntary commitment;

(3) The right to have counsel appointed;

(4) The right to consult with and be represented by counsel at every stage of the proceedings; and

(5) The time and place of the hearing.

The notice to the individual's spouse, parents or parent or guardian, the individual's adult next of kin, or to the circuit court in the county of the individual's residence may be by personal service of process or by certified or registered mail, return receipt requested, and shall state the time and place of the hearing.

(g) *Examination of individual by court-appointed physician, psychologist, advanced nurse practitioner, or physician~~'s~~ assistant; custody for examination; dismissal of proceedings. —*

(1) Except as provided in subdivision (3) of this subsection, and except when a Certificate of the Licensed Examiner and an application for final civil commitment at the mental health facility where the person is currently committed has been completed and filed, within a reasonable time after notice of the commencement of final commitment proceedings is given, the circuit court or mental hygiene commissioner shall appoint a physician, psychologist, an advanced nurse practitioner with psychiatric certification, or a physician~~'s~~ assistant with advanced duties in psychiatric medicine to examine the individual and report to the circuit court or mental hygiene commissioner his or her findings as to the mental condition or substance use disorder of the individual and the likelihood of causing serious harm to self or others. Any such report shall include the names and last known addresses of the persons identified in §27-5-4-(e)(3) of this code.

(2) If the designated physician, psychologist, advanced nurse practitioner, or physician assistant reports to the circuit court or mental hygiene commissioner that the individual has refused to submit to an examination, the circuit court or mental hygiene commissioner shall order him or her to submit to the examination. The circuit court or mental hygiene commissioner may direct that the individual be detained or taken into custody for the purpose of an immediate examination by the designated physician, psychologist, nurse practitioner, or physician~~'s~~ assistant. All orders shall be directed to the sheriff of the county or other appropriate law-enforcement officer. After the examination has been completed, the individual shall be released from custody unless proceedings are instituted pursuant to §27-5-3 of this code.

(3) If the reports of the appointed physician, psychologist, nurse practitioner, or physician~~'s~~ assistant do not confirm that the individual is mentally ill or has a substance use disorder and might be harmful to self or others, then the proceedings for involuntary hospitalization shall be dismissed.

(h) *Rights of the individual at the final commitment hearing; seven days' notice to counsel required. —*

(1) The individual shall be present at the final commitment hearing, and he or she, the applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify and to present and cross-examine witnesses.

(2) ~~In the event~~ If the individual has not retained counsel, the court or mental hygiene commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall inform the individual of the name, address, and telephone number of his or her appointed counsel.

(3) The individual has the right to have an examination by an independent expert of his or her choice and to present testimony from the expert as a medical witness on his or her behalf. The cost of the independent expert is paid by the individual unless he or she is indigent.

(4) The individual may not be compelled to be a witness against himself or herself.

(i) *Duties of counsel representing individual; payment of counsel representing indigent.* —

(1) Counsel representing an individual shall conduct a timely interview, make investigation, and secure appropriate witnesses, be present at the hearing, and protect the interests of the individual.

(2) Counsel representing an individual is entitled to copies of all medical reports, psychiatric or otherwise.

(3) The circuit court, by order of record, may allow the attorney a reasonable fee not to exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 *et seq.* of this code.

(j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing.* —

(1) The circuit court or mental hygiene commissioner shall hear evidence from all interested parties in chamber, including testimony from representatives of the community mental health facility.

(2) The circuit court or mental hygiene commissioner shall receive all relevant and material evidence which may be offered.

(3) The circuit court or mental hygiene commissioner is bound by the rules of evidence promulgated by the Supreme Court of Appeals except that statements made to health care professionals appointed under subsection (g) of this section by the individual may be admitted into evidence by the health care professional's testimony, notwithstanding failure to inform the individual that this statement may be used against him or her. A health care professional testifying shall bring all records pertaining to the individual to the hearing. The medical evidence obtained pursuant to an examination under this section, or §27-5-2 or §27-5-3 of this code, is not privileged information for purposes of a hearing pursuant to this section.

(4) All final commitment proceedings shall be reported or recorded, whether before the circuit court or mental hygiene commissioner, and a transcript made available to the individual, his or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further proceedings. In any case where an indigent person intends to pursue further proceedings, the circuit court shall, by order entered of record, authorize, and direct the court reporter to furnish a transcript of the hearings.

(k) *Requisite findings by the court.* —

(1) Upon completion of the final commitment hearing and the evidence presented in the hearing, the circuit court or mental hygiene commissioner shall make findings as to the following <u>based upon clear and convincing evidence:</u>

(A) Whether the individual is mentally ill or has a substance use disorder;

(B) Whether, ~~because~~ as a result of illness or substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty and requires continued commitment and treatment;

(C) Whether the individual is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county; and

(D) Whether there is a less restrictive alternative than commitment appropriate for the individual that is appropriate and available. The burden of proof of the lack of a less restrictive alternative than commitment is on the person or persons seeking the commitment of the individual: *Provided,* That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific finding shall be made that the commitment of, or treatment for, the individual requires inpatient hospital placement and that no suitable outpatient community-based treatment program exists that is appropriate and available in the individual's area.

(2) The findings of fact shall be incorporated into the order entered by the circuit court and must be based upon clear, cogent, and convincing proof.

(l) *Orders issued pursuant to final commitment hearing; entry of order; change in order of court; expiration of order. —*

(1) Upon the requisite findings, the circuit court may order the individual to a mental health facility or state hospital for a period not to exceed 90 days except as otherwise provided in this subdivision. During that period and solely for individuals who are committed under §27-6A-1 *et seq.* of this code, the chief medical officer of the mental health facility or state hospital shall conduct a clinical assessment of the individual at least every 30 days to determine if the individual requires continued placement and treatment at the mental health facility or state hospital and whether the individual is suitable to receive any necessary treatment at an outpatient community-based treatment program. If at any time the chief medical officer, acting in good faith and in a manner consistent with the standard of care, determines that: (i) The individual is suitable for receiving outpatient community-based treatment; (ii) necessary outpatient community-based treatment is available in the individual's area as evidenced by a discharge and treatment plan jointly developed by the department and the comprehensive community mental health center or licensed behavioral health provider; and (iii) the individual's clinical presentation no longer requires inpatient commitment, the chief medical officer shall provide written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this section that the individual is suitable for discharge. The chief medical officer may discharge the patient 30 days after the notice unless the court of record stays the discharge of the individual. In the event the court stays the discharge of the individual, the court shall conduct a hearing within 45 days of the stay, and the individual shall be thereafter discharged unless the court finds by clear and convincing evidence that the individual is a significant and present danger to self or others, and that continued placement at the mental health facility or state hospital is required.

If the chief medical officer determines that the individual requires commitment and treatment at the mental health facility or state hospital at any time for a period longer than 90 days, then the individual shall remain at the mental health facility or state hospital until the chief medical officer of the mental health facility or state hospital determines that the individual's clinical presentation no longer requires further commitment and treatment. The chief medical officer shall provide notice to the court, ~~and~~ the prosecuting attorney, the individual, and the individual's guardian or attorney, or both, if applicable, that the individual requires commitment and treatment for a period in excess of 90 days and, in the notice, the chief medical officer shall describe ~~the reasons~~ how

the individual continues to meet commitment criteria and the need for ongoing commitment and treatment. ~~In its discretion, the~~ The court, ~~or~~ prosecuting attorney, the individual, or the individual's guardian or attorney, or both, if applicable, may request any information from the chief medical officer that the court or prosecuting attorney considers appropriate to justify the need for the individual's ongoing commitment and treatment. The court may hold any hearing that it considers appropriate.

(2) Notice to the court of record and prosecuting attorney shall be provided by personal service or certified mail, return receipt requested. The chief medical officer shall make the following findings:

(A) Whether the individual has a mental illness or substance use disorder that does not require inpatient treatment, and the mental illness or serious emotional disturbance is in substantial remission;

(B) Whether the ~~individual's condition~~ individual has the independent ability to manage safely the risk factors resulting from his or her mental illness or substance use disorder and is not likely to deteriorate to the point that the individual will pose a likelihood of serious harm to self or others ~~unless~~ without continued commitment and treatment ~~is continued~~;

(C) Whether the individual is likely to participate in outpatient treatment with a legal obligation to do so;

(D) Whether the individual is not likely to participate in outpatient treatment unless legally obligated to do so;

(E) Whether the individual ~~is not a danger to self or others~~ is capable of surviving safely in freedom by himself or herself or with the help of willing and responsible family members, guardian, or friends; and

(F) Whether mandatory outpatient treatment is a suitable, less restrictive alternative to ongoing commitment.

(3) The individual may not be detained in a mental health facility or state hospital for a period in excess of 10 days after a final commitment hearing pursuant to this section unless an order has been entered and received by the facility.

(4) An individual committed pursuant to §27-6A-3 of this code may be committed for the period he or she is determined by the court to remain an imminent danger to self or others.

(5) ~~In the event~~ If the commitment of the individual as provided under subdivision (1) of this subsection exceeds two years, the individual or his or her counsel may request a hearing and a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.

(m) *Dismissal of proceedings.* — ~~In the event~~ If the individual is discharged as provided in subsection (l) of this section, the circuit court or mental hygiene commissioner shall dismiss the proceedings.

(n) *Immediate notification of order of hospitalization.* — The clerk of the circuit court in which an order directing hospitalization is entered, if not in the county of the individual's residence, shall

immediately upon entry of the order forward a certified copy of the order to the clerk of the circuit court of the county of which the individual is a resident.

(o) *Consideration of transcript by circuit court of county of individual's residence; order of hospitalization; execution of order. —*

(1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held and the individual is not currently a resident of a mental health facility or state hospital, a transcript of the evidence adduced at the final commitment hearing of the individual, certified by the clerk of the circuit court, shall immediately be forwarded to the clerk of the circuit court of the county of which the individual is a resident. The clerk shall immediately present the transcript to the circuit court or mental hygiene commissioner of the county.

(2) If the circuit court or mental hygiene commissioner of the county of the residence of the individual is satisfied from the evidence contained in the transcript that the individual should be hospitalized as determined by the standard set forth in subdivision one of this subsection, the circuit court shall order the appropriate hospitalization as though the individual had been brought before the circuit court or its mental hygiene commissioner in the first instance.

(3) This order shall be transmitted immediately to the clerk of the circuit court of the county in which the hearing was held who shall execute the order promptly.

(p) *Order of custody to responsible person. —* In lieu of ordering the individual to a mental health facility or state hospital, the circuit court may order the individual delivered to some responsible person who will agree to take care of the individual and the circuit court may take from the responsible person a bond in an amount to be determined by the circuit court with condition to restrain and take proper care of the individual until further order of the court.

(q) *Individual not a resident of this state. —* If the individual is found to be mentally ill or to have a substance use disorder by the circuit court or mental hygiene commissioner is a resident of another state, this information shall be immediately given to the Secretary of the Department of Health and Human Resources, or to his or her designee, who shall make appropriate arrangements for transfer of the individual to the state of his or her residence conditioned on the agreement of the individual, except as qualified by the interstate compact on mental health.

(r) *Report to the Secretary of the Department of Health and Human Resources. —*

(1) The chief medical officer of a mental health facility or state hospital admitting a patient pursuant to proceedings under this section shall immediately make a report of the admission to the Secretary of the Department of Health and Human Resources or to his or her designee.

(2) Whenever an individual is released from custody due to the failure of an employee of a mental health facility or state hospital to comply with the time requirements of this article, the chief medical officer of the mental health or state hospital facility shall immediately, after the release of the individual, make a report to the Secretary of the Department of Health and Human Resources or to his or her designee of the failure to comply.

(s) *Payment of some expenses by the state; mental hygiene fund established; expenses paid by the county commission. —*

(1) The state shall pay the commissioner's fee and the court reporter fees that are not paid and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

(2) The county commission shall pay out of the county treasury all other expenses incurred in the hearings conducted under the provisions of this article whether or not hospitalization is ordered, including any fee allowed by the circuit court by order entered of record for any physician, psychologist, and witness called by the indigent individual. The copying and mailing costs associated with providing notice of the final commitment hearing and issuance of the final order shall be paid by the county where the involuntary commitment petition was initially filed.

(3) Effective July 1, 2022, the Department of Health and Human Resources shall reimburse the Sheriff, the Department of Corrections and Rehabilitation, or other law enforcement agency for the actual costs related to transporting a patient who has been involuntary committed.

§27-5-10. Transportation for the mentally ill or persons with substance use disorder.

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, the sheriff shall provide immediate transportation to or from the appropriate mental health facility or state hospital as described in §27-5-19(d) of this code: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers*. — Sheriffs and municipal governments may enter into written agreements by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, "certified municipal law-enforcement officer" means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff, or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual.

~~(d) Any person executing any transportation or commitment order as provided in this chapter issued by any circuit court, mental hygiene commissioner, or magistrate shall not be declared as violating the provisions of §27-12-2 of this code.~~

~~(e) Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.~~

§61-7A-2. Definitions.

As used in this article and as the terms are deemed to mean in 18 U. S. C. § 922(g) and ~~section seven, article seven of this chapter~~ §61-7-7 of this code as each exists as of January 31, 2008:

(1) "A person adjudicated as a mental defective" means a person who has been determined by a duly authorized court, tribunal, board or other entity to be mentally ill to the point where he or she has been found to be incompetent to stand trial due to mental illness or insanity, has been found not guilty in a criminal proceeding by reason of mental illness or insanity or has been determined to be unable to handle his or her own affairs due to mental illness or insanity. A child under fourteen years of age is not considered "a person adjudicated as a mental defective" for purposes of this article.

(2) "Committed to a mental institution" means to have been involuntarily committed for treatment pursuant to the provisions of ~~chapter twenty-seven~~ §27-5-4(l) of this code. Children under ~~fourteen~~ 14 years of age are not considered "committed to a mental institution" for purposes of this article. "Committed to a mental institution" does not mean voluntary admission for mental health treatment.

(3) "Mental institution" means any facility or part of a facility used for the treatment of persons committed for treatment of mental illness.

§61-7A-4. Confidentiality; limits on use of registry information.

(a) Notwithstanding any provision of this code to the contrary, the Superintendent of the State Police, the Secretary of the Department of Health and Human Resources, the circuit clerks, and the Administrator of the Supreme Court of Appeals may provide notice to the central state mental health registry and the National Instant Criminal Background Check System established pursuant to Section 103(d) of the Brady Handgun Violence Protection Act, 18 U. S. C. §922, that a person: (i) Has been involuntarily committed to a mental institution pursuant to §27-5-4(l); (ii) has been adjudicated as a mental defective ; or (iii) has regained the ability to possess a firearm by order of a circuit court in a proceeding under section five of this article.

(b) The information contained in the central state mental health registry is to be used solely for the purpose of records checks related to firearms purchases and for eligibility for a state license or permit to possess or carry a concealed firearm.

(c) Whenever a person’s name and other identifying information has been added to the central state mental health registry, a review of the state concealed handgun registry shall be undertaken and if such review reveals that the person possesses a current concealed handgun license, the sheriff of the county issuing the concealed handgun license shall be informed of the person’s change in status.

§61-7A-5. Petition to regain right to possess firearms.

(a) Any person who is prohibited from possessing a firearm pursuant to the provisions of ~~section seven, article seven of this chapter~~ §61-7-7 or by provisions of federal law by virtue solely of having previously been adjudicated to be mentally defective or to having a prior involuntary commitment to a mental institution pursuant to ~~chapter twenty-seven~~ §27-5-4(l) of this code may petition the circuit court of the county of his or her residence to regain the ability to lawfully possess a firearm.

(b) Petitioners prohibited from possession of firearms due to a mental health disability, must include in the petition for relief from disability:

(1) A listing of facilities and location addresses of all prior mental health treatment received by petitioner;

(2) An authorization, signed by the petitioner, for release of mental health records to the prosecuting attorney of the county; and

(3) A verified certificate of mental health examination by a licensed psychologist or psychiatrist occurring within thirty days prior to filing of the petition which supports that the petitioner is competent and not likely to act in a manner dangerous to public safety.

(c) The court may only consider petitions for relief due to mental health adjudications or commitments that occurred in this state, and only give the relief specifically requested in the petition.

(d) In determining whether to grant the petition, the court shall receive and consider at a minimum evidence:

(1) Concerning the circumstances regarding the firearms disabilities imposed by 18 U.S.C. §922(g)(4);

(2) The petitioner's record which must include the petitioner's mental health and criminal history records; and

(3) The petitioner's reputation developed through character witness statements, testimony, or other character evidence.

(e) If the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibilities concomitant with the possession of a firearm, will not be likely to act in a manner dangerous to public safety, and that granting the relief will not be contrary to public interest, the court may enter an order allowing the petitioner to possess a firearm. If the order denies petitioner's ability to possess a firearm, the petitioner may appeal the denial, which appeal is to include the record of the circuit court rendering the decision.

(f) All proceedings for relief to regain firearm or ammunition rights shall be reported or recorded and maintained for review.

(g) The prosecuting attorney or one of his or her assistants shall represent the state in all proceedings for relief to regain firearm rights and provide the court the petitioner's criminal history records.

(h) The written petition, certificate, mental health or substance abuse treatment records and any papers or documents containing substance abuse or mental health information of the petitioner, filed with the circuit court, are confidential. These documents may not be open to inspection by any person other than the prosecuting attorney or one of his or her assistants only for purposes of representing the state in and during these proceedings and by the petitioner and his or her counsel. No other person may inspect these documents, except upon authorization of the petitioner or his or her legal representative or by order of the court, and these records may not be published except upon the authorization of the petitioner or his or her legal representative.

(i) The circuit clerk of each county shall provide the Superintendent of the West Virginia State Police, or his or her designee, and the Administrator of the West Virginia Supreme Court of Appeals, or his or her designee, with a certified copy of any order entered pursuant to the provisions of this section which removes a petitioner's prohibition to possess firearms. If the order restores the petitioner's ability to possess a firearm, petitioner's name shall be promptly removed from the central state mental health registry and the superintendent or administrator shall forthwith inform the Federal Bureau of Investigation, the United States Attorney General, or other federal entity operating the National Instant Criminal Background Check System of the court action.

Following discussion,

The question being on the adoption of Senator Trump's amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4377, as just amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4377) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4377—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto three new sections, designated §27-5-1b and §27-5-3a; to amend and reenact §27-5-2, §27-5-3, §27-5-4 and §27-5-10 of said code and to amend and reenact §61-7A-2, §61-7A-4 and §61-7A-5 of said code, all relating generally to involuntary commitment; directing participation by certain groups and entities in a study of the feasibility of developing alternatives to law enforcement transportation of patients; requiring an audit process for mental

hygiene services; clarifying conditions for which involuntary commitment is inappropriate; authorizing video conferencing for hearings and evaluations; establishing time limits for completion tasks necessary to the commitment process; requiring reimbursement for transportation costs to the appropriate law enforcement agency; establishing state policy that a person committed for what is determined to be a physical condition is not considered to have been committed for a mental illness or addiction and not a basis for firearms disqualification, professional licensure, or employment purposes; requiring the entry of an order when a mistaken commitment is discovered; clarifying the distinction between hospitalizations for evaluation from those for treatment; and defining terms.

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

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

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 530, Encouraging public-private partnerships in transportation.

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

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

On page 4, section 4, by striking out all of lines 4-6 and inserting in lieu thereof the words "The review shall consist of the review by the division of the conceptual proposal: *Provided,* That expenses of the division incurred for review of an unsolicited proposal or proposals shall be paid by the private entity submitting the proposal" and,

To amend the bill on page 8, section 5, line 74, by adding the following: "*Provided*, That moneys used by the state road fund shall not exceed $100 million." And,

To amend the bill on page 14, section 9, line 65, before the period the following: "and the commissioner shall provide notice to the public".

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 530) was reported by the Clerk and adopted:

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 530—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6b; and to amend and reenact §17-27-3, §17-27-4, §17-27-5, §17-27-7, §17-27-8, §17-27-9, §17-27-11, §17-27-13, §17-27-14, §17-27-15, and §17-27-16 of said code, all relating to encouraging public-private partnerships related to transportation facilities; providing coal severance tax escrow fund for the state portion of coal severance taxes paid on a public-private transportation facility; authorizing the Division of Highways to repay collected tax in escrow to private entities; cleaning up antiquated language; clarifying the roles of the division, public entities, and developers; simplifying the public-private partnership review process; providing that project proposal may not

include use of more than $100 million from state road fund; clarifying that Commissioner of the Division of Highways may approve or modify the division's rankings, authorize negotiations and entry into comprehensive agreement with the highest-ranked developer, or reject all proposals; providing that division is not obligated to accept, consider, or review unsolicited conceptual proposals, but may choose to do so; providing that no obligation or liability attaches to either party if they are unable to reach an agreement; providing that the division may negotiate a comprehensive agreement with the next highest-ranked developer if agreement cannot be reached with highest-ranked developer; clarifying the extent to which the division may utilize condemnation if it is found the project serves a public purpose or the developer is in material default; and exempting public-private partnership agreements from statutory government construction contract requirements.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 530, as amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 530) passed with its Senate amended title.

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

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

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

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

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

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

ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.

§61-8C-3. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct prohibited; penalty.

(a) Any person who, knowingly and willfully, sends or causes to be sent or distributes, exhibits, possesses, electronically accesses with intent to view, or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a felony.

(b) Any person who violates the provisions of subsection (a) of this section when the conduct involves fifty or fewer images shall, upon conviction, be imprisoned in a state correctional facility for not more than two years or fined not more than $2,000 or both.

(c) Any person who violates the provisions of subsection (a) of this section when the conduct involves more than fifty but fewer than six hundred images shall, upon conviction, be imprisoned in a state correctional facility for not less than two nor more than ~~ten~~ 10 years or fined not more than $5,000, or both.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section any person who violates the provisions of subsection (a) of this section when the conduct involves ~~six hundred~~ 600 or more images or depicts violence against a child or a child engaging in bestiality shall, upon conviction, be imprisoned in a state correctional facility for not less than five nor more than ~~fifteen~~ 15 years or fined not more than $25,000 or both.

(e) For purposes of this section each video clip, movie or similar recording of five minutes or less shall constitute ~~seventy-five~~ 75 images. A video clip, movie, or similar recording of a duration longer than five minutes shall be deemed to constitute ~~seventy-five~~ 75 images for every two minutes in length if it exceeds five minutes.

(f) The provisions of this section are inapplicable to:

(1) Law enforcement personnel while acting in the performance of their official duties;

(2) Prosecuting attorneys while acting in the performance of their official duties;

(3) Attorneys representing persons charged with a violation of this article or a substantially similar federal law while acting in the performance of their official duties;

(4) Judges and magistrates while acting in the performance of their official duties;

(5) Jurors while acting in the performance of their official duties ; and

(6) Support personnel for the persons listed in subdivisions (1) through (4) of this subsection in the performance of their professional, employment, and fact-finding duties.

(g) The Supreme Court of Appeals is hereby requested to promulgate such rules, protocols, and forms as are necessary to regulate access to, use, and handling of materials depicting minors engaging in sexually explicit conduct with due consideration given to the privacy rights of victims and the due process rights of defendants in judicial proceedings.;

And,

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

Eng. House Bill 4842—A Bill to amend and reenact §61-8C-3 of the Code of West Virginia, 1931, as amended, relating to child pornography; clarifying the groups of persons to whom the criminal prohibitions related to child pornography are inapplicable when such persons are

performing their official or employment duties; and requesting the Supreme Court of Appeals to promulgate rules.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the Senate amendments to the bill (Eng. H. B. 4842) and requested the House of Delegates to recede therefrom.

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

The Senate again proceeded to the eighth order of business.

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

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for Senate Bill 4393 was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4393) 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 4408, Relating to contracts for construction of recreational facilities in state parks and forests.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 5. PARKS AND RECREATION.

§20-5-16. Authority to enter into contracts with third parties to construct recreational facilities and cabins; public comment.

(a) Notwithstanding any other provision of this code to the contrary, in addition to all other powers and authority vested in the director, he or she ~~is hereby authorized and empowered to~~ may:

(1) Enter into contracts with third parties for the financing, construction, and operation of new recreational, lodging, and ancillary facilities at ~~Chief Logan State Park, Beech Fork State Park, Tomlinson Run State Park, Stonewall Jackson Lake State Park, Lost River State Park and Canaan Valley Resort State Park~~ all state parks and state forests under the jurisdiction of the Division of Natural Resources. The contracts may allow and recognize both direct and subsidiary investment arrangements. The term of the contracts may not exceed a period of ~~twenty-five~~ 40 years, at which time the full title to the recreational facilities shall vest in the state, except as otherwise provided in this section;

(2) Enter into contracts with third parties for the construction, but not the operation, of cabins at any state park or forest. Upon completion of the construction of the cabins, full title to the cabins shall immediately vest in the state and the cabins shall be operated by the parks and recreation section;

(3) Authorize the construction of at least five cabins by any single third party in state parks and state forests which do not offer the facilities on the effective date of this subsection; and

(4) Propose emergency and legislative rules, in accordance with ~~the provisions of~~ §29A-3-1 *et seq.* of this code, that set the conditions upon which the director may enter into a contract with a single third party proposing to construct cabins.

~~(b) All contracts shall be presented to the Joint Committee on Government and Finance for review and comment prior to execution.~~

(b) Any contract entered into pursuant to this section shall be approved prior to execution by the Secretary of the Department of Commerce, the Secretary of the Department of Tourism, and the Secretary of the Department of Economic Development.

(c) A contract may provide for renewal for the purpose of permitting continued operation of the facilities at the option of the director for a term or terms not to exceed 10 years.

(d) The director shall provide prior electronic notice of any contract, extension, and renewal entered into pursuant to this section to the Joint Committee on Government and Finance. ~~Except as otherwise authorized by this section, no extension or renewal beyond the original twenty-five year term may be executed by the director absent the approval of the Joint Committee on Government and Finance.~~

(e) Any vendor which is contracted with pursuant to this section may not employ or contract with the individual who holds the position of director when the contract is executed for a period of one year following the individual's separation from the position of director.

~~(e)~~ (f) *Stonewall Jackson Lake State Park. —*

(1) With respect to the financing, construction, and operation of lodging at Stonewall Jackson Lake State Park, in addition to the lodging in existence as of July 1, 2008, contracts entered into pursuant to this section may grant, convey, or provide for commercially reasonable lodging usage

and related rights and privileges all on terms and conditions as the director may deem appropriate, desirable or necessary to attract private investment for the construction of additional lodging units.

(2) No contracts may be entered into prior to the preparation of lodging unit development plans and standard lodging unit contract documents in a form and at a level of detail acceptable to the United States Army Corps of Engineers and the director, and subsequent to the presentation of the lodging unit development plans and standard lodging unit contract documents to the Joint Committee on Government and Finance for review and comment.

(3) At a minimum, the lodging unit development plans and standard lodging unit contracts shall comply with the following requirements:

(A) That no more than 100 additional lodging units may be constructed, in addition to the lodging in existence as of July 1, 2008;

(B) That lodging unit contracts, with respect to any additional lodging units that may be financed, constructed or operated pursuant to the provision of this section, shall generally conform to the contracts entered into by federal agencies or the National Park Service with private parties regarding privately financed property that is constructed, developed or operated on public lands administered by federal agencies or the National Park Service, subject to modification and adaptation by the director as the director deems appropriate, suitable and relevant to any lodging units to be constructed at Stonewall Jackson Lake State Park.

(C) That a party granted rights and privileges under lodging unit contracts awarded under the provisions of this subsection shall have the right to renew his or ~~her~~ her or its lodging unit contract for successive terms not to extend beyond the termination date of the state's lease with the United States Army Corps of Engineers; or, in the event that the state's lease with the United States Army Corps of Engineers is extended beyond the termination date of the lease as of July 1, 2007, not to exceed five 10-year extensions or renewals beyond the termination date of the lease between the state and the United States Army Corps of Engineers in effect as of July 1, 2007: *Provided,* That the party extended the renewal rights is in compliance with all material rights, duties and obligations arising under his or ~~her,~~ her or its contract and all relevant and applicable provisions of federal, state and local laws, rules, regulations, contracts or agreements at the time of renewal: *Provided, however,* That if ~~and in the event~~ the director makes an affirmative determination that further renewals beyond the time periods set forth in this subsection are in the best interest of the state and Stonewall Jackson Lake State Park, giving due consideration to financial, operational and other considerations deemed relevant and material by the director, that the director may authorize further renewals;

(D) That all rights and privileges arising under a lodging unit contract shall be transferred to the state or the state's designee upon the expiration or termination of the contract, upon the terms and conditions as each contract may provide or as may otherwise be agreed upon between the parties;

(E) That the state is not~~, and cannot be,~~ obligated for any costs, expenses, fees, or other charges associated with the development of the additional lodging units under this subsection or the operation and maintenance of the additional lodging units over time, including, but not limited to, costs associated with infrastructure improvements associated with development or operation of the additional lodging units. In his or her discretion, the director may engage professionals to assist the state in connection with its review and oversight of development of the additional lodging units;

(F) That at any time following the initial term and first renewal period of any lodging unit contract entered into with a private party with respect to an additional lodging unit that is constructed under this section, the state shall have the right and option, in its sole discretion, to purchase a lodging unit or lodging units in accordance with the provisions of this subsection and any and all contracts that may be entered into from time to time under this section;

(G) That ~~at its sole option and discretion,~~ the state may elect to purchase a lodging unit from a private party. ~~In that event,~~ If the private party ~~shall be~~ is paid the fair value of the private party's residual rights and privileges under the lodging unit contract, the residual rights and privileges to be valued generally in accordance with the valuation standards set forth in the National Park Service's standard contract provisions, or other relevant federal agency standards applicable to similar or like contract rights and provisions as may be in existence at the time of transfer, all as the same may be ~~deemed~~ considered relevant and appropriate by the director, and all in the exercise of the director's reasonable discretion. Nothing in this section is intended or ~~shall~~ may be construed to impose an obligation on the state to purchase, buy, buy out or otherwise acquire or pay for any lodging unit under this section, or to limit the right and ability of a private party to donate or contribute his or ~~her,~~ her or its interest in and to any lodging unit constructed under this section to the state or any charitable foundation that may be established and operating from time to time to support the continued operation and development of Stonewall Jackson Lake State Park;

(H) That the state ~~shall have~~ has no obligation whatsoever to purchase, buy, buy out or otherwise acquire or pay for any lodging unit that is developed or constructed under this section; and

(I) The director ~~shall have the right to~~ may review and approve the form and content of all contracts that may be entered into pursuant to this subsection in connection with the development, operation, and maintenance of additional lodging units at Stonewall Jackson Lake State Park.

(g) Any facilities constructed under the authority granted under this section must be in accordance with the purpose, powers, and duties of the Section of Parks and Recreation as provided by §20-5-3 of this code.

On motion of Senator Tarr, the following amendments to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4408) were reported by the Clerk and considered simultaneously:

On page two, section sixteen, after line thirty-five, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Prior to initiating a contract for new recreational, lodging, and ancillary facilities at all state parks and state forests under the jurisdiction of the Division of Natural resources, the director shall conduct a public hearing to be held at a reasonable time and place within the county in which the facility is located. Notice of the time, place and purpose of the public hearing shall be provided as a Class II legal advertisement in accordance with §59-3-2 of this code which notice shall be given at least for the first publication 20 days in advance of the hearing.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Tarr's amendment to the Finance committee amendment to the bill, the same was put and prevailed.

On motion of Senator Woelfel, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4408) was next reported by the Clerk:

On page one, section sixteen, line eight, after the word "Resources" by inserting the words "except for Watoga State Park".

Following discussion,

The question being on the adoption of Senator Woelfel's amendment to the Finance committee amendment to the bill, and on this question, Senator Woelfel demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Nelson, Romano, Stollings, Stover, Trump, Weld, and Woelfel—19.

The nays were: Azinger, Boley, Clements, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Tarr, Woodrum, and Blair (Mr. President)—13.

Absent: Plymale and Takubo—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Woelfel's amendment to the Finance committee amendment to the bill adopted.

The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4408, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4408 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Grady, Martin, Smith, Stover, and Woelfel—10.

Absent: Plymale and Takubo—2.

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. 4408) passed.

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

Eng. Com. Sub. for House Bill 4408—A Bill to amend and reenact §20-5-16 of the Code of West Virginia, 1931, as amended, relating to the authority of the Division of Natural Resource to enter into certain contracts.

Senator Weld moved that the bill take effect from passage.

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

The nays were: Beach—1.

Absent: Brown, Plymale, and Takubo—3.

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. 4408) 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 4439, Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.

§15-1J-6. Military Authority Reimbursable Expenditure Fund.

(a) A special revenue account known as the "Military Authority Reimbursable Expenditure Fund" is hereby established in the state treasury. The purpose of the fund is to make moneys available to the Military Authority for expenditures that qualify for cost reimbursement pursuant to a cooperative agreement, grant, or other legal agreement with the federal government.

(b) The Adjutant General shall administer the fund.

(c) The fund shall receive all moneys transferred to the fund pursuant to §36-8-13(e) of this code, any income from the investment of moneys held in the fund, and all moneys reimbursed into the fund pursuant to subsection (e) of this section.

(d) The Adjutant General may authorize expenditures from the fund that qualify for cost reimbursement pursuant to a cooperative agreement, grant, or other legal agreement with the federal government, including but not limited to the following:

(1) Expenditures for operations and maintenance of all facilities;

(2) Expenditures for major and minor construction;

(3) Any other types of expenditures related to homeland and national security missions; and

(4) Any other types of expenditures to support missions of the West Virginia National Guard.

(e) Upon receiving moneys from the federal government to reimburse the Military Authority for expenditures authorized by this section, the Adjutant General shall reimburse the fund in an amount equal to the moneys received from the federal government.

(f) Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall be transferred to the Unclaimed Property Fund.

CHAPTER 36. UNIFORM UNCLAIMED PROPERTY ACT.

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-13. Deposit of funds

(a) The administrator shall record the name and last known address of each person appearing from the holders reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company and the amount due.

(b) The Unclaimed Property Fund is continued. The administrator shall deposit all funds received pursuant to this article in the Unclaimed Property Fund, including the proceeds from the sale of abandoned property under §36-8-12 of this code. The administrator may invest the Unclaimed Property Fund with the West Virginia Board of Treasury Investments or the Investment Management Board and all earnings shall accrue to the fund and are available for expenditure in accordance with the article. In addition to paying claims of unclaimed property duly allowed, the administrator may deduct the following expenses from the Unclaimed Property Fund:

(1) Expenses of the sale of abandoned property;

(2) Expenses incurred in returning the property to owners, including without limitation the costs of mailing and publication to locate owners;

(3) Reasonable service charge; and

(4) Expenses incurred in examining records of holders of property and in collecting the property from those holders.

(c) The Unclaimed Property Trust Fund is continued within the State Treasury. The administrator may invest the Unclaimed Property Trust Fund with the West Virginia Board of Treasury Investments and all earnings shall accrue to the fund and are available for expenditure in accordance with this article. After deducting the expenses specified in subsection (b) of this

section and maintaining a sum of money from which to pay claims duly allowed, the administrator shall transfer the remaining moneys in the Unclaimed Property Fund to the Unclaimed Property Trust Fund.

~~(d) (1) On July 1, 2009, the unclaimed property administrator shall transfer the amount of $8 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund.~~

~~(2) On or before December 15 of each year, notwithstanding any provision of this code to the contrary, the administrator shall transfer the sum of $1 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund, until the actuary certifies there are sufficient funds to pay out all contracts.~~

~~(e) On or before June 1, 2007, the unclaimed property administrator shall transfer the amount of $2 million from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the deferred compensation matching program for state employees. On or before June 1, 2008, the unclaimed property administrator shall transfer the amount of $1 million from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the matching program.~~

~~(f) On or before June 1, 2013, the unclaimed property administrator shall transfer the amount of $3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund for the purpose of satisfying any amounts due as of April 27, 2012 to policemen's and firemen's pension and relief funds in accordance with section fourteen-d, article three, chapter thirty-three of this Code.~~

(d) Subject to a liquidity determination and cash availability, effective July 1, 2022, the unclaimed property administrator may transfer any amount not to exceed $10,000,000 in any fiscal year from the Unclaimed Property Trust Fund to the Military Authority Reimbursable Expenditure Fund.

~~(g)~~ (e) After transferring any money required by ~~subsections (d) through (f)~~ subsection (d) of this section, the administrator shall transfer moneys remaining in the Unclaimed Property Trust Fund to the General Revenue Fund.

On motion of Senator Weld, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4439) was reported by the Clerk and adopted:

On page two, section six, after line twenty-two, by inserting the following:

CHAPTER 18. EDUCATION.

ARTICLE 19. EDUCATIONAL OPPORTUNITIES FOR CHILDREN OF DECEASED SOLDIERS, SAILORS, MARINES AND AIRMEN.

§18-19-2. Eligibility of applicant for benefits; application forms; preference.

(a) To be eligible for the benefits of this article, a child or spouse as set forth in section one of this article shall meet the following conditions:

(1) In the case of a child, is at least 16 and not more than 25 years of age;

(2) Is enrolled in a post-secondary education or training institution in this state; and

(3) Is the child or spouse of an ~~enlistee~~ enlisted or commissioned service member who designated West Virginia as his or her state of record.

(b) The application shall be made to, and upon forms provided by, the West Virginia ~~Division of Veterans Affairs~~ Department of Veterans Assistance. The ~~division~~ department shall determine the eligibility of those who apply and the yearly amount to be allotted each applicant. The amount, in the discretion of the ~~division~~ department, may vary from year to year, but may not exceed the sum of $1,000 in any one semester or a total of $2,000 in any one year. In selecting those to receive the benefits of this article, preference shall be given those who are otherwise financially unable to secure the educational opportunities.

The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4439, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

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. 4439) passed.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4439—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-J-6; to amend and reenact §18-19-2 of said code; and to amend and reenact §36-8-13 of said code, all relating generally to creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund; establishing the account; declaring the purpose of the account; providing that the Adjutant General shall administer the account; authorizing the Adjutant General to invest moneys in the account; setting forth the permissible contents of the account; authorizing the Adjutant General to make certain expenditures from the account; requiring the Adjutant General to reimburse the account after receiving federal reimbursement moneys; allowing funds in the Unclaimed Property Fund to be invested; providing that moneys in the account will revert to the Unclaimed Property Fund at the end of each fiscal year; authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the account; eligibility of an active-duty service member's child or spouse for tuition-free education through the War Orphan Education Program; and deleting obsolete language.

Senator Weld 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

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. 4439) 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 4450, Removing the $0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4450 was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4450) passed with its title.

Senator Weld moved that the bill take effect July 1, 2022.

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

The nays were: None.

Absent: Plymale and Takubo—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4450) takes effect July 1, 2022.

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

Eng. House Bill 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4463 was then put upon its passage.

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

The nays were: Baldwin—1.

Absent: Beach, Plymale, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4463) passed with its title.

Senator Weld moved that the bill take effect July 1, 2022.

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

The nays were: Baldwin—1.

Absent: Beach, Plymale, and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4463) takes effect July 1, 2022.

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

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 6:13 p.m. today:

Eng. Com. Sub. for Senate Bill 334, Authorizing miscellaneous agencies and boards to promulgate rules.

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

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

Eng. Com. Sub. for House Bill 4502, Establishing the BUILD WV Act.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On pages eight and nine, section six, lines one through seven, by striking out all of section six and inserting in lieu thereof a new section six, to read as follows:

§5B-2L-6. Effective date, expiration date and required reporting.

(a) Effective July 1, 2024, and annually thereafter, the Department of Economic Development shall submit a report to the Joint Committee on Government and Finance. The report shall provide:

(1) The number and location of all projects approved pursuant to this article;

(2) The geographic distribution of the projects approved;

(3) The total number of new housing units approved over the preceding year;

(4) The total number of housing units completed oved the preceding year;

(5) The total amount of exemptions granted pursuant to §5B-2L-7 of this article;

(6) The total amount of property value adjustment tax credits allowed pursuant to §5B-2L-10 of this article; and

(7) Any other information requested by the Joint Committee on Government and Finance.

(b) Any property value adjustment tax credit authorized by this article shall be effective for corporate net income tax years and personal income tax years beginning on and after January 1, 2023.

(c) Effective January 1, 2028, the provisions of this article shall expire and have no further force or effect: *Provided*, That any tax exemption or property value adjustment tax credit authorized pursuant to this article prior to January 1, 2028, shall continue to be valid and eligible for redemption pursuant to procedures provided herein.;

On page eighteen, section fourteen, line twenty-three, by striking out "12" and inserting in lieu thereof "3";

And,

On page twenty, section sixteen, lines fourteen through twenty, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c), to read as follows:

(c) The aggregate sum of approved costs for all projects for any fiscal year shall not exceed $40 million. Any project application submitted for certification in the fiscal year after the sum of $40 million has been reached shall not be approved or certified. Notwithstanding any other provision of this code, for any fiscal year, the Secretary of the Department of Economic Development may not approve any single proposed project as a certified BUILD WV project for the fiscal year unless the proposed project has an aggregate sum of approved costs that is at least $3 million or the proposed project includes at least six residential units or houses.

Engrossed Committee Substitute for House Bill 4502, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Azinger, Karnes, and Martin—3.

Absent: Plymale and Takubo—2.

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. 4502) passed.

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

Eng. Com. Sub. for House Bill 4502—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2L-1, §5B-2L-2, §5B-2L-3, §5B-2L-4, §5B-2L-5, §5B-2L-6, §5B-2L-7, §5B-2L-8, §5B-2L-9, §5B-2L-10, §5B-2L-11, §5B-2L-12, §5B-2L-13, §5B-2L-14, §5B-2L-15, §5B-2L-16, and §5B-2L-17, all relating to establishing the BUILD WV Act; providing legislative findings and purpose; authorizing rule-making authority; providing for the application of the West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing effective and expiration dates; required annual reporting to the Joint Committee on Government and Finance; setting out elements to be included in the annual report; exempting the construction contractors of certified BUILD WV projects from the consumers sales and service tax and use tax; authorizing municipalities to provide exemptions to business and occupation taxes; establishing a property value adjustment tax credit; providing for the determination of amount and application of the property value adjustment tax credit; providing that the property value adjustment tax credit entitlement is retained by eligible taxpayers that have developed project property; providing for credit recapture, interest, penalties, additions to tax, and statute of limitations; providing for certified BUILD WV districts and the procedure for designation; granting authority to the Department of Economic Development to administer BUILD WV; providing for the application and procedures for BUILD WV projects; and requiring agreements between the Department of Economic Development and BUILD WV project participants.

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

(Senator Tarr in the Chair.)

Eng. House Bill 4522, Relating to the expungement of criminal records.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-25. Expungement of criminal records for those found not guilty of crimes or against whom charges have been dismissed.

(a) Any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense, may file a civil petition in the circuit court in which the charges were filed to expunge all records relating to the arrest, charge or other matters arising out of the arrest or charge: *Provided,* That no record in the Division of Motor Vehicles may be expunged by virtue of any order of expungement entered pursuant to ~~section two-b, article five, chapter seventeen-C~~ §17C-5-2b of this code: *Provided, further,* That any person who has previously been convicted of a felony may not file a petition for expungement pursuant to this section. The term records as used in this section includes, but is not limited to, arrest records, fingerprints, photographs, index references or other data whether in documentary or electronic form, relating to the arrest, charge or other matters arising out of the arrest or charge. Criminal investigation reports and all records relating to offenses ~~subject to the provisions of article twelve, chapter fifteen of this code because~~ where the person was found not guilty by reason of mental illness, mental retardation or addiction are exempt from the provisions of this section.

(b) The expungement petition shall be filed not sooner than ~~sixty~~ 60 days following the order of acquittal or dismissal by the court. Any court entering an order of acquittal or dismissal shall inform the person who has been found not guilty or against whom charges have been dismissed of his or her rights to file a petition for expungement pursuant to this section.

(c) Following the filing of the petition, the court may set a date for a hearing. If the court does so, it shall notify the prosecuting attorney and the arresting agency of the petition and provide an opportunity for a response to the expungement petition.

(d) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official including law enforcement records. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within ~~sixty~~ 60 days of the entry of the expungement order, that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed.

(e) Upon expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application.

(f) Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that the interests of justice will be served by granting the petition, it may be granted.

(g) There shall be no filing fees charged or costs assessed for filing an action pursuant to this section.

(h) Upon the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature, if a court enters an order of acquittal of all criminal charges against a person in a case, the court shall order the record expunged upon the expiration of 30 days, unless the person objects to the expungement. The order expunging the records shall not require any action by the person.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Engrossed House Bill 4522, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Woodrum—32.

The nays were: None.

Absent: Plymale and Blair (Mr. President)—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4522) 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 4522—A Bill to amend and reenact §61-11-25 of the Code of West Virginia, 1931, as amended, relating to expungement of criminal records; providing for mandatory expungement upon acquittal of all criminal charges absent objection; and providing time frame for order of expungement.

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

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

Eng. House Bill 4571, Modifying foundation allowance to account for transportation by electric powered buses.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4571 was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4571) 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 4571—A Bill to amend and reenact §18-9A-7 of the Code of West Virginia, 1931, as amended, relating to increasing the foundation allowance for transportation cost for the portion of the county's school bus system that is fully powered by electricity that is stored in an onboard rechargeable battery or other storage device and for the portion of its school bus system that is manufactured within the state of West Virginia.

Senator Weld moved that the bill take effect July 1, 2022.

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

The nays were: None.

Absent: Plymale and Takubo—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4571) takes effect July 1, 2022.

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 4600, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8D. CHILD ABUSE.

§61-8D-5a. Verbal abuse of noncommunicative child; penalties.

[Repealed.]

ARTICLE 8F. SPECIAL PROTECTIONS FOR DISABLED CHILDREN ACT of 2022.

This article shall be known as Trenton, Andrew, Adri, Owen and Emma's law

§61-8F-1. Findings.

The Legislature finds that disabled persons and particularly disabled children are often more vulnerable and in greater need of protection than the nondisabled. Concomitant with greater vulnerability is the enhanced risk of injury and intimidation, particularly when the child is noncommunicative.

Based upon these facts, the Legislature has determined that it is appropriate that enhanced protections be put in place statutorily to provide a framework of protections to improve disabled children's education and, quality of life as well as ease the concerns of their loved-ones and caregivers.

§61-8F-2 Definitions.

As used in this article:

(1) "Disabled child" means a child with any physical, intellectual, developmental, communication, or psychological disability or impairment. A disability includes , but is not limited to one that:

(A) Limits the child's ability to recognize abuse, unlawful activity, or his or her rights to safety and protection, or that makes the child rely on others to recognize that he or she is being abused;

(B) Limits the child's ability to recognize unlawful sexual abuse or misconduct;

(C) Causes the child to be dependent on others to assist with any activity of daily living or personal care;

(D) Limits the child's ability to formulate or execute a response to abuse, to verbally or physically defend himself or herself, or to physically escape from an abusive environment; or

(E) Limits the child's ability to disclose abuse.

(2) "Noncommunicative child" means a child who, due to physical or developmental disabilities, is unable to functionally articulate verbally, in writing, or through a recognized sign language,

(3) "Person in a position of trust in relation to a disabled child" means any adult who is acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a disabled child or someone with supervisory responsibility for a disabled child's welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of a disabled child,

(4) "Repeatedly" means on two or more occasions,

(5) "Supervisory responsibility" means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility may occur in a residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.

§61-8f-3. Maltreatment of a disabled child; penalties.

(a) Any person in a position of trust in relation to a disabled child, who has supervisory responsibility over a disabled child, and who repeatedly engages in conduct, verbal or otherwise toward the child in an insulting, demeaning, or threatening manner, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500, nor more than $2,500, or confined in jail not more than one year, or both fined and confined.

(b) The conduct prohibited by this section includes, but is not limited to, behavior of any type intended to humiliate, intimidate, shame, degrade, or cause emotional distress.

(c) Each instance of the conduct prohibited by subsection (a) of this section shall constitute a separate and distinct offense whether directed at one disabled child or multiple disabled children.

§61-8F-4 Battery and assault of a disabled child.

(a) Any person in a position of trust to a disabled child, with supervisory responsibility over the child who unlawfully and intentionally makes physical contact of an insulting and provoking nature to the person of the disabled child or unlawfully causes physical harm to the disabled child is guilty of a felony, and upon conviction thereof, shall be fined not more than $1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Any person in a position of trust in relation to a disabled child, with supervisory responsibility over the child who unlawfully attempts to commit a violent injury to the person of the disabled child or unlawfully commits an act that places the disabled child in reasonable apprehension of immediately receiving a violent injury is guilty of a felony and upon conviction thereof shall be fined not more than $500 or imprisoned not less than one nor more than three years, or both fined and imprisoned.

§61-8F-5 Failure to report; obstruction; retaliation; penalties.

(a) Any person in a position of trust in relation to a disabled child who is subject to the mandatory reporting requirements in §49-2-803 of this code who fails to make a required report

regarding a disabled child is guilty of a misdemeanor, and upon conviction shall be confined in jail for not more than one year.

(b) Any person who willfully impedes or obstructs or attempts to impede or obstruct a person in a position of trust in regard to a disabled child from making a report required by §49-2-803 of this code regarding a disabled child is guilty of a felony, and upon conviction thereof be fined not more than $5,000 or imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

(c) Any person who discriminates or retaliates against a person in a position of trust in relation to a disabled child for making a report pursuant to § 49-2-803 of this code regarding a disabled child is guilty of a felony and, upon conviction, shall be fined not more than $5,000 or imprisoned in a state correctional facility for not less than one year nor more than three years or both fined and imprisoned or both fined and imprisoned.

§61-8F-6 Specific directives to enhance the safety of disabled children.

(a) The West Virginia Department of Education in collaboration with the Secretary of Health and Human Resources shall:

(1) On or before January 1, 2023, develop, produce, and disseminate an eight-hour education program for people employed in or to be employed in the care, housing, and education of disabled children as well as their supervisory personnel and administrators. The program shall include, but not be limited to, the legal duties of persons so employed, the behavioral characteristics associated with different disabling conditions, symptoms of disabling conditions and appropriate interventions necessary to support a child in a particular setting. Successful completion of the program shall be mandatory for state, county, and municipal employees engaged in the care, housing, and education of disabled children as well as their supervisory personnel and administrators on and after July 1, 2023; and

(2) On or before January 1, 2023, investigate the availability and implementation cost of a program for public schools and government operated programs for disabled children which allows parents, guardians, and custodians to remotely view classrooms and other areas where disabled children are taught, housed, or cared for and provide copies of the findings and proposals to the President of the Senate and the Speaker of the House of Delegates prior to the first day of the 2023 Regular Session of the Legislature.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(b) On or before January 1, 2023, the West Virginia Prosecuting Attorney's Institute in collaboration with the Law Enforcement Professional Standards subcommittee on the Governor's Committee on Crime Delinquency and Correction shall develop a three-hour mandatory educational program for prosecuting attorneys and law enforcement officers that offers education:

(1) As to the provisions of this article; and

(2) In the investigation and prosecution of crimes against disabled children.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(c) The State Board of Education shall create a database which identifies school employees who are under active investigation for misconduct towards children into which county boards of education shall report and review when considering employing a person with previous experience in the education system.

§61-8F-7. Effective dates.

(a) This section and the provisions of §61-8F-1, §61-8F-2, and §61-8F-6 of this article shall be effective from passage.

(b) The provisions of §61-8F-3, §61-8F-4, and §61-8F-5 shall be effective July 1, 2022.

Engrossed Committee Substitute for House Bill 4600, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4600) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4600—A Bill to repeal §61-8D-5a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-8F-1, §61-8F-2, § 61-8F-3, §61-8F-4, §61-8F-5, §61-8F-6, and §61-8F-7, all relating to maltreatment of disabled children by persons in a position of trust to them; defining terms; creating misdemeanor and felony offenses and penalties for certain non-physical and physical acts against disabled children; creating criminal penalty for persons in a position of trust in relation to a disabled child failing to report abuse as a mandatory reporter; creating criminal offenses for obstructing or discriminating against a mandatory reporter of abuse; directing the Secretary of the Department of Health and Human Resources and the West Virginia Department of Education to create a mandatory program for people working with disabled children and to study the viability and implementation of putting in place a system that allows parents and guardians the ability to view their children remotely; directing educational programs specific to crimes against disabled children for prosecutors and law enforcement; establishing dates for compliance; requiring the state department of education to establish a database of persons under active investigation for child abuse required to be reported to by county boards of education; and establishing effective dates.

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 4607, To remove opioid treatment programs from requiring a certificate of need.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4344, already placed in that position.

Eng. Com. Sub. for House Bill 4613, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Nelson, 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 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-2. Definitions.

As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:

(a) "Accrued benefit" means on behalf of any member ~~two and six tenths~~ 2.75 percent per year of the member's final average salary for the first 20 years of credited service. Additionally, ~~two~~ 2 percent per year for 21 through 25 years and ~~one~~ 1.5 percent per year for ~~26 through 30~~ each year over 25 years will be credited with a maximum benefit of ~~67~~ 90 percent of a member's final average salary. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §8-22A-10 of this code.

(b) "Accumulated contributions" means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) "Active military duty" means full-time duty in the active military service of the United States Army, Navy, Air Force, Coast Guard or Marine Corps. The term does not include regularly required training or other duty performed by a member of a reserve component or National Guard unless the member can substantiate that he or she was called into the full-time active military

service of the United States and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed on the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of section 415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of employment or services performed during the plan year plus amounts excluded under section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits, or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost-of-living in accordance with §5-10D-7 of this code and section 401(a) (17) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application or the required beginning date, if earlier. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) "Beneficiary" means a natural person who is entitled to, or will be entitled to, an annuity or other benefit payable by the plan.

(i) "Board" means the Consolidated Public Retirement Board.

(j) "Covered employment" means either: (1) Employment as a full-time municipal police officer or firefighter and the active performance of the duties required of that employment; or (2) the period of time during which active duties are not performed but disability benefits are received under this article; or (3) concurrent employment by a municipal police officer or firefighter in a job or jobs in addition to his or her employment as a municipal police officer or firefighter in this plan where the secondary employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: *Provided*, That the police officer or firefighter contributes to the fund created in this article the amount specified as the member's contribution in §8-22A-8 of this code.

(k) "Credited service" means the sum of a member's years of service, active military duty and disability service.

(l) "Dependent child" means either: (1) An unmarried person under age 18 who is: (A) A natural child of the member; (B) a legally adopted child of the member; (C) a child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or (D) a stepchild of the member residing in the member's household at

the time of the member's death; or (2) Any unmarried child under age 23: (A) Who is enrolled as a full-time student in an accredited college or university; (B) who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death; and (C) whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

(m) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

(n) "Disability service" means service credit received by a member, expressed in whole years, fractions thereof, or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

(o) "Effective date" means January 1, 2010.

(p) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

~~(p)~~ (q) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly compensation which the member was receiving in the plan year prior to the initial disability. "Final average salary" does not include any lump sum payment for unused, accrued leave of any kind or character.

~~(q)~~ (r) "Full-time employment" means permanent employment of an employee by a participating municipality in a position which normally requires 12 months per year service and requires at least 1,040 hours per year service in that position.

~~(r)~~ (s) "Fund" means the West Virginia Municipal Police Officers and Firefighters Retirement Fund created by this article.

~~(s)~~ (t) "Hour of service" means: (1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and (2) each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member may not be credited with any hours of service for any period of time he or she is receiving benefits under §8-22A-17 and §8-22A-18 of this code; and (3) each hour for which back pay is either awarded or agreed to be paid by the employing municipality, irrespective of mitigation of damages. The same hours of service may not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or

years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

~~(t)~~ (u) "Member" means, except as provided in §8-22A-32 and §8-22A-33 of this code, a person hired as a municipal police officer or municipal firefighter, as defined in this section, by a participating municipal employer on or after January 1, 2010. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

~~(u)~~ (v) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

~~(v)~~ (w) "Municipality" has the meaning ascribed to it in this code.

~~(w)~~ (x)(1) "Municipal police officer" means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal policemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal policemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal police officer also means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid police department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

(2) "Municipal firefighter" means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal firemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal firemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal firefighter also means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid fire department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

~~(x)~~ (y) "Municipal subdivision" means any separate corporation or instrumentality established by one or more municipalities, as permitted by law; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more municipalities.

~~(y)~~ (z) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

~~(z)~~ (aa) "Normal retirement age" means the first to occur of the following: (1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service; (2) while still in covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory service equals or exceeds 70 years; (3) while still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or (4) attainment of age 62 years and completion of five or more years of regular contributory service.

~~(aa)~~ (bb) "Plan" means the West Virginia Municipal Police Officers and Firefighters Retirement System established by this article.

~~(bb)~~ (cc) "Plan year" means the 12-month period commencing on January 1 of any designated year and ending the following December 31.

~~(cc)~~ (dd) "Qualified public safety employee" means any employee of a participating state or political subdivision who provides police protection, firefighting services or emergency medical services for any area within the jurisdiction of the state or political subdivision, or such other meaning given to the term by section 72(t) (10) (B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b) (2) (v) as they may be amended from time to time.

~~(dd)~~ (ee) "Regular contributory service" means a member's credited service excluding active military duty, disability service and accrued annual and sick leave service.

~~(ee)~~ (ff) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

~~(ff)~~ (gg) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age ~~70 and one-half~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise separates from covered employment.

~~(gg)~~ (hh) "Retirement income payments" means the monthly retirement income payments payable.

~~(hh)~~ (ii) "Spouse" means the person to whom the member is legally married on the annuity starting date.

~~(ii)~~ (jj) "Surviving spouse" means the person to whom the member was legally married at the time of the member's death and who survived the member.

~~(jj)~~ (kk) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For purposes of this subsection: (1) A member is totally disabled only if his or her physical or mental impairment or impairments ~~is~~ are so severe that he or she is not only unable to perform his or her previous work as a police officer or firefighter but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration; and (2) "Physical or mental impairment" is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a member's annual tax return for purposes of monitoring the earnings limitation.

~~(kk)~~ (ll) "Vested" means eligible for retirement income payments after completion of five or more years of regular contributory service.

~~(ll)~~ (mm) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based on the hours of service performed as covered employment and credited to the member during the plan year based on the following schedule:

Hours of Service	Year of Service Credited
Less than 500	0
500 to 999	1/3
1,000 to 1,499	2/3
1,500 or more	1

During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under §8-22A-17 and §8-22A-18 of this code.

Engrossed Committee Substitute for House Bill 4613, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4613) 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 4627, To provide for no more than two licensed laboratories for medical cannabis testing in this state.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third 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 7. MEDICAL CANNABIS CONTROLS.

§16A-7-4. Laboratory.

(a) A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

(b) All medical cannabis produced pursuant to this chapter shall be subject to testing as directed by the bureau.

(c) The bureau shall ensure that there is sufficient testing capacity to meet patient demand.

(d) All laboratories providing testing pursuant to this section shall be certified to do so by the Office of Laboratory Services: *Provided*, That no more than two laboratories in this state may be certified pursuant to this section and any limitation relating to the number of certified laboratories shall terminate on January 1, 2025. *Provided, however*, that in no event may the two laboratories conspire to fix prices to artificially increase costs for laboratory services and must at all times adhere to the laws, regulations, policies, and guidance regulating medical cannabis programs in the State of West Virginia.

Engrossed House Bill 4627, as just amended, was then put upon its passage.

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

The nays were: Karnes, Martin, and Weld—3.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4627) 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 4642, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided,* That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor, or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $2,500 and~~, in the court's discretion,~~ the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

(2) Is not an owner, a shareholder, a director, or an officer of a private entity under the contract;

(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under §7-12-1 *et seq.* of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by §7-12-5(a) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by §7-12-5(a) of this code.

(n) It is not a violation of subsection (a) of this section for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal, or teacher of public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence, or control in the award or letting of the contract if:

(1) It is not a contract for services;

(2) The contract has been put out for competitive bid, and the contract is awarded based on lowest cost;

(3) If the party to the contract is in a voting or other decision-making position as to the contract, he or she recuses himself or herself from voting or decision-making; and

(4) The party to the contract has previously obtained a written advisory opinion from the West Virginia Ethics Commission.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4642) was reported by the Clerk and adopted:

On page five, section fifteen, line one hundred, after the word "Commission" by inserting the words "permitting the employee to have a pecuniary interest in the contract".

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed House Bill 4642, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4642) 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 4642—A Bill to amend and reenact §61-10-15 of the Code of West Virginia, 1931, as amended, relating to pecuniary interest of county employees in contracts where the employee has a voice, influence, or control; making an exception to criminal violation to have a pecuniary interest in a contract where certain criteria are met.

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

On motion of Senator Takubo, at 6:49 p.m., the Senate recessed until 7:15 p.m. tonight.

The Senate reconvened at 7:33 p.m. and, without objection, returned to the third order of business.

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

Eng. Com. Sub. for Senate Bill 231, Relating generally to broadband connectivity.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 247, Relating to certified community behavioral health clinics.

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

Eng. Com. Sub. for Senate Bill 463, Best Interests of Child Protection Act of 2022.

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

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

On page 1, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative ~~Parental~~ parental planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, and which is rebuttably presumed to be equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the rebuttable presumption of equal (50-50) custodial allocation.

§48-~~9~~1-102a Presumption in favor of equal (50-50) custodial allocation.

There shall be a presumption, rebuttable by a preponderance of the evidence, that equal (50-50) custodial allocation is in the best interest of the child. If the presumption is rebutted, the court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

~~(3) The parents' work and child-care schedules for the preceding twelve~~ 12 ~~months;~~

~~(4)~~(3) The parents' current work and child-care schedules; and

~~(5)~~(4) Any of the ~~circumstances~~ criteria set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence or residences for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the sworn testimony of the parents and their witnesses presented at the hearing.

(d) Upon request of either parent for an equal (50-50) allocation of physical custody, the presumption provided in §48-1-102a of this code applies.

(e) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon the sworn testimony presented at the hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision: *Provided,* That the doctrine of res judicata or collateral estoppel shall not be applied or construed to preclude the court from making new findings of fact that are different than or contrary to such findings of fact.

(f) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order: *Provided*, That no stay shall be granted pending resolution of the appeal, and the filing of an interlocutory appeal shall not be the basis of a continuance of any subsequent or final hearing.

~~(d)~~ (g) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending. ~~In making this determination, the court shall give particular consideration to:~~

~~(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and~~

~~(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a presumption in favor of equal (50-50) physical custody which is rebuttable by a preponderance of the evidence, to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

§48-9-205. Permanent parenting plan.

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children; and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

§48-9-206. Allocation of custodial responsibility at final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403~~(d)~~ of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

(c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by proffer.~~ The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any criteria ~~considerations~~ as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

~~(4)~~ (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's ~~legal~~ parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption ~~the court shall presume~~ that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment, or~~ by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~*Provided*, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or~~ agreed to by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

§48-9-208. ~~Criteria for parenting plan;~~ Parental dispute resolution.

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201,~~ in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting~~ factor ~~as~~ set forth in ~~section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.

(a) ~~If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a~~

~~parenting plan:~~ When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent or another person regularly in the household of the parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent or a person regularly in the home of the parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of~~ subsection (a) of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty-nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

(A) Substantiated;

(B) Unsubstantiated;

(C) Inconclusive; or

(D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

(1) The factors set forth in subdivision (a) of this section;

(2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing~~.~~*: Provided*, That the child reaching one year of age shall qualify as a substantial change in circumstances per §48-9-401 of this code; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

~~(A) Is in arrears or currently noncompliant with a previous order of the court regarding payment of child support payments for another child: *Provided*, That any arrearages or noncompliance that are the result of a mistake or miscalculation by the Bureau of Child Support Enforcement may not be used against the parent as a basis for rebutting the presumption for an equal ("50-50") allocation of physical custody and parenting time;~~

~~(B)~~(A) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

~~(C)~~(B) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

~~(D)~~(C) Has intentionally avoided or refused involvement or not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

~~(E) Has professional responsibilities which render him or her unable to devote adequate time to the child;~~

~~(F) Has a work schedule that causes the child or children to be in the care of a third party rather than the other available parent;~~

~~(G)~~(E)(D) Does not have a stable housing situation: *Provided,* That a parent's temporary residence with a child in a domestic violence ~~violation~~ shelter shall not constitute an unsafe housing situation; or

~~(H)~~(F)(E) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living or regularly in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided*, That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

~~(E)~~(F) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical because of ~~due to~~ the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in ~~section 9-402 or 9-403,~~ §48-9-402 or §48-9-403 of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein~~ in the prior order, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in ~~subsection (a), section 9-209,~~ §48-9-209(a) of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to ~~section 9-209~~ §48-9-209 of this code, to protect the child or the child's parent.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this

designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children~~.~~: *Provided,* That such claims to state and federal income tax deductions and exemptions for the child or children may alternate between parents year to year.

§48-9-603. Effect of enactment; operative dates.

~~(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d)~~ (a) The amendments to this chapter ~~made~~ enacted during the 2021~~1~~2 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(b) The amendments to this chapter enacted during the 2022 Regular Legislative Session ~~regular session of the Legislature, 2022~~, do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.

~~(e)~~ (c) The amendments to this chapter enacted during the ~~regular session of the Legislature, 2022,~~ 2022 Regular Legislative Session shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter enacted during the 2022 Regular Legislative Session ~~regular session of the Legislature, 2022~~, shall be known as the ~~2022~~ Best Interest of the Child Act.

On motion of Senator Trump, the following amendments to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 463) were reported by the Clerk, considered simultaneously, and adopted:

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

ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative ~~Parental~~ parental planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, and which is rebuttably presumed to be equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the rebuttable presumption of equal (50-50) custodial allocation.

§48-9-102a Presumption in favor of equal (50-50) custodial allocation.

There shall be a presumption, rebuttable by a preponderance of the evidence, that equal (50-50) custodial allocation is in the best interest of the child. If the presumption is rebutted, the court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

~~(3) The parents' work and child-care schedules for the preceding twelve 12 months;~~

~~(4)~~(3) The parents' current work and child-care schedules; and

~~(5)~~(4) Any of the ~~circumstances~~ criteria set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence or residences for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the evidence presented at the hearing unless the parties have agreed to proceed by proffer.

(d) Upon request of either parent for an equal (50-50) allocation of physical custody, the presumption provided in §48-1-102a of this code applies.

(e) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon evidence presented at a hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision.

(f) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order: *Provided*, That no stay shall be granted pending resolution of the appeal, and the filing of an interlocutory appeal shall not be the basis of a continuance of any subsequent or final hearing.

~~(d)~~ (g) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last 12 months for performing ~~caretaking and/or~~ parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a presumption in favor of equal (50-50) physical custody which is rebuttable by a preponderance of the evidence, to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

§48-9-205. Permanent parenting plan.

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children; and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

§48-9-206. Allocation of custodial responsibility at final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403~~(d)~~ of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

~~(b)~~ (c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by proffer.~~ The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any criteria ~~considerations~~ as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

~~(4)~~ (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's ~~legal~~ parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption ~~the court shall presume~~ that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment, or~~ by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~*Provided*, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or~~ agreed to by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

§48-9-208. ~~Criteria for parenting plan;~~ Parental dispute resolution.

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201,~~ in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting~~ factor ~~as~~ set forth in ~~section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.

(a) ~~If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:~~ When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent or another person regularly in the household of the parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent or a person regularly in the home of the parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of~~ subsection (a) of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty-nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

(A) Substantiated;

(B) Unsubstantiated;

(C) Inconclusive; or

(D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

(1) The factors set forth in subdivision (a) of this section;

(2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing~~.~~*: Provided*, That the child reaching one year of age shall qualify as a substantial change in circumstances per §48-9-401 of this code; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

(A) Is willfully noncompliant with a previous order of the court regarding payment of child support payments for a child or children of the parties;

(B) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

(C) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

(D) Has intentionally avoided or refused involvement or not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

(E) Repeatedly causes the child or children to be in the care of a third party rather than the other parent when he or she is available;

(F) Does not have a stable housing situation: *Provided,* That a parent's temporary residence with a child in a domestic violence ~~violation~~ shelter shall not constitute an unsafe housing situation; or

(G) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living, or regularly in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided,* That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

(F) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical because of ~~due to~~ the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in ~~section 9-402 or 9-403,~~ §48-9-402 or §48-9-403 of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein~~ in the prior order, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in ~~subsection (a), section 9-209,~~ §48-9-209(a) of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to ~~section 9-209~~ §48-9-209 of this code, to protect the child or the child's parent.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such

federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children.: *Provided,* That such claims to state and federal income tax deductions and exemptions for the child or children may be divided equitably between the parents, year to year.

§48-9-603. Effect of enactment; operative dates.

~~(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) The amendments to this chapter made during the 2021 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

(a) The amendments to this chapter enacted during the 2022 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(b) The amendments to this chapter enacted during the 2022 Regular Legislative Session do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.

(c) The amendments to this chapter enacted during the 2022 Regular Legislative Session shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter enacted during the 2022 Regular Legislative Session shall be known as the 2022 Best Interest of the Child Act.;

And,

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

Eng. Com. Sub. for Senate Bill 463—A Bill to amend and reenact §48-9-102 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated § 48-1-102a; to amend and reenact §48-9-203, §48-9-204, §48-9-205, §48-9-206, §48-9- 207, §48-9-208, §48-9-209, §48-9-401, §48-9-402, §48-9-602, and §48-9-603 of said code, all relating generally to domestic relations matters; modifying allocation of legal custody and parenting time in domestic relations matters; establishing collaborative parenting as a goal in allocation of custodial responsibility and decision-making; creating a rebuttable presumption that equal custodial allocation is in a child's best interest; requiring specific findings and legal conclusions by the court if equal parenting is not granted; establishing criteria for diverging from equal custodial allocation when it is sought; authorizing interlocutory appeals to the Intermediate Court of Appeals if the family court refuses all physical custody to a parent or denies equal custody when sought; precluding the family court from entering a stay during an interlocutory appeal; requiring consideration of certain factors in developing a temporary parenting plan; ensuring that permanent parenting plans include provisions for financial support of children; requiring court not to consider temporary allocation of physical custody in final order unless parties agreed on temporary terms; removing provisions requiring consideration of terms in temporary orders when drafting final orders; requiring consideration of parents' ability or inability to work together in allocating significant decision-making responsibilities; clarifying considerations for courts in developing or approving parenting plans; setting forth optional considerations for a court in allocating physical custody of a child; authorizing family court to designate which parent is entitled to tax deductions and exemptions equitably on a year to year basis when equal custody is ordered; clarifying that amendments made during regular session of the Legislature, 2022, are prospective; and declaring custodial orders entered prior to the effective date of the amendments to chapter 48 during the regular session of the Legislature, 2022, remain in full force and effect until judicially modified.

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

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 463, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, and Romano—8.

Absent: Plymale and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 463) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2022, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 493, Requiring county BOE make meetings available to public in-person and through internet.

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

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

On page 1, immediately following the enacting section by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.

(a) The county board shall meet upon the dates provided by law, and at any other times the county board fixes upon its records. Subject to adequate public notice, nothing in this section prohibits the county board from conducting regular meetings in facilities within the county other than the county board office. At any meeting as authorized in this section and in compliance with the provisions of chapter 18A of this code, the county board may employ qualified teachers, or those who will qualify by the time they enter upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. Meetings of the county board shall be held in compliance with the provisions of chapter 18A of this code for purposes relating to the assignment, transfer, termination, and dismissal of teachers and other school employees.

(b) In addition to any requirements imposed by §6-9A-1 *et seq.* of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website: *Provided*, That, if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved. This subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. If the county board provides opportunity for the public to address the school board at any meeting the county board shall ensure that any person expressing a desire to speak has the opportunity to speak in compliance with the adopted procedures. All members of the public wishing to address the school board on an issue pursuant to policies adopted by the board shall be treated equally.

~~(b)~~ (c) Special meetings may be called by the president or any three members, but no business may be transacted other than that designated in the call.

~~(c)~~ (d) In addition, a public hearing shall be held concerning the preliminary operating budget for the next fiscal year not fewer than 10 days after the budget has been made available to the public for inspection and within a reasonable time prior to the submission of the budget to the state board for approval. Reasonable time shall be granted at the hearing to any person who

wishes to speak regarding any part of the budget. Notice of the hearing shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

~~(d)~~ (e) A majority of the members of the county board is the quorum necessary for the transaction of official business.

(f) A draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days after the meeting. After approval, minutes shall remain on the website for at least one year after the meeting.

~~(e)~~ (g) Board members may receive compensation at a rate not to exceed $160 per meeting attended, but they may not receive pay for more than 50 meetings in any one fiscal year. Board members who serve on an administrative council of a multi-county vocational center also may receive compensation for attending up to 12 meetings of the council at the same rate as for meetings of the county board. Meetings of the council are not counted as board meetings for purposes of determining the limit on compensable board meetings.

~~(f)~~ (h) Members also shall be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses, including all authorized meetings, incurred on official business, at the order of the county board.

~~(g)~~ (i) When, by a majority vote of its members, a county board considers it a matter of public interest, the county board may join the West Virginia School Board Association ~~and the National School Board Association~~ and may pay the dues prescribed by the ~~associations~~ association and approved by action of the respective county boards. Membership dues and actual traveling expenses incurred by board members for attending meetings of the West Virginia School Board Association may be paid by their respective county boards out of funds available to meet actual expenses of the members, but no allowance may be made except upon sworn itemized statements.;

And,

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

Eng. Senate Bill 493—A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to requiring each county board of education to ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website; providing exception for executive session; allowing each county board to make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend; requiring the county board to ensure that any person expressing an interest in speaking has the opportunity in compliance with adopted procedures; requiring that speakers are treated equally; requiring that a draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days; establishing the duration in which the approved minutes shall remain on the website; and removing the option for a county board to join the National School Board Association.

On motion of Senator Rucker, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 493) were reported by the Clerk, considered simultaneously, and adopted:

On pages one and two, section four, by striking out all of subsection (b) and inserting in lieu thereof a new subsection (b), to read as follows:

(b) In addition to any requirements imposed by §6-9A-1 *et seq.* of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website. In addition to being available live, each county board also shall ensure that the audio and video is recorded and that the recording is also available through a link on its website: *Provided*, That, if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved. This subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. If the county board provides opportunity for the public to address the school board at any meeting the county board shall ensure that any person expressing a desire to speak has the opportunity to speak in compliance with the adopted procedures. All members of the public wishing to address the school board on an issue pursuant to policies adopted by the board shall be treated equally.;

And,

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

Eng. Senate Bill 493—A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to requiring each county board of education to ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website; requiring each county board to ensure that the audio and video is recorded and that the recording is also available through a link on its website; allowing meeting to continue if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted; providing exception for executive session; allowing each county board to make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend; requiring the county board, if providing opportunity for the public to address the school board at a meeting, to ensure that any person expressing an interest in speaking has the opportunity in compliance with adopted procedures; requiring that speakers are treated equally; requiring that a draft of the minutes of each public board meeting include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days; establishing the duration in which the approved minutes shall remain on the website; and removing the option for a county board to join the National School Board Association.

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

Engrossed Senate Bill 493, as amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 493) passed with its Senate amended title.

Senator Takubo moved that the bill take effect July 1, 2022.

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

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 493) takes effect July 1, 2022.

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

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

Eng. Com. Sub. for Senate Bill 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV.

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

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

On page 3, section 23, line 54, by adding a new subsection (g) reading as follows: "Neither the state, a political subdivision, an agency, nor an employee of the state acting in an official capacity may be held personally liable for an act of an investigator employed by the unit if the act or omission was done in good faith while the investigator was performing official duties on behalf of the unit.";

And,

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

Eng. Com. Sub. for Senate Bill 543—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-10-23, relating to authorizing the

Commissioner of Workforce West Virginia to create an Unemployment Compensation Insurance Fraud Unit; establishing training and experience requirements; specifying duties; granting certain authorities necessary to conduct investigations into alleged unemployment insurance fraud; authorizing certain personnel to operate a state vehicle and carry a firearm; establishing training requirements for carrying a firearm; exempting the Unemployment Compensation Fraud Unit from the requirements of the Freedom of Information Act and the Open Government Proceedings Act; and creating certain immunities for acts of an investigator employed by the unit.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 543) were reported by the Clerk and considered simultaneously:

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

ARTICLE 2D. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACT.

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

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

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

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

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

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

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

§21A-2D-2a. Automatic claim review.

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

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

(2) Claims filed online from foreign IP addresses;

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

(4) Multiple or duplicative claims filed that are associated with the same bank account.

§21A-2D-3. Data sharing.

The commissioner ~~shall have the authority to~~ may ~~execute a memorandum of understanding~~ exchange information with any department, agency, or division ~~for information required to be shared between agencies outlined in this article~~ as necessary to carry out the requirements of this article.

ARTICLE 3. UNEMPLOYMENT BENEFITS INDEXING.

§21A-3-1. Duration of benefits; calculation.

(a) For the purposes of this article, "state average unemployment rate" means the average of the seasonally adjusted unemployment rates for the months comprising the previous quarter of the most recent calendar year as published by Workforce West Virginia.

(b) For all valid unemployment compensation claims submitted during a calendar year, the maximum duration of benefits will be as follows:

(1) If the state average unemployment rate is below 5.5 percent, the maximum duration of benefits will be limited to 14 weeks;

(2) If the state average unemployment rate is at or above 5.5 percent, but below 6.0 percent, the maximum duration of benefits will be limited to 15 weeks;

(3) If the state average unemployment rate is at or above 6.0 percent, but below 6.5 percent, the maximum duration of benefits will be limited to 16 weeks;

(4) If the state average unemployment rate is at or above 6.5 percent, but below 7.0 percent, the maximum duration of benefits will be limited to 17 weeks;

(5) If the state average unemployment rate is at or above 7.0 percent, but below 7.5 percent, the maximum duration of benefits will be limited to 18 weeks;

(6) If the state average unemployment rate is at or above 7.5 percent, but below 8.0 percent, the maximum duration of benefits will be limited to 19 weeks;

(7) If the state average unemployment rate is at or above 8.0 percent, but below 8.5 percent, the maximum duration of benefits will be limited to 20 weeks;

(8) If the state average unemployment rate is at or above 8.5 percent, but below 9.0 percent, the maximum duration of benefits will be limited to 21 weeks; and

(9) If the state average unemployment rate is at or above 9.0 percent, the maximum duration of benefits will be limited to 22 weeks.

§21A-3-2. Rulemaking.

Workforce West Virginia shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to implement the provisions of this article.

§21A-3-3. Effective date.

The provisions of §21A-3-1 of this code shall take effect on January 1, 2023.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

§21A-6-1. Eligibility qualifications.

An unemployed individual shall be eligible to receive benefits only if the commissioner finds that:

(1) He or she has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the commissioner;

(2) He or she has made a claim for benefits in accordance with the provisions of ~~article seven of this chapter~~ §21A-7-1 *et seq.* of this code and has furnished his or her Social Security number, or numbers if he or she has more than one such number;

(3) He or she is able to work and is available for full-time work for which he or she is fitted by prior training or experience and is ~~doing that which a reasonably prudent person in his or her circumstances would do in seeking work~~ actively seeking work as defined in §21A-6-1d of this code;

(4) He or she has been totally or partially unemployed during his or her benefit year for a waiting period of one-week prior to the week for which he or she claims benefits for total or partial unemployment;

(5) He or she has within his or her base period been paid wages for employment equal to not less than $2,200 and must have earned wages in more than one quarter of his or her base period or, if he or she is not eligible under his or her base period, has within his or her alternative base period been paid wages for employment equal to not less than $2,200 and must have earned wages in more than one quarter of his or her alternative base period; and

(6) He or she participates in reemployment services as defined in §21A-6-1d of this code, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the commissioner, unless the commissioner determines that:

(A) The individual has completed such services; or

(B) There is justifiable cause for the claimant's failure to participate in such services.

§21A-6-1d. Jobs and Reemployment Act.

(a) In addition to compliance with all other eligibility requirements, an individual shall be eligible and shall remain eligible for unemployment benefits only if he or she actively seeks, and continues to seek, work by conducting at least four work search activities weekly, defined as:

(1) Registering for work with the state's labor exchange system, placement firm, temporary work agencies, or educational institution with job placement offices;

(2) Logging on and looking for work in the state's labor exchange or other online job matching system;

(3) Using reemployment services in job centers or completing similar online or self-service activities, including, but not limited to, obtaining and using labor market and career information, participating in Reemployment Services and Eligibility Assessment (RESEA) activities, participating in skills assessment for occupational matching, instructional workshops, or other specialized activities;

(4) Completing job applications for employers that have, or are reasonably expected to have, job openings, or following through on job referrals or job development attempts, as directed by Workforce West Virginia staff;

(5) Applying for or participating in employment and training services provided by partner programs in job centers;

(6) Participating in work-related networking events, such as job clubs, job fairs, industry association events, or networking groups;

(7) Making contacts with, or in-person visits to, employers that have, or are reasonably expected to have, job openings;

(8) Taking a civil service examination;

(9) Going on interviews with employers, either in-person or virtually; or

(10) Performing any other work search activities prescribed or allowed by rules promulgated by Workforce West Virginia.

(b) The commissioner shall:

(1) Require an individual, at the time of application for unemployment benefits and weekly thereafter, to provide proof of all his or her work search activities;

(2) Verify submissions of proof of work search activities by individuals applying for or receiving unemployment benefits; and

(3) Determine any individual who fails to perform work search activities or provide proof of work search activities as required by this section ineligible to receive unemployment benefits unless the individual can reasonably explain his or her failure to do so or timely remedy the failure to provide proof of his or her work search activity.

(c) The commissioner shall have discretion to determine the sufficiency of the proof of work search activities submitted, the explanation of a failure to submit such proof, the provision of such proof after an inaccuracy in the proof provided is identified, and whether an individual has otherwise complied with the requirements of this section.

(d) The commissioner shall, utilizing existing resources:

(1) Establish a process by which Workforce West Virginia will share open positions submitted to or posted by the Division of Personnel or any other state-administered job board by employers directly with individuals applying for or receiving unemployment benefits; and

(2) Establish a process by which, for the purpose of helping individuals applying for or receiving unemployment benefits secure suitable work, Workforce West Virginia shall refer individuals applying for or receiving unemployment benefits to such open positions, including facilitating contact between employers and those individuals and monitoring whether those individuals are sufficiently responsive to a referral.

(e) An individual applying for or receiving unemployment benefits who receives referrals from Workforce West Virginia to a job or jobs considered to be suitable, as that term is defined in this chapter, shall apply for that job or those jobs within one-week of receiving the referrals and accept employment in suitable work if offered.

(f) Employers shall report the refusal of any individual who is receiving unemployment benefits and who receives job referrals from Workforce West Virginia to accept an offer of employment to the commissioner. The report shall be made in writing in a manner prescribed by the commissioner and shall be signed by the employer. The report shall become part of the file of the individual's claim for benefits.

(g) Individuals receiving unemployment benefits who accept a referral to a part-time open position or otherwise accept part-time employment for which the wages are less than his or her weekly benefit rate shall continue to receive unemployment benefits without reduction for those wages for the duration of his or her benefits period.

(h) With the exception of individuals who have received or been served with a summons for jury duty or are serving on a jury in any court of this state, the United States, or any state of the United States; are receiving vocational training as described in the provisions of §21A-6-4 of this code; or who are members in good standing of a union that refers its members to employment from a union hall, all individuals applying for or receiving unemployment benefits shall be subject to the requirements of this section, including, but not limited to, individuals who are seasonally unemployed or laid off subject to recall by their employer.

(i) Workforce West Virginia shall notify individuals seeking benefits, at the time an initial claim is filed and at any other time during the benefit year that the requirements substantively change, of the obligation to actively seek work. Delivery of the notification shall be made by the method selected by the individual seeking benefits, and may include United States mail, email, online mailbox, or text message. The notification shall include, at a minimum, the types of work search activities that are acceptable; the number of work search activities that are required in any week; the requirement that work search activities be documented; and the requirement to apply, and accept if offered, suitable jobs referred by the agency.

(j) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to implement the provisions of this section.

(k) Except for the provisions of subsection (j) of this section, the provisions of this section shall become effective January 1, 2023.

§21A-6-3. Disqualification for benefits.

Upon the determination of the facts by the commissioner, an individual is disqualified for benefits:

(1) For the week in which he or she left his or her most recent work voluntarily without good cause involving fault on the part of the employer and until the individual returns to covered employment and has been employed in covered employment at least 30 working days.

For the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer if the individual leaves his or her most recent work with an employer and if he or she in fact, within a 14-day calendar period, does return to employment with the last preceding employer with whom he or she was previously employed within the past year prior to his or her return to work, and which last preceding employer, after having previously employed the individual for 30 working days or more, laid off the individual because of lack of work, which layoff occasioned the payment of benefits under this chapter or could have occasioned the payment of benefits under this chapter had the individual applied for benefits. It is the intent of this paragraph to cause no disqualification for benefits for an individual who complies with the foregoing set of requirements and conditions. Further, for the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer, if the individual was compelled to leave his or her work for his or her own health-related reasons and notifies the employer prior to leaving the job or within two business days after leaving the job or as soon as practicable and presents written certification from a licensed physician within 30 days of leaving the job that his or her work aggravated, worsened, or will worsen the individual's health problem.

For the purpose of this subdivision, an individual shall not be deemed to have left his or her most recent work voluntarily, without good cause involving fault on the part of the employer, if the individual leaves such employment as a result of being denied a religious or medical exemption to the COVID-19 vaccination by his or her employer.

(2) For the week in which he or she was discharged from his or her most recent work for misconduct and the six weeks immediately following that week; or for the week in which he or she was discharged from his or her last 30-day employing unit for misconduct and the six weeks immediately following that week. The disqualification carries a reduction in the maximum benefit amount equal to six times the individual's weekly benefit. However, if the claimant returns to work in covered employment for 30 days during his or her benefit year, whether or not the days are consecutive, the maximum benefit amount is increased by the amount of the decrease imposed under the disqualification; except that:

If he or she ~~were~~ was discharged from his or her most recent work for one of the following reasons, or if he or she ~~were~~ was discharged from his or her last 30 days employing unit for one of the following reasons: Gross misconduct consisting of willful destruction of his or her employer's property; assault upon the person of his or her employer or any employee of his or her employer; if the assault is committed at the individual's place of employment or in the course of employment; reporting to work in an intoxicated condition, or being intoxicated while at work; reporting to work under the influence of any controlled substance, as defined in ~~chapter 60A~~ §60A-1-1 *et seq.* of this code without a valid prescription, or being under the influence of any controlled substance, as defined in ~~said chapter~~ §60A-1-1 *et seq.* of this code without a valid prescription, while at work; adulterating or otherwise manipulating a sample or specimen in order to thwart a drug or alcohol test lawfully required of an employee; refusal to submit to random testing for alcohol or illegal

controlled substances for employees in safety-sensitive positions as defined in §21-1D-2 of this code; violation of an employer's drug-free workplace program; violation of an employer's alcohol-free workplace program; arson, theft, larceny, fraud, or embezzlement in connection with his or her work; or any other gross misconduct, he or she is disqualified for benefits until he or she has thereafter worked for at least 30 days in covered employment: *Provided,* That for the purpose of this subdivision, the words "any other gross misconduct" includes, but is not limited to, any act or acts of misconduct where the individual has received prior written warning that termination of employment may result from the act or acts.

(3) For the week in which he or she failed without good cause to apply for available, suitable work, accept suitable work when offered, or return to his or her customary self-employment when directed to do so by the commissioner, and for the four weeks which immediately follow for such additional period as any offer of suitable work shall continue open for his or her acceptance. The disqualification carries a reduction in the maximum benefit amount equal to four times the individual's weekly benefit amount.

(4) For any week or portion thereof in which he or she did not work as a result of:

(a) A strike or other bona fide labor dispute which caused him or her to leave or lose his or her employment.

(b) A lockout is not a strike or a bona fide labor dispute and no individual may be denied benefits by reason of a lockout. However, the operation of a facility by nonstriking employees of the company, contractors, or other personnel is not a reason to grant employees of the company on strike unemployment compensation benefit payments. If the operation of a facility is with workers hired to permanently replace the employees on strike, the employees would be eligible for benefits.

(c) For the purpose of this subsection, an individual shall be determined to leave or lose his or her employment by reason of a lockout where the individual employee has established that: (i) The individual presented himself or herself physically for work at the workplace on the first day of such lockout or on the first day he or she is able to present himself or herself at the workplace ~~or herself~~; and (ii) the employer denied the individual the opportunity to perform work.

(d) For purposes of this subsection, an individual is determined to be permanently replaced where the individual employee establishes that: (i) He or she is currently employed by an employer who is the subject of a strike or other bona fide labor dispute; and (ii) the position of the employee has been occupied by another employee who has been notified they are permanently replacing the employee who previously occupied the position. Employees or contractors who are hired to perform striking employees' work on a temporary basis, such as the duration of a strike or other bona fide labor dispute, or a shorter period of time, may not be determined to have permanently replaced a striking employee.

(5) For a week with respect to which he or she is receiving or has received:

(a) Wages in lieu of notice;

(b) Compensation for temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(c) Unemployment compensation benefits under the laws of the United States or any other state.

(6) For the week in which an individual has voluntarily quit employment to marry or to perform any marital, parental, or family duty, or to attend to his or her personal business or affairs and until the individual returns to covered employment and has been employed in covered employment at least 30 working days: *Provided,* That an individual who has voluntarily quit employment to accompany a spouse serving in active military service who has been reassigned from one military assignment to another is not disqualified for benefits pursuant to this subdivision: *Provided, however,* That the account of the employer of an individual who leaves the employment to accompany a spouse reassigned from one military assignment to another may not be charged.

(7) Benefits may not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the later of the seasons (or similar periods).

(8) (a) Benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act): *Provided,* That any modifications to the provisions of Section 3304(a)(14) of the federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date than stated in this subdivision for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act are applicable under the provisions of this section.

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status may be made except upon a preponderance of the evidence.

(9) For each week in which an individual is unemployed because, having voluntarily left employment to attend a school, college, university, or other educational institution, he or she is attending that school, college, university, or other educational institution, or is awaiting entrance thereto or is awaiting the starting of a new term or session thereof, and until the individual returns to covered employment.

(10) For each week in which he or she is unemployed because of his or her request, or that of his or her duly authorized agent, for a vacation period at a specified time that would leave the employer no other alternative but to suspend operations.

(11) In the case of an individual who accepts an early retirement incentive package, unless he or she: (i) Establishes a well-grounded fear of imminent layoff supported by definitive objective facts involving fault on the part of the employer; and (ii) establishes that he or she would suffer a substantial loss by not accepting the early retirement incentive package.

(12) For each week with respect to which he or she is receiving or has received benefits under Title II of the Social Security Act or similar payments under any Act of Congress, or remuneration in the form of an annuity, pension, or other retirement pay from a base period employer or chargeable employer or from any trust or fund contributed to by a base period employer or chargeable employer or any combination of the above, the weekly benefit amount payable to the individual for that week shall be reduced (but not below zero) by the prorated weekly amount of those benefits, payments, or remuneration: *Provided,* That if the amount of benefits is not a multiple of $1, it shall be computed to the next lowest multiple of $1: *Provided, however,* That there is no disqualification if in the individual's base period there are no wages which were paid by the base period employer or chargeable employer paying the remuneration, or by a fund into which the employer has paid during the base period: *Provided further,* That notwithstanding any other provision of this subdivision to the contrary, the weekly benefit amount payable to the individual for that week may not be reduced by any retirement benefits he or she is receiving or has received under Title II of the Social Security Act or similar payments under any Act of Congress. A claimant may be required to certify as to whether or not he or she is receiving or has been receiving remuneration in the form of an annuity, pension, or other retirement pay from a base period employer or chargeable employer or from a trust fund contributed to by a base period employer or chargeable employer.

(13) For each week in which and for 52 weeks thereafter, beginning with the date of the decision, if the commissioner finds the individual who within 24 calendar months immediately preceding the decision, has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this article: *Provided,* That disqualification under this subdivision does not preclude prosecution under §21A-10-7 of this code.

§21A-6-10. Benefit rate — Total unemployment; annual computation and publication of rates.

(a) Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in Column (C) in the benefit table in this section, on the line on which in Column (A) there is indicated the employee's wage class, except as otherwise provided under the term "total and partial unemployment" in §21A-1A-27 of this code. The employee's wage class shall be determined by his or her base period wages as shown in Column (B) in the benefit table. The right of an employee to receive benefits ~~shall~~ may not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages. An individual who is totally unemployed but earns in excess of $60 as a result of odd job or subsidiary work, or is paid a bonus in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.

(b) (1) The maximum benefit for each wage class shall be equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1.

(2) The maximum benefit rate shall be 66 and two-thirds percent of the average weekly wage in West Virginia.

(c) On July 1 of each year, the commissioner shall determine the maximum weekly benefit rate upon the basis of the formula set forth above and shall establish wage classes as are required, increasing or decreasing the amount of the base period wages required for each wage class by $150, establishing the weekly benefit rate for each wage class by rounded dollar amount to be 55 percent of one fifty-second of the median dollar amount of wages in the base period for such wage class and establishing the maximum benefit for each wage class as an amount equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1: *Provided,* That the commissioner ~~shall~~ may not increase or decrease the maximum weekly benefit rate for the period beginning on the effective date of the amendment and reenactment of this section in the regular session of the Legislature in 2009 until the threshold wage is reduced to $9,000, as required by §21A-1A-28(d) of this code. The maximum weekly benefit rate, when computed by the commissioner, in accordance with the foregoing provisions, shall be rounded to the next lowest multiple of $1.

(d) After he or she has established ~~such~~ the wage classes, the commissioner shall prepare and publish a table setting forth ~~such~~ that information.

(e) Average weekly wage shall be computed by dividing the number of employees in West Virginia earning wages in covered employment into the total wages paid to employees in West Virginia in covered employment, and by further dividing ~~said~~ the result by 52, and shall be determined from employer wage and contribution reports for the previous calendar year which are furnished to the department on or before June 1 following such calendar year. The average weekly wage, as determined by the commissioner, shall be rounded to the next higher dollar.

(f) The computation and determination of rates as aforesaid shall be completed annually before July 1 and any such new wage class, with its corresponding wages in base period, weekly benefit rate, and maximum benefit in a benefit year established by the commissioner in the foregoing manner effective on July 1 shall apply only to a new claim established by a claimant on and after July 1, and does not apply to continued claims of a claimant based on his or her new claim established before said July 1.

BENEFIT TABLE

A	B			C	
WAGE CLASS	WAGES IN BASE PERIOD			WEEKLY BENEFIT RATE	~~MAXIMUM BENEFIT RATE~~
	Under	$ 2,200.00		Ineligible	
1	$ 2,200.00	-	2,359.99	24.00	~~624.00~~
2	2,350.00	-	2,499.99	25.00	~~650.00~~
3	2,500.00	-	2,649.99	27.00	~~702.00~~
4	2,650.00	-	2,799.99	28.00	~~728.00~~
5	2,800.00	-	2,949.99	30.00	~~780.00~~
6	2,950.00	-	3,099.99	31.00	~~806.00~~
7	3,100.00	-	3,249.99	33.00	~~858.00~~

8	3,250.00	-	3,399.99	35.00	~~910.00~~
9	3,400.00	-	3,549.99	36.00	~~936.00~~
10	3,550.00	-	3,699.99	38.00	~~988.00~~
11	3,700.00	-	3,849.99	39.00	~~1,014.00~~
12	3,850.00	-	3,999.99	41.00	~~1,066.00~~
13	4,000.00	-	4,149.99	43.00	~~1,118.00~~
14	4,150.00	-	4,299.99	44.00	~~1,144.00~~
15	4,300.00	-	4,449.99	46.00	~~1,196.00~~
16	4,450.00	-	4,599.99	47.00	~~1,222.00~~
17	4,600.00	-	4,749.99	49.00	~~1,274.00~~
18	4,750.00	-	4,899.99	51.00	~~1,326.00~~
19	4,900.00	-	5,049.99	52.00	~~1,352.00~~
20	5,050.00	-	5,199.99	54.00	~~1,404.00~~
21	5,200.00	-	5,349.99	55.00	~~1,430.00~~
22	5,350.00	-	5,499.99	57.00	~~1,482.00~~
23	5,500.00	-	5,649.99	58.00	~~1,508.00~~
24	5,650.00	-	5,799.99	60.00	~~1,560.00~~
25	5,800.00	-	5,949.99	62.00	~~1,612.00~~
26	5,950.00	-	6,099.99	63.00	~~1,638.00~~
27	6,100.00	-	6,249.99	65.00	~~1,690.00~~
28	6,250.00	-	6,399.99	66.00	~~1,716.00~~
29	6,400.00	-	6,549.99	68.00	~~1,768.00~~
30	6,550.00	-	6,699.99	70.00	~~1,820.00~~
31	6,700.00	-	6,849.99	71.00	~~1,846.00~~
32	6,850.00	-	6,999.99	73.00	~~1,898.00~~
33	7,000.00	-	7,149.99	74.00	~~1,924.00~~
34	7,150.00	-	7,299.99	76.00	~~1,976.00~~
35	7,300.00	-	7,449.99	78.00	~~2,028.00~~
36	7,450.00	-	7,599.99	79.00	~~2,054.00~~
37	7,600.00	-	7,749.99	81.00	~~2,106.00~~
38	7,750.00	-	7,899.99	82.00	~~2,132.00~~
39	7,900.00	-	8,049.99	84.00	~~2,184.00~~
40	8,050.00	-	8,199.99	85.00	~~2,210.00~~
41	8,200.00	-	8,349.99	87.00	~~2,262.00~~
42	8,350.00	-	8,499.99	89.00	~~2,314.00~~
43	8,500.00	-	8,649.99	90.00	~~2,340.00~~
44	8,650.00	-	8,799.99	92.00	~~2,392.00~~
45	8,800.00	-	8,949.99	93.00	~~2,418.00~~
46	8,950.00	-	9,099.99	95.00	~~2,470.00~~
47	9,100.00	-	9,249.99	97.00	~~2,522.00~~
48	9,250.00	-	9,399.99	98.00	~~2,548.00~~
49	9,400.00	-	9,549.99	100.00	~~2,600.00~~
50	9,550.00	-	9,699.99	101.00	~~2,626.00~~

51	9,700.00	-	9,849.99	103.00	~~2,678.00~~
52	9,850.00	-	9,999.99	104.00	~~2,704.00~~
53	10,000.00	-	10,149.99	106.00	~~2,756.00~~
54	10,150.00	-	10,299.99	108.00	~~2,808.00~~
55	10,300.00	-	10,449.99	109.00	~~2,834.00~~
56	10,450.00	-	10,599.99	111.00	~~2,886.00~~
57	10,600.00	-	10,749.99	112.00	~~2,912.00~~
58	10,750.00	-	10,899.99	114.00	~~2,964.00~~
59	10,900.00	-	11,049.99	116.00	~~3,016.00~~
60	11,050.00	-	11,199.99	117.00	~~3,042.00~~
61	11,200.00	-	11,349.99	119.00	~~3,094.00~~
62	11,350.00	-	11,499.99	120.00	~~3,120.00~~
63	11,500.00	-	11,649.99	122.00	~~3,172.00~~
64	11,650.00	-	11,799.99	124.00	~~3,224.00~~
65	11,800.00	-	11,949.99	125.00	~~3,250.00~~
66	11,950.00	-	12,099.99	127.00	~~3,302.00~~
67	12,100.00	-	12,249.99	128.00	~~3,328.00~~
68	12,250.00	-	12,399.99	130.00	~~3,380.00~~
69	12,400.00	-	12,549.99	131.00	~~3,406.00~~
70	12,550.00	-	12,699.99	133.00	~~3,458.00~~
71	12,700.00	-	12,849.99	135.00	~~3,510.00~~
72	12,850.00	-	12,999.99	136.00	~~3,536.00~~
73	13,000.00	-	13,149.99	138.00	~~3,588.00~~
74	13,150.00	-	13,299.99	139.00	~~3,614.00~~
75	13,300.00	-	13,449.99	141.00	~~3,666.00~~
76	13,450.00	-	13,599.99	143.00	~~3,718.00~~
77	13,600.00	-	13,749.99	144.00	~~3,744.00~~
78	13,750.00	-	13,899.99	146.00	~~3,796.00~~
79	13,900.00	-	14,049.99	147.00	~~3,822.00~~
80	14,050.00	-	14,199.99	149.00	~~3,874.00~~
81	14,200.00	-	14,349.99	150.00	~~3,900.00~~
82	14,350.00	-	14,499.99	152.00	~~3,952.00~~
83	14,500.00	-	14,649.99	154.00	~~4,004.00~~
84	14,650.00	-	14,799.99	155.00	~~4,030.00~~
85	14,800.00	-	14,949.99	157.00	~~4,082.00~~
86	14,950.00	-	15,099.99	158.00	~~4,108.00~~
87	15,100.00	-	15,249.99	160.00	~~4,160.00~~
88	15,250.00	-	15,399.99	162.00	~~4,212.00~~
89	15,400.00	-	15,549.99	163.00	~~4,238.00~~
90	15,550.00	-	15,699.99	165.00	~~4,290.00~~
91	15,700.00	-	15,849.99	166.00	~~4,316.00~~
92	15,850.00	-	15,999.99	168.00	~~4,368.00~~
93	16,000.00	-	16,149.99	170.00	~~4,420.00~~

94	16,150.00	-	16,299.99	171.00	~~4,446.00~~
95	16,300.00	-	16,449.99	173.00	~~4,498.00~~
96	16,450.00	-	16,599.99	174.00	~~4,524.00~~
97	16,600.00	-	16,749.99	176.00	~~4,576.00~~
98	16,750.00	-	16,899.99	177.00	~~4,602.00~~
99	16,900.00	-	17,049.99	179.00	~~4,654.00~~
100	17,050.00	-	17,199.99	181.00	~~4,706.00~~
101	17,200.00	-	17,349.99	182.00	~~4,732.00~~
102	17,350.00	-	17,499.99	184.00	~~4,784.00~~
103	17,500.00	-	17,649.99	185.00	~~4,810.00~~
104	17,650.00	-	17,799.99	187.00	~~4,862.00~~
105	17,800.00	-	17,949.99	189.00	~~4,914.00~~
106	17,950.00	-	18,099.99	190.00	~~4,940.00~~
107	18,100.00	-	18,249.99	192.00	~~4,992.00~~
108	18,250.00	-	18,399.99	193.00	~~5,018.00~~
109	18,400.00	-	18,549.99	195.00	~~5,070.00~~
110	18,550.00	-	18,699.99	196.00	~~5,096.00~~
111	18,700.00	-	18,849.99	198.00	~~5,148.00~~
112	18,850.00	-	18,999.99	200.00	~~5,200.00~~
113	19,000.00	-	19,149.99	201.00	~~5,226.00~~
114	19,150.00	-	19,299.99	203.00	~~5,278.00~~
115	19,300.00	-	19,449.99	204.00	~~5,304.00~~
116	19,450.00	-	19,599.99	206.00	~~5,356.00~~
117	19,600.00	-	19,749.99	208.00	~~5,408.00~~
118	19,750.00	-	19,899.99	209.00	~~5,434.00~~
119	19,900.00	-	20,049.99	211.00	~~5,486.00~~
120	20,050.00	-	20,199.99	212.00	~~5,512.00~~
121	20,200.00	-	20,349.99	214.00	~~5,564.00~~
122	20,350.00	-	20,499.99	216.00	~~5,616.00~~
123	20,500.00	-	20,649.99	217.00	~~5,642.00~~
124	20,650.00	-	20,799.99	219.00	~~5,694.00~~
125	20,800.00	-	20,949.99	220.00	~~5,720.00~~
126	20,950.00	-	21,099.99	222.00	~~5,772.00~~
127	21,100.00	-	21,249.99	223.00	~~5,798.00~~
128	21,250.00	-	21,399.99	225.00	~~5,850.00~~
129	21,400.00	-	21,549.99	227.00	~~5,902.00~~
130	21,550.00	-	21,699.99	228.00	~~5,928.00~~
131	21,700.00	-	21,849.99	230.00	~~5,980.00~~
132	21,850.00	-	21,999.99	231.00	~~6,006.00~~
133	22,000.00	-	22,149.99	233.00	~~6,058.00~~
134	22,150.00	-	22,299.99	235.00	~~6,110.00~~
135	22,300.00	-	22,449.99	236.00	~~6,136.00~~
136	22,450.00	-	22,599.99	238.00	~~6,188.00~~

137	22,600.00	-	22,749.99	239.00	~~6,214.00~~
138	22,750.00	-	22,899.99	241.00	~~6,266.00~~
139	22,900.00	-	23,049.99	243.00	~~6,318.00~~
140	23,050.00	-	23,199.99	244.00	~~6,344.00~~
141	23,200.00	-	23,349.99	246.00	~~6,396.00~~
142	23,350.00	-	23,499.99	247.00	~~6,422.00~~
143	23,500.00	-	23,649.99	249.00	~~6,474.00~~
144	23,650.00	-	23,799.99	250.00	~~6,500.00~~
145	23,800.00	-	23,949.99	252.00	~~6,552.00~~
146	23,950.00	-	24,099.99	254.00	~~6,604.00~~
147	24,100.00	-	24,249.99	255.00	~~6,630.00~~
148	24,250.00	-	24,399.99	257.00	~~6,682.00~~
149	24,400.00	-	24,549.99	258.00	~~6,708.00~~
150	24,550.00	-	24,699.99	260.00	~~6,760.00~~
151	24,700.00	-	24,849.99	262.00	~~6,812.00~~
152	24,850.00	-	24,999.99	263.00	~~6,838.00~~
153	25,000.00	-	25,149.99	265.00	~~6,890.00~~
154	25,150.00	-	25,299.99	266.00	~~6,916.00~~
155	25,300.00	-	25,449.99	268.00	~~6,968.00~~
156	25,450.00	-	25,599.99	269.00	~~6,994.00~~
157	25,600.00	-	25,749.99	271.00	~~7,046.00~~
158	25,750.00	-	25,899.99	273.00	~~7,098.00~~
159	25,900.00	-	26,049.99	274.00	~~7,124.00~~
160	26,050.00	-	26,199.99	276.00	~~7,176.00~~
161	26,200.00	-	26,349.99	277.00	~~7,202.00~~
162	26,350.00	-	26,499.99	279.00	~~7,254.00~~
163	26,500.00	-	26,649.99	281.00	~~7,306.00~~
164	26,650.00	-	26,799.99	282.00	~~7,332.00~~
165	26,800.00	-	26,949.99	284.00	~~7,384.00~~
166	26,950.00	-	27,099.99	285.00	~~7,410.00~~
167	27,100.00	-	27,249.99	287.00	~~7,462.00~~
168	27,250.00	-	27,399.99	289.00	~~7,514.00~~
169	27,400.00	-	27,549.99	290.00	~~7,540.00~~
170	27,550.00	-	27,699.99	292.00	~~7,592.00~~
171	27,700.00	-	27,849.99	293.00	~~7,618.00~~
172	27,850.00	-	27,999.99	295.00	~~7,670.00~~
173	28,000.00	-	28,149.99	296.00	~~7,696.00~~
174	28,150.00	-	28,299.99	298.00	~~7,748.00~~
175	28,300.00	-	28,449.99	300.00	~~7,800.00~~
176	28,450.00	-	28,599.99	301.00	~~7,826.00~~
177	28,600.00	-	28,749.99	303.00	~~7,878.00~~
178	28,750.00	-	28,899.99	304.00	~~7,904.00~~
179	28,900.00	-	29,049.99	306.00	~~7,956.00~~

180	29,050.00	-	29,199.99	308.00	~~8,008.00~~
181	29,200.00	-	29,349.99	309.00	~~8,034.00~~
182	29,350.00	-	29,499.99	311.00	~~8,086.00~~
183	29,500.00	-	29,649.99	312.00	~~8,112.00~~
184	29,650.00	-	29,799.99	314.00	~~8,164.00~~
185	29,800.00	-	29,949.99	315.00	~~8,190.00~~
186	29,950.00	-	30,099.99	317.00	~~8,242.00~~
187	30,100.00	-	30,249.99	319.00	~~8,294.00~~
188	30,250.00	-	30,399.99	320.00	~~8,320.00~~
189	30,400.00	-	30,549.99	322.00	~~8,372.00~~
190	30,550.00	-	30,699.99	323.00	~~8,398.00~~
191	30,700.00	-	30,849.99	325.00	~~8,450.00~~
192	30,850.00	-	30,999.99	327.00	~~8,502.00~~
193	31,000.00	-	31,149.99	328.00	~~8,528.00~~
194	31,150.00	-	31,299.99	330.00	~~8,580.00~~
195	31,300.00	-	31,449.99	331.00	~~8,606.00~~
196	31,450.00	-	31,599.99	333.00	~~8,658.00~~
197	31,600.00	-	31,749.99	335.00	~~8,710.00~~
198	31,750.00	-	31,899.99	336.00	~~8,736.00~~
199	31,900.00	-	32,049.99	338.00	~~8,788.00~~
200	32,050.00	-	32,199.99	339.00	~~8,814.00~~
201	32,200.00	-	32,349.99	341.00	~~8,866.00~~
202	32,350.00	-	32,499.99	342.00	~~8,892.00~~
203	32,500.00	-	32,649.99	344.00	~~8,944.00~~
204	32,650.00	-	32,799.99	346.00	~~8,996.00~~
205	32,800.00	-	32,949.99	347.00	~~9,022.00~~
206	32,950.00	-	33,099.99	349.00	~~9,074.00~~
207	33,100.00	-	33,249.99	350.00	~~9,100.00~~
208	33,250.00	-	33,399.99	352.00	~~9,152.00~~
209	33,400.00	-	33,549.99	354.00	~~9,204.00~~
210	33,550.00	-	33,699.99	355.00	~~9,230.00~~
211	33,700.00	-	33,849.99	357.00	~~9,282.00~~
212	33,850.00	-	33,999.99	358.00	~~9,308.00~~
213	34,000.00	-	34,149.99	360.00	~~9,360.00~~
214	34,150.00	-	34,299.99	361.00	~~9,386.00~~
215	34,300.00	-	34,449.99	363.00	~~9,438.00~~
216	34,450.00	-	34,599.99	365.00	~~9,490.00~~
217	34,600.00	-	34,749.99	366.00	~~9,516.00~~
218	34,750.00	-	34,899.99	368.00	~~9,568.00~~
219	34,900.00	-	35,049.99	369.00	~~9,594.00~~
220	35,050.00	-	35,199.99	371.00	~~9,646.00~~
221	35,200.00	-	35,349.99	373.00	~~9,698.00~~
222	35,350.00	-	35,499.99	374.00	~~9,724.00~~

223	35,500.00	-	35,649.99	376.00	~~9,776.00~~
224	35,650.00	-	35,799.99	377.00	~~9,802.00~~
225	35,800.00	-	35,949.99	379.00	~~9,854.00~~
226	35,950.00	-	36,999.99	381.00	~~9,906.00~~
227	36,100.00	-	36,249.99	382.00	~~9,932.00~~
228	36,250.00	-	36,399.99	384.00	~~9,984.00~~
229	36,400.00	-	36,549.99	385.00	~~10,010.00~~
230	36,550.00	-	36,699.99	387.00	~~10,062.00~~
231	36,700.00	-	36,849.99	388.00	~~10,088.00~~
232	36,850.00	-	36,999.99	390.00	~~10,140.00~~
233	37,000.00	-	37,149.99	392.00	~~10,192.00~~
234	37,150.00	-	37,299.99	393.00	~~10,218.00~~
235	37,300.00	-	37,449.99	395.00	~~10,270.00~~
236	37,450.00	-	37,599.99	396.00	~~10,296.00~~
237	37,600.00	-	37,749.99	398.00	~~10,348.00~~
238	37,750.00	-	37,899.99	400.00	~~10,400.00~~
239	37,900.00	-	38,049.99	401.00	~~10,426.00~~
240	38,050.00	-	38,199.99	403.00	~~10,478.00~~
241	38,200.00	-	38,349.99	404.00	~~10,504.00~~
242	38,350.00	-	38,499.99	406.00	~~10,556.00~~
243	38,500.00	-	38,649.99	408.00	~~10,608.00~~
244	38,650.00	-	38,799.99	409.00	~~10,634.00~~
245	38,800.00	-	38,949.99	411.00	~~10,686.00~~
246	38,950.00	-	39,099.99	412.00	~~10,712.00~~
247	39,100.00	-	39,249.99	414.00	~~10,764.00~~
248	39,250.00	-	39,399.99	415.00	~~10,790.00~~
249	39,400.00	-	39,549.99	417.00	~~10,842.00~~
250	39,550.00	-	39,699.99	419.00	~~10,894.00~~
251	39,700.00	-	39,849.99	420.00	~~10,920.00~~
252	39,850.00	-	39,999.99	422.00	~~10,972.00~~
253	40,000.00	-	40,149.99	423.00	~~10,998.00~~
254	40,150.00	-	and above	424.00	~~11,024.00~~

ARTICLE 10. GENERAL PROVISIONS.

§21A-10-23. Creation of Unemployment Compensation Insurance Fraud Unit; purpose; duties; and personnel qualifications.

(a) There is hereby established the West Virginia Unemployment Compensation Insurance Fraud Unit within the offices of the commissioner. The commissioner may employ full-time supervisory, legal, and investigative personnel for the unit who shall be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud within and against the unemployment compensation system. The director of the unit is a full-time position and shall be appointed by the commissioner and serve at his or her will and pleasure. The director shall be a

certified fraud investigator with experience in computer technology. The commissioner shall provide office space, equipment, and supplies, and shall employ and train personnel, including legal counsel, investigators, auditors, and clerical staff necessary for the unit to carry out its duties and responsibilities under this article as the commissioner determines is necessary.

(b) The unit shall:

(1) Initiate inquiries and conduct investigations when the unit has reasonable cause to believe violations of any provisions of chapter 21A of this code, West Virginia Unemployment Compensation Insurance Law are occurring, or have occurred;

(2) Review reports or complaints of alleged fraud related to the business of unemployment compensation insurance activities from federal, state, and local law-enforcement and regulatory agencies, persons engaged in the business of insurance, and the general public to determine whether the reports require further investigation;

(3) Conduct independent examinations of alleged fraudulent activity related to the business of unemployment compensation insurance and undertake independent studies to determine the extent of fraudulent insurance acts; and

(4) Perform any other duties related to the purposes of this article assigned to it by the commissioner.

(c) The unit may:

(1) Inspect, copy, or collect records and evidence;

(2) Serve subpoenas issued pursuant to §21A-2-21 of this code;

(3) Administer oaths and affirmations;

(4) Share records and evidence with federal, state, or local law-enforcement or regulatory agencies, and enter into interagency agreements. For purposes of carrying out investigations under this article, the unit shall be considered a criminal justice agency under all federal and state laws, regulations, and rules and as such shall have access to any information that is available to other criminal justice agencies concerning violations of the unemployment compensation insurance laws of West Virginia or related criminal laws;

(5) Make criminal referrals to the county prosecutors; and

(6) Conduct investigations outside this state. If the information the unit seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the unit to examine at the place where the information is located. The unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the unit, and may respond to similar requests from officials of other states.

(d) Specific personnel of the unit designated by the commissioner may operate vehicles owned or leased for the state displaying Class A registration plates.

(e) Notwithstanding any provision of this code to the contrary, specific personnel of the unit designated by the commissioner may carry firearms in the course of their official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency, and Correction, which shall include the successful completion of handgun training provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in this subsection shall be construed to include any person designated by the commissioner as a law-enforcement officer as that term is defined by the provisions of §30-29-1 of this code.

(f) The unit is not subject to the provisions of §6-9A-1 *et seq.* of this code, and the investigations conducted by the unit and the materials placed in the files of the unit as a result of any investigation are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code.

(g) Neither the state, a political subdivision, an agency, nor an employee of the state acting in an official capacity may be held personally liable for an act of an investigator employed by the unit if the act or omission was done in good faith while the investigator was performing official duties on behalf of the unit.;

And,

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

Eng. Com. Sub. for Senate Bill 543—A Bill to amend and reenact §21A-2D-2 and §21A-2D-3 of the Code of West Virginia, 1931, as amended, as contained in Chapter 273, Acts of the Legislature, Regular Session, 2021; to amend said code by adding thereto a new section, designated §21A-2D-2a; to amend said code by adding thereto a new article, designated §21A-3-1, §21A-3-2 and §21A-3-3; to amend and reenact §21A-6-1, §21A-6-3 and §21A-6-10 of said code; to amend said code by adding thereto a new section, designated §21A-6-1d; and to amend said code by adding thereto a new section, designated §21A-10-23, all relating to unemployment compensation generally; indexing unemployment benefits based on the state average unemployment rate; providing for calculating maximum benefit rate; modifying benefit table consistent with adoption of indexing; requiring Workforce West Virginia Commissioner take certain actions to verify unemployment insurance claim program integrity; requiring commissioner to review suspicious or potentially improper claims under certain circumstances; defining state average unemployment rate; limiting the maximum duration of unemployment benefits based on the state average unemployment rate; requiring Workforce West Virginia to promulgate legislative rules; establishing internal effective dates; reducing maximum benefit for each wage class; requiring work search activities to qualify for unemployment benefits; defining what constitutes work search activities; mandating submittal of proof of work search activities; providing for verification of work search activities; granting commissioner of Workforce West Virginia discretion in verification of work search activities; mandating establishment of process to refer individuals seeking unemployment benefits to job opportunities; requiring individuals receiving referrals to suitable work to apply for and accept that work; mandating employers to report refusal of offer of employment to commissioner; allowing individuals who accept part-time employment to receive unemployment benefits without reduction for wages under certain circumstances; making certain individuals applying for or receiving unemployment benefits exempt from work search requirements; establishing process for notification of work search activity requirements; authorizing the receipt of unemployment benefits by an otherwise eligible person who has left employment due to his or her employer denying his or her request for a medical or religious exemption regarding a COVID-19 vaccination requirement; establishing training and experience requirements; specifying duties; granting certain authorities necessary to conduct investigations

into alleged unemployment insurance fraud; authorizing certain personnel to operate a state vehicle and carry a firearm; establishing training requirements for carrying a firearm; exempting the Unemployment Compensation Fraud Unit from the requirements of the Freedom of Information Act and the Open Government Proceedings Act; and creating immunities for acts of an investigator employed by the unit.

Senator Baldwin arose to a point of order that Senator Takubo's amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 543) were not germane to the bill.

Which point of order, the President ruled not well taken.

Senator Baldwin requested that the bill be read fully and distinctly.

The question now being on the adoption of Senator Takubo's amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

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

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

The result of the voice vote being inconclusive, Senator Romano demanded a division of the vote.

A standing vote being taken, there were 19 "yeas" and 11 "nays".

Whereupon, the President declared Senator Takubo's motion that the Senate concur in the House of Delegates amendments, as amended, had prevailed.

Engrossed Committee Substitute for Senate Bill 543, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—20.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Grady, Hamilton, Jeffries, Lindsay, Romano, and Stollings—11.

Absent: Plymale, Smith, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 543) passed with its Senate amended title.

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

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

Eng. Com. Sub. for Senate Bill 610, Relating to duties, powers and responsibilities of DOT Secretary.

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

Eng. Senate Bill 693, Clarifying meeting voting requirements for political party executive committees.

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

Eng. Com. Sub. for House Bill 4667, Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

At the request of Senator Weld, as vice chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the bill was withdrawn.

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

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

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-18. West Virginia Uncrewed Aircraft Systems Advisory Council.

(a) The West Virginia Uncrewed Aircraft Systems Advisory Council is hereby created within the Department of Economic Development.

(b) The council consists of the following nine members, including the chairperson:

(1) The Secretary of the Department of Economic Development or his or her designee, ex officio, who shall serve as the chair of the council, and who shall vote when necessary in the event the appointed members of the council become deadlocked;

(2) The following eight members shall be appointed by the Governor and serve at his or her will and pleasure:

(A) One member representing the Secretary of the Department of Transportation;

(B) One member from the Adjutant General's Department;

(C) One member representing the uncrewed aircraft system industry with at least five years of experience operating an uncrewed aircraft;

(D) One member representing a national association of the uncrewed aerial vehicle industry;

(E) One member with experience managing a commercial services airport;

(F) One member representing business and industry, generally;

(G) One member representing academia; and

(H) One member representing the advanced air mobility industry developing human transit capabilities.

(3) Members of the council will receive no compensation but are entitled to reimbursement for mileage expenses while attending meetings of the committee to the extent that funds are available through the Department of Economic Development.

(c) The council shall:

(1) Identify trends and technologies driving innovation in uncrewed aircraft systems;

(2) Develop comprehensive strategies, including, but not limited to, the promotion of research and development, education, economic growth, and jobs in the uncrewed aircraft system industry in West Virginia; public acceptance of the uncrewed aircraft system industry; business planning; air vehicle technology and manufacturing; and airspace management and national airspace system integration; and

(3) Develop recommended legislation addressing specific issues and in furtherance of the comprehensive strategies identified in subdivision (2), subsection (c) of this section.

(d) The council shall meet at least annually and may convene public meetings to gather information or receive public comments.

(e) The council shall report on the status of its duties, goals, accomplishments, and recommendations to the Legislature on at least an annual basis.

§5B-2-18a. Applicability of federal laws and Federal Aviation Administration regulations; permissible use of uncrewed aircraft.

(a) Notwithstanding any provision of this article to the contrary, any person or entity operating an uncrewed aircraft system may do so in compliance with applicable federal law and applicable regulations of the Federal Aviation Administration.

(b) Except as authorized by law, a political subdivision of the state shall not enact or adopt an ordinance, policy, or rule that relates to the ownership or operation of an advanced air mobility aircraft or advanced air mobility system, and shall not otherwise engage in the regulation of any uncrewed aircraft system, advanced air mobility aircraft, or advanced air mobility system. Any ordinance, policy, or rule, to the extent that it violates any provision of this subsection, whether enacted or adopted by the political subdivision before or after the effective date of this section, is void.

(c) As used in this section, "advanced air mobility aircraft" or "advanced air mobility system" means a system that transports people and property by air between points in the United States using aircraft, as defined in §29-2A-1 of this code, including electric aircraft and electric vertical takeoff and landing aircraft, in both controlled and uncontrolled airspace.

Engrossed Committee Substitute for House Bill 4667, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Lindsay, and Romano—7.

Absent: Jeffries and Plymale—2.

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. 4667) passed.

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

At the request of Senator Weld, as vice chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4667—A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5B-2-18 and §5B-2-18a, all relating to uncrewed aircraft operation in the state; establishing the West Virginia Uncrewed Aircraft Systems Advisory Council within the Department of Economic Development; establishing membership, expense reimbursement, and duties of Council; clarifying that all uncrewed aircraft operation in the state must comply with federal regulations; prohibiting political subdivisions from regulating advanced air mobility aircraft or advanced air mobility systems; and defining terms.

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

On motion of Senator Takubo, at 8:02 p.m., the Senate recessed.

The Senate reconvened at 8:33 p.m. and, at the request of Senator Beach, unanimous consent being granted, returned to the second order of business and the introduction of guests.

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

Eng. Com. Sub. for House Bill 4668, Relating to air bag fraud.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 15. EQUIPMENT.

§17C-15-50. ~~Deployed restraint systems resale or reinstallation~~ Air bag fraud; counterfeit and nonfunctional air bags prohibited; penalties; applicability; exceptions.

~~A person who knowingly installs or reinstalls any object in lieu of an air bag or anything other than a not previously deployed air bag that was designed in accordance with federal safety regulations for the make, model and year of vehicle, as part of a vehicle inflatable restraint system, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand nor more than $5,000, or imprisoned in the county or regional jail not more than one year, or both fined and imprisoned.~~

(a) For purposes of this section:

(1) "Air bag" means an inflatable occupant supplemental restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.208 for the make, model, and model year of the motor vehicle.

(2) "Counterfeit air bag" means an air bag or component of an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer or supplier of parts to a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer or supplier, respectively.

(3) "Disable" means to deliberately disconnect or otherwise render inoperable and includes the failure to replace a previously deployed airbag with a functional airbag.

(4) "Nonfunctional air bag" means any of the following:

(A) A replacement air bag that has been previously deployed or damaged;

(B) A replacement air bag that has an electric fault that is detected by the vehicle's air bag diagnostic system when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) A counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed; or

(D) An air bag subject to the prohibitions of 49 U.S.C. §30120(j).

(b) A person who does any of the following is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000, or confined in a regional jail for not more than one year, or both fined and confined: *Provided*, That if the violation results in the serious bodily injury or death of any person, the person in violation of this section is guilty of a felony, and, upon conviction thereof, shall be fined not less than $2,500 nor more than $10,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned:

(1) Knowingly import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle, a counterfeit air bag, a nonfunctional air bag, or an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle;

(2) Knowingly sell, offer for sale, install, or reinstall in any motor vehicle a device that causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning air bag; or

(3) Knowingly sell, lease, trade or transfer a motor vehicle if the person knows that a counterfeit air bag, a nonfunctional air bag, or an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make model, and year of the motor vehicle has been installed as part of the motor vehicle's inflatable restraint system.

(c) This section does not apply to an owner or employee of a motor vehicle dealership or the owner of a vehicle who, before the sale of the vehicle, does not have knowledge that the vehicle's air bag, or another component of the vehicle's supplemental restraint system, is counterfeit or nonfunctioning.

(d) Nothing in this section shall be construed as to limit the liability in a civil action of any person who violates the provisions of this section.

(e) Nothing in this section shall be construed as to create a duty that, before the sale of a vehicle, an owner or employee of a motor vehicle dealership or the owner of a vehicle inspect a vehicle in possession of the dealership or owner to determine whether the air bag, or another component of the vehicle's supplemental restraint system is counterfeit or nonfunctional.

(f) The provisions of this section do not apply where:

(1) An individual who disables an airbag in a passenger vehicle owned by him or her and which is used exclusively for his or her personal use;

(2) An individual renders assistance in disabling an airbag in a passenger vehicle which is used exclusively for personal use; and

(3) An individual sells a passenger vehicle used exclusively for his or her personal use with an airbag he or she knows to be disabled, and the individual selling the passenger vehicle discloses in writing to the buyer that the airbag of the vehicle is disabled.

Engrossed Committee Substitute for House Bill 4668, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4668) passed with its title.

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 4688, Relating to Emergency Medical Services Retirement System Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Nelson, 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 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-2. Definitions.

As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:

(a) "Accrued benefit" means on behalf of any member two and six 10ths percent per year of the member's final average salary for the first 20 years of credited service. Additionally, two percent per year for 21 through 25 years and one and one-half percent per year for each year over 25 years will be credited with a maximum benefit of 67 percent. A member's accrued benefit may not exceed the limits of section 415 of the Internal Revenue Code and is subject to the provisions of ~~section 12 of this article~~ §16-5V-12 of this code.

(1) The board may, upon the recommendation of the board's actuary, increase the employees' contribution rate to 10 and five-tenths percent should the funding of the plan not reach 70 percent funded by July 1, 2012. The board shall decrease the contribution rate to eight and one-half percent once the plan funding reaches the 70 percent support objective as of any later actuarial valuation date.

(2) Upon reaching the 75 percent actuarial funded level, as of an actuarial valuation date, the board shall increase the two and six-tenths percent to two and three-quarter percent for the first 20 years of credited service. The maximum benefit will also be increased from 67 percent to 90 percent.

(b) "Accumulated contributions" means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) "Active military duty" means full-time active duty with any branch of the armed forces of the United States, including service with the National Guard or reserve military forces when the member has been called to active full-time duty and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based upon the nature or location of employment or services performed during the plan year plus amounts excluded under section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and section 401(a)(17) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member’s normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) "Board" means the Consolidated Public Retirement Board.

(i) "Contributing service" or "contributory service" means service rendered by a member while employed by a participating public employer for which the member made contributions to the plan.

(j) "County commission or political subdivision" has the meaning ascribed to it in this code.

(k) "Covered employment" means either: (1) Employment as a full-time emergency medical technician, emergency medical technician/paramedic or emergency medical services/registered nurse and the active performance of the duties required of emergency medical services officers; or (2) the period of time during which active duties are not performed but disability benefits are received under this article; or (3) concurrent employment by an emergency medical services officer in a job or jobs in addition to his or her employment as an emergency medical services officer where the secondary employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: *Provided,* That the emergency medical services officer contributes to the fund created in this article the amount specified as the member’s contribution in §16-5V-8 of this code.

(l) "Credited service" means the sum of a member's years of service, active military duty, disability service and accrued annual and sick leave service.

(m) "Dependent child" means either:

(1) An unmarried person under age 18 who is:

(A) A natural child of the member;

(B) A legally adopted child of the member;

(C) A child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or

(D) A stepchild of the member residing in the member's household at the time of the member's death; or

(2) Any unmarried child under age 23:

(A) Who is enrolled as a full-time student in an accredited college or university;

(B) Who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death; and

(C) Whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

(n) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

(o) "Disability service" means service received by a member, expressed in whole years, fractions thereof or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

(p) "Early retirement age" means age 45 or over and completion of 20 years of contributory service.

(q) "Effective date" means January 1, 2008.

(r) "Emergency medical services officer" means an individual employed by the state, county or other political subdivision as a medical professional who is qualified to respond to medical emergencies, aids the sick and injured and arranges or transports to medical facilities, as defined by the West Virginia Office of Emergency Medical Services. This definition is construed to include employed ambulance providers and other services such as law enforcement, rescue or fire department personnel who primarily perform these functions and are not provided any other credited service benefits or retirement plans. These persons may hold the rank of emergency medical technician/basic, emergency medical technician/paramedic, emergency medical services/registered nurse, or others as defined by the West Virginia Office of Emergency Medical Services and the Consolidated Public Retirement Board.

(s) "Employer error" means an omission, misrepresentation or <u>deliberate act in</u> violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Rules or the

relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by the participating public employer that has resulted in an underpayment or overpayment of contributions required. ~~A deliberate act contrary to the provisions of this article by a participating public employer does not constitute employer error.~~

(t) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly salary determined paid to the member during that period as determined under §16-5V-19 of this code multiplied by 12. Final average salary does not include any lump sum payment for unused, accrued leave of any kind or character.

(u) "Full-time employment" means permanent employment of an employee by a participating public employer in a position which normally requires 12 months per year service and requires at least 1040 hours per year service in that position.

(v) "Fund" means the West Virginia Emergency Medical Services Retirement Fund created by this article.

(w) "Hour of service" means:

(1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under §16-5V-19 or §16-5V-20 of this code; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission or political subdivision, irrespective of mitigation of damages. The same hours of service shall not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

(x) "Member" means a person first hired as an emergency medical services officer by an employer which is a participating public employer of the Public Employees Retirement System or the Emergency Medical Services Retirement System after the effective date of this article, as defined in subsection (q) of this section, or an emergency medical services officer of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to the effective date and who elects to become a member pursuant to this article. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

(y) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

(z) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

(aa) "Normal retirement age" means the first to occur of the following:

(1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service, excluding active military duty, disability service and accrued annual and sick leave service;

(2) While still in covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory years of service equals or exceeds 70 years;

(3) While still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or

(4) Attainment of age 62 years and completion of five or more years of regular contributory service.

(bb) "Participating public employer" means any county commission or political subdivision in the state which has elected to cover its emergency medical services officers, as defined in this article, under the West Virginia Emergency Medical Services Retirement System.

(cc) ~~"Political subdivision" means a county, city or town in the state; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: *Provided,* That any public corporation established under section four, article fifteen, chapter seven of this code is considered a political subdivision solely for the purposes of this article~~

~~(dd)~~ "Plan" means the West Virginia Emergency Medical Services Retirement System established by this article.

~~(ee)~~ (dd) "Plan year" means the 12-month period commencing on January 1 of any designated year and ending the following December 31.

(ee) "Political subdivision" means a county, city or town in the state; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: *Provided*, That any public corporation established under §7-15-4 of this code is considered a political subdivision solely for the purposes of this article.

(ff) "Public Employees Retirement System" means the West Virginia Public Employee's Retirement System created by West Virginia Code.

(gg) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

(hh) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age ~~seventy and one-half~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise separates from covered employment.

(ii) "Retirant" means any member who commences an annuity payable by the plan.

(jj) "Retire" or "retirement" means a member's withdrawal from the employ of a participating public employer and the commencement of an annuity by the plan.

(kk) "Retirement income payments" means the monthly retirement income payments payable under the plan.

(ll) "Spouse" means the person to whom the member is legally married on the annuity starting date.

(mm) "Surviving spouse" means the person to whom the member was legally married at the time of the member's death and who survived the member.

(nn) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

For purposes of this subsection:

(1) A member is totally disabled only if his or her physical or mental impairment or impairments is so severe that he or she is not only unable to perform his or her previous work as an emergency medical services officer but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration.

(2) "Physical or mental impairment" is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a member's annual tax return for purposes of monitoring the earnings limitation.

(oo) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based upon the hours of service performed as covered employment and credited to the member during the plan year based upon the following schedule:

Hours of Service	Year of Service Credited.
Less than 500	0
500 to 999	1/3
1,000 to 1,499	2/3
1,500 or more	1

During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under §16-5V-19 or §16-5V-20 of this code. Except as specifically excluded, years of service include covered employment prior to the effective date.

Years of service which are credited to a member prior to his or her receipt of accumulated contributions upon termination of employment pursuant to §16-5V-18 of this code or §5-10-30 of this code, shall be disregarded for all purposes under this plan unless the member repays the accumulated contributions with interest pursuant to section §16-5V-18 of this code or has prior to the effective date made the repayment pursuant to §5-10-18 of this code.

§16-5V-6. Members.

(a) Any emergency medical services officer first employed by a county or political subdivision in covered employment after the effective date of this article or 911 personnel hired on or after July 1, 2022, by a participating public employer shall be a member of this retirement plan as a condition of employment and upon membership does not qualify for membership in any other retirement system administered by the board, so long as he or she remains employed in covered employment: *Provided,* That any emergency medical services officer or 911 personnel who has concurrent employment in an additional job or jobs which would require the emergency medical services officer or 911 personnel to be a member of the West Virginia Deputy Sheriff Retirement System, the West Virginia Municipal Police Officers and Firefighters Retirement System, or the West Virginia Natural Resources Police Officer Retirement System shall participate in only one retirement system administered by the board, and the retirement system applicable to the concurrent employment for which the employee has the earliest date of hire shall prevail.

(b) Any emergency medical services officer employed in covered employment by an employer which is currently a participating public employer of the Public Employees Retirement System shall notify in writing both the county commission in the county or officials in the political subdivision in which he or she is employed and the board of his or her desire to become a member of the plan by December 31, 2007. Any emergency medical services officer who elects to become a member of the plan ceases to be a member or have any credit for covered employment in any other retirement system administered by the board and shall continue to be ineligible for membership in any other retirement system administered by the board so long as the emergency medical services officer remains employed in covered employment by an employer which is currently a participating public employer of this plan: *Provided,* That any emergency medical services officer who does not affirmatively elect to become a member of the plan continues to be eligible for any other retirement system as is, from time to time, offered to other county employees but is ineligible for this plan regardless of any subsequent termination of employment and rehire.

(c) Any emergency medical services officer who was employed as an emergency medical services officer prior to the effective date, but was not employed on the effective date of this article, shall become a member upon rehire as an emergency medical services officer. For purposes of this section, the member's years of service and credited service prior to the effective date shall not be counted for any purposes under this plan unless the emergency medical services officer has not received the return of his or her accumulated contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The member may request in writing to have his or her accumulated contributions and employer contributions from covered employment in the Public Employees Retirement System transferred to the plan. If the conditions of this subsection are met, all years of the emergency medical services officer's covered employment shall be counted as years of service for the purposes of this article.

(d) Any emergency medical services officer employed in covered employment on the effective date of this article who has timely elected to transfer into this plan as provided in subsection (b) of this section shall be given credited service at the time of transfer for all credited service then standing to the emergency medical services officer's service credit in the Public Employees Retirement System regardless of whether the credited service (as that term is defined in §5-10-2 of this code) was earned as an emergency medical services officer. All credited service standing to the transferring emergency medical services officer's credit in the Public Employees Retirement System at the time of transfer into this plan shall be transferred into the plan created by this article and the transferring emergency medical services officer shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System as that transferring emergency medical services officer would have received from the Public Employees Retirement System as if the transfer had not occurred. In connection with each transferring emergency medical services officer receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: *Provided,* That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (b) of this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as an emergency medical services officer and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(e) Once made, the election made under this section is irrevocable. All emergency medical services officers employed by an employer which is a participating public employer of the Public Employees Retirement System after the effective date and emergency medical services officers electing to become members as described in this section shall be members as a condition of employment and shall make the contributions required by this article.

(f) Notwithstanding any other provisions of this article, any individual who is a leased employee is not eligible to participate in the plan. For purposes of this plan, a "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or similar organization. If a question arises regarding the status of an individual as a leased employee, the board has final power to decide the question.

§16-5V-6a. County Firefighter Members.

(a) Notwithstanding any other provision of this article to the contrary, a person employed as a county firefighter may be a member of this retirement plan subject to the provisions of this section.

Full-time employment as a county firefighter satisfies the definition of "covered employment" as defined in this article.

(b) Any county firefighter first employed by a county after the effective date of the revisions to this article made in the 2022 legislative session, shall be a member of this retirement plan by virtue of that employment and upon membership does not qualify for membership in any other retirement system administered by the board, so long as he or she remains employed in covered employment: *Provided,* That if a member has concurrent employment in an additional job or jobs the relevant concurrent employment provisions of this code shall apply.

(c) Any county firefighter employed in covered employment by an employer which is currently a participating public employer of the Public Employees Retirement System shall notify in writing both the county commission in the county in which he or she is employed and the board of his or her desire to become a member of the plan by December 31, 2022. Any county firefighter who elects to become a member of the plan ceases to be a member or have any credit for covered employment in any other retirement system administered by the board and shall continue to be ineligible for membership in any other retirement system administered by the board so long as the county firefighter remains employed in covered employment by an employer which is currently a participating public employer of this plan: *Provided,* That any county firefighter who does not affirmatively elect to become a member of the plan continues to be eligible for any other retirement system as is, from time to time, offered to other county employees but is ineligible for this plan regardless of any subsequent termination of employment and rehire as a county firefighter.

(d) Any county firefighter who was employed as a county firefighter prior to the effective date, but was not employed on the effective date of this article, shall become a member upon rehire as a county firefighter. For purposes of this section, the member's years of service and credited service prior to the effective date shall not be counted for any purposes under this plan unless the county firefighter has not received the return of his or her accumulated contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The member may request in writing to have his or her accumulated contributions and employer contributions from covered employment in the Public Employees Retirement System transferred to the plan. If the conditions of this subsection are met, all years of the county firefighter's covered employment shall be counted as years of service for the purposes of this article.

(e) Any county firefighter employed in covered employment on the effective date of this article who has timely elected to transfer into this plan as provided in subsection (c) of this section shall be given credited service at the time of transfer for all credited service then standing to the county firefighter's service credit in the Public Employees Retirement System regardless of whether the credited service, as defined in §5-10-2 of this code, was earned as a county firefighter. All credited service standing to the transferring county firefighter's credit in the Public Employees Retirement System at the time of transfer into this plan shall be transferred into the plan created by this article and the transferring county firefighter shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System as that transferring county firefighter would have received from the Public Employees Retirement System as if the transfer had not occurred. In connection with each transferring county firefighter receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: *Provided,* That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (c) of this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment

as a county firefighter and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(f) Once made, the election made under this section is irrevocable. All county firefighters employed by an employer which is a participating public employer of the Public Employees Retirement System after the effective date and county firefighters electing to become members as described in this section shall be members as a condition of employment and shall make the contributions required by this article.

§16-5V-6b. Transfer of county firefighter member assets from Public Employees Retirement System.

(a) The Consolidated Public Retirement Board shall, within one hundred eighty days of January 1, 2023, transfer assets from the Public Employees Retirement System Trust Fund into the West Virginia Emergency Medical Services Trust Fund.

(b) The amount of assets to be transferred for each transferring county firefighter shall be computed as of January 1, 2023, using July 1, 2022, actuarial valuation of the Public Employees Retirement System, and updated with 7.25 percent annual interest to the date of the actual asset transfer. The market value of the assets of the transferring county firefighter in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred the board shall:

(1) Compute the market value of the Public Employees Retirement System assets as of July 1, 2022, actuarial valuation date under the actuarial valuation approved by the board;

(2) Compute the actuarial accrued liabilities for all Public Employees Retirement System retirees, beneficiaries, disabled retirees and terminated inactive members as of July 1, 2022, actuarial valuation date;

(3) Compute the market value of active member assets in the Public Employees Retirement System as of July 1, 2022, by reducing the assets value under subdivision (1) of this subsection by the inactive liabilities under subdivision (2) of this subsection;

(4) Compute the actuarial accrued liability for all active Public Employees Retirement System members as of July 1, 2022, actuarial valuation date approved by the board;

(5) Compute the funded percentage of the active members' actuarial accrued liabilities under the Public Employees Retirement System as of July 1, 2022, by dividing the active members' market value of assets under subdivision (3) of this subsection by the active members' actuarial accrued liabilities under subdivision (4) of this subsection;

(6) Compute the actuarial accrued liabilities under the Public Employees Retirement System as of July 1, 2022, for active emergency medical services officers transferring to the Emergency Medical Services Retirement System;

(7) Determine the assets to be transferred from the Public Employees Retirement System to the Emergency Medical Services Retirement System by multiplying the active members' funded percentage determined under subdivision (5) of this subsection by the transferring active members' actuarial accrued liabilities under the Public Employees Retirement System under subdivision (6) of this subsection and adjusting the asset transfer amount by interest at 7.25

percent for the period from the calculation date of July 1, 2022, through the first day of the month in which the asset transfer is to be completed.

(c) Once a county firefighter has elected to transfer from the Public Employees Retirement System, transfer of that amount as calculated in accordance with the provisions of subsection (b) of this section by the Public Employees Retirement System shall operate as a complete bar to any further liability to the Public Employees Retirement System and constitutes an agreement whereby the transferring county firefighter forever indemnifies and holds harmless the Public Employees Retirement System from providing him or her any form of retirement benefit whatsoever until that emergency medical services officer obtains other employment which would make him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever for the amounts transferred to the Emergency Medical Services Retirement System

§16-5V-3131 ~~How a county commission or political subdivision becomes a participating public employer.~~ How a county commission, political subdivision, or county 911 public safety answering point becomes a participating public employer.

Any county commission, or political subdivision, or county 911 public safety answering point employing emergency medical services officers or 911 personnel may by a three-fifths vote of its governing body, or by a majority vote of its electors, elect to become a participating public employer and thereby include its emergency medical services officers and 911 personnel in the membership of the plan. The clerk or secretary of each such county commission, or political subdivision, or county 911 public safety answering point governing board electing to become a participating public employer shall certify the determination of the county commission, or political subdivision, or county 911 public safety answering point governing board to the Consolidated Public Retirement Board within 10 days from and after the vote of the governing body or the canvass of votes upon such action. Once a county commission, or political subdivision, or county 911 public safety answering point governing board elects to participate in the plan, the action is final and it may not, at a later date, elect to terminate its participation in the plan.

Engrossed Committee Substitute for House Bill 4688, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4688) passed.

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

Eng. Com. Sub. for House Bill 4688—A Bill to amend and reenact §16-5V-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5V-6 and §16-5V-31 of said code, all relating to the inclusion of newly hired 911 personnel as members of the Emergency Medical

Services Retirement System; and to amend said code by adding thereto two new sections, designated §16-5V-6a and §16-5V-6b, authorizing county firefighters to be members of the Emergency Medical Services Retirement System; providing for transfer of assets pertaining to county firefighters; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System.

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 4756, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds.

On third reading, coming up in regular order, with the unreported Pensions committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Nelson, as chair of the Committee on Pensions, and by unanimous consent, the unreported Pensions committee amendment to the bill was withdrawn.

Engrossed Committee Substitute for House Bill 4756 was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4756) 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4756) takes effect from passage.

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

Eng. House Bill 4827, Relating to the promotion and development of public-use vertiports.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2K. PROMOTING PUBLIC-USE VERTIPORTS ACT.

§5B-2K-1. Policy.

It is the policy of this state to promote the development of a network of vertiports that will provide equitable access to citizens of this state who may benefit from advanced air mobility operations for cargo and passenger service, and to avoid any vertiport monopolization or discrimination, by: (i) Funding the planning for and construction of public-use vertiports, with any funding appropriated by the Legislature; (ii) encouraging local zoning and other land use authorities to ensure an adequate number and a varied location of vertiports to serve citizens throughout the state; and (iii) promoting competition and equity of access by prohibiting the grant of an exclusive right to one or more vertiport owners and operators or to vertiport operators at one or more vertiports.

§5B-2K-2. Definitions.

For purposes of this article, "vertiport" means infrastructure or a system with supporting services and equipment intended for landing, ground-handling, and take-off of manned or unmanned vertical take-off and landing (VTOL) aircraft.

§5B-2K-3. Applicability.

This article applies to any vertiport that is available for public use by any advanced air mobility operator authorized by the U.S. Department of Transportation or Federal Aviation Administration to engage in passenger and/or cargo services in scheduled or non-scheduled service in or affecting interstate commerce.

§5B-2K-4. Vertiport safety.

(a) *Vertiport Design*. — Each vertiport subject to this article shall comply with any Federal Aviation Administration published rule or advisory circular containing standards for vertiport design and performance characteristics.

(b) *Vertiport Layout Plan.* — Each vertiport subject to this article shall submit a vertiport layout plan to the administrator of the Federal Aviation Administration in the form and manner determined by the administrator, and no operations may be conducted at the vertiport until such layout plan is approved.

§5B-2K-5. Exclusionary and discriminatory zoning prohibited.

A political subdivision of this state shall not exercise its zoning and land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and shall use such authority to promote reasonable access to advanced air mobility operators at public-use vertiports within the jurisdiction of the subdivision.

§5B-2K-6. Harmonization.

The provisions of this article are intended to supplement any provision of federal law pertaining to the design, construction, operations, or maintenance of a vertiport designed or constructed with a grant under 49 U.S.C. § 47101 *et seq.*, and any provision of this article found in conflict with or otherwise preempted by federal law shall be null and void, without invalidating any other provision of this article.

Engrossed House Bill 4827, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4827) 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 4827—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4 and §5B-2K-5, and §5B-2K-6, all relating to the promotion of the development of public-use vertiports; establishing policy of state; defining "vertiport"; providing for applicability of article; establishing requirements for vertiport design and performance characteristics and vertiport layout plans; prohibiting political subdivisions from exercising zoning and land use authority to grant or permit exclusive rights to vertiport owners or operators; requiring political subdivisions to use zoning and land use authority to promote reasonable access to advanced air mobility operators and public vertiports within their jurisdiction; providing for harmonization of article with federal law.

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

The nays were: None.

Absent: Plymale—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. 4827) 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 4845, Establishing the Katherine Johnson Academy.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 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 amendment to the bill was withdrawn.

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

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

CHAPTER 18. EDUCATION.

ARTICLE 2L. KATHERINE JOHNSON ACADEMY.

§18-2L-1. Katherine Johnson Academy established.

There is hereby established the Katherine Johnson Academy in recognition of one of West Virginia's most outstanding and distinguished citizens whose contributions as a pioneer in the advancement of science, mathematics, and space travel have been recognized through numerous honors, including the nation's highest civilian award, the Presidential Medal of Freedom.

§18-2L-2. Legislative findings; purpose; intent.

The Legislature hereby finds and declares that:

(1) A student's time engaged in learning is maximized when the student is allowed to progress and acquire competency at a pace that challenges his or her own interest and intellect.

(2) Post-secondary option programs, such as magnet or STEM schools, allow students to take college courses for which they can receive both college credit and credit toward their high school diploma, and that such programs provide high-achieving students the opportunity to advance academically, at a pace commensurate with their abilities and ambition.

(3) Currently, there are over 4,000 magnet schools in the United States serving over 3.5 million students. Each day, these students are gaining a competitive advantage over students in West Virginia who have little or no access to such programs.

(4) Post-secondary option programs, such as magnet schools, can provide the families of high-achieving secondary school students the opportunity to save thousands of dollars in future college costs.

(5) In 2017, more than 52,000 Ohio students, including 15 percent of all high school juniors and seniors, earned college credit through the state's post-secondary option program, saving their families more than $120 million in future college costs.

(6) The purpose of the establishment of the Katherine Johnson Academy is to provide high-achieving high school students in West Virginia the opportunity to engage in an accelerated and exceptionally challenging academic experience in their senior year through the establishment of magnet school programs at four-year colleges and universities throughout West Virginia.

(7) It is the Legislature's intent that the academy's magnet school programs established under this article be both specialized and generalized, and be both resident- and commuter-based in order to provide students and parents with greater choice and colleges and universities greater flexibility in establishing the programs they host.

(8) The creation of the Katherine Johnson Academy is not intended to limit or reduce other dual enrollment classes or programs that are currently being offered in the state.

§18-2L-3. Definitions.

The following words used in this chapter and in any proceedings pursuant thereto have the meanings ascribed to them unless the context clearly indicates a different meaning:

"Academy" means the Katherine Johnson Academy created under this article;

"Academy program" means a magnet school program offered by the academy and hosted by a college or university pursuant to a collaboration agreement;

"Books" means both printed and electronic books required for a course;

"Chancellor" means the Chancellor of Higher Education for the State of West Virginia;

"Collaboration agreement" means an agreement by and among the state board, the commission, a college or university's governing board, and a county board, where necessary, that sets forth the terms and conditions by which a college or university will host an academy program;

"College or university" means both public and private four-year colleges and universities that maintain a physical campus with residential facilities for students;

"Commission" means the Higher Education Policy Commission of West Virginia;

"Commuter program" means a program in which:

(1) High school senior students are attracted from an area within reasonable proximity to the campus, thus commuting to and from the host institution for instruction;

(2) Students are enrolled in the academy; a local diploma-granting public school, private school, or home school; and the host institution;

(3) Students receive both college credit and credit towards their high school diploma for courses successfully completed; and

(4) Students who satisfy their secondary school requirements receive their high school diploma from the diploma-granting public school, private school, or home school, and from the academy;

"County board" means the county board of education;

"County per-pupil allocation" means the per-pupil state aid allocation provided under the state aid formula for the county in which the student is enrolled in a secondary school;

"Generalized program" means a curriculum that offers a broad base of courses;

"Host institution" means a college or university in West Virginia that operates an academy program pursuant to a collaboration agreement;

"Local secondary school" means a public, private, or parochial school consisting, at least, of grades 10 through 12 in a county in which a student resides or a home school where a student has achieved a grade equivalency of grade 10, 11, or 12;

"Magnet school" means a public school with a rigorous and challenging curriculum that greatly exceeds the state's minimum requirements and is intended to attract high-achieving students from across the boundaries of traditional school districts. The curriculum for a magnet school program may be specialized, such as a STEM school, or generalized;

"Public school student" means any student currently enrolled in a public school including a residential academy program;

"Residential program" means an academy program in which:

(1) High school senior students are attracted from throughout the state, thus requiring students to live on campus: *Provided,* That the host institution may waive such requirement for students who live within a reasonable distance from the campus and are capable of traveling to and from the campus;

(2) Students are enrolled in the academy; a diploma-granting public school, private school or homeschool; and the host institution;

(3) Students receive both college credit and credit towards their high school diploma for courses successfully completed; and

(4) Students who satisfy their secondary school requirements receive their high school diploma from the diploma-granting public school, private school, or homeschool and from the academy;

"Specialized program" means a curriculum that provides a focus on a particular area of academic interest;

"State" means the State of West Virginia;

"Standard rate" means the amount per credit hour assessed by a college or university for an in-state student who is enrolled as an undergraduate student at that college, but who is not participating in any program established under this article;

"State aid formula" means the state's Public School Support Program established under §18-9A-1 *et seq.* of this code;

"State board" means the West Virginia Board of Education; and

"State per-pupil allocation" means the average per-pupil state aid allocation for all pupils in the state under the state aid formula.

§18-2L-4. Annual reports.

The chancellor shall provide the Governor, the Legislature, the state board, the commission, participating colleges and universities, and the public with annual reports on the academic and financial performance of the academy programs based on established standards: *Provided*, That the reports shall not violate any federal or state law as it relates to student confidentiality.

§18-2L-5. Collaboration agreements; restrictions.

(a) The rules, procedures, and policies of each host institution shall govern the operation of each academy program subject to a collaboration agreement that shall be entered into between:

(1) The state superintendent, the chancellor, the governing board of the host institution, and the county board for each secondary school in which a student is enrolled for residential academy programs; and

(2) The state superintendent, the chancellor, the governing board of the host institution, and the county board for each secondary school in which a student is enrolled for commuter-based academy programs.

(b) All collaboration agreements shall be subject by law to the following restrictions:

(1) The total charges for tuition, fees, room, board, and books for academy students shall not exceed the standard rate charged to full-time, in-state students attending the host institution;

(2) The annual charges for tuition, fees, and books for any individual non-residential student enrolled in the academy shall not exceed the total amount of the PROMISE scholarship; and

(3) The annual charges for room and board for any residential student enrolled in the academy shall not exceed the amount charged to full-time, in-state students attending the host institution and any residential academy student shall not be personally responsible for room and board costs in excess of $500 per semester.

§18-2L-6. Establishment of residential and commuter-based programs; participation in high school activities.

(a) The academy is authorized to establish both residential and commuter-based programs.

(b) Residential and commuter students may still participate in all high school activities, including classes and sports: *Provided,* That the student will be responsible for providing transportation between the academy institution and the student's high school.

§18-2L-7. Academy of Mathematics and Science and Academy for the Performing Arts established; determination of host institution.

The Academy of Mathematics and Science and the Academy for the Performing Arts are hereby established as specialized, residential, academy programs.

The commission shall determine the host institutions for the Academy of Mathematics and Science and the Academy for the Performing Arts through a competitive bidding process. The commission is authorized to develop the criteria to be considered and the process by which the host institutions shall be selected. Such information shall be made available in a timely manner to all colleges and universities in West Virginia.

§18-2L-8. Minimum eligibility requirements.

(a) In order to be eligible for admission and enrollment in an academy program, a student must meet the minimum eligibility requirements for the PROMISE scholarship set forth in §18C-7-6(c) of this code except for the requirements set forth in §18C-7-6(c)(1), relating to high school graduation, and §18C-7-5(a)(4) of this code.

(b) In addition, in order to be eligible for admission and enrollment in an academy program, a student must be entering into his or her 12th grade year and have completed the following core course requirements for secondary school students: three required core classes in English, mathematics, and social science, and two required core classes in science.

(c) Students enrolled in a required core class necessary to meet the requirements set forth in this section at the time of his or her application shall not be prohibited from applying for admission to an academy program but must meet such requirements prior to admission.

(d) Nothing in this section shall limit a collaboration agreement from requiring higher standards for admission to an academy program.

§18-2L-9. Admission and enrollment.

The host institution shall determine the admission and enrollment of students in an academy program subject to the terms and conditions of the collaboration agreement and their own internal admissions policies.

§18-2L-10. Financial matters; participation not required.

(a) Notwithstanding any eligibility requirement to the contrary, any student accepted and admitted into any academy program created pursuant to this article shall be awarded a PROMISE scholarship as established under §18C-7-1 *et seq.* of this code for the payment of the student's tuition, fees, and books.

(b) In the event the PROMISE scholarship awarded does not provide sufficient funding to pay for a commuter student's tuition, fees, and books, as determined pursuant to a collaboration agreement, any public school student accepted and admitted in any academy program as a commuter student shall not be personally responsible for any additional expense and that expense shall be either waived by the institution or may be funded by other private scholarships that may be obtained via a collaborative effort by the institution and the student: *Provided*, That

the institution may not require the student to unilaterally obtain other scholarship assistance as a condition of acceptance into any academy program.

(c) In the event the PROMISE scholarship awarded does not provide sufficient funding to pay for a residential student's tuition, fees, books, room and board as determined pursuant to a collaboration agreement, any institution accepting and admitting a public school, private school, or homeschool student in any academy program as a residential student may request funding from the Katherine Johnson Scholarship Fund and the Katherine Johnson Scholarship Fund shall provide funding as available to cover those costs. The institution may charge any remaining cost not covered by the PROMISE scholarship or the Katherine Johnson Scholarship Fund to:

(1) The student, not in excess of $500.00 per semester;

(2) Private scholarships that may be obtained via a collaborative effort by the institution and the student: *Provided,* That the institution may not require the student to unilaterally obtain other scholarship assistance as a condition of acceptance into any academy program;

(3) The institution may waive or self-fund any remaining amount.

(d) No county board or college or university in West Virginia shall be required to participate in any academy programs established under this article.

§18-2L-11. State board and commission rules required.

(a) In order to promote the fulfillment of the intent, purposes, and spirit of the Katherine Johnson Academy, the state board and the commission shall collaborate in promulgating rules that in the aggregate provide for, but are not limited to, the appropriate waiver of policies by the state board and the commission; the establishment and delivery of the courses and programs under this article; the qualifications for teachers and other faculty to provide instruction; requirements for the content of any collaboration agreement; the establishment of performance measures for purposes of accreditation; and any other rule that may provide additional guidance in administering the academy.

(b) The commission rule shall be proposed for promulgation pursuant to §29A-3A-1 *et seq.* of this code; and the state board rule shall be promulgated pursuant to §29A-3B-1 *et seq.* of this code.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 10. THE KATHERINE JOHNSON SCHOLARSHIP FUND.

§18C-10-1. Katherine Johnson Scholarship Fund established.

(a) There is created in the State Treasury a special revenue account known as "The Katherine Johnson Scholarship Fund". The purpose of the Katherine Johnson Scholarship Fund is to receive, hold, invest, and expend both public and private moneys for the purposes of providing scholarships for students attending the Katherine Johnson Academy pursuant to §18-2L-11(c) of this code. The Board of Trustees of the Katherine Johnson Academy my authorize expenditures from the fund for the purposes set forth in this article.

(b) This fund shall be administered by the Board of Trustees of the Katherine Johnson Academy (hereinafter referred to as the "academy board") established pursuant to §18-2L-1 *et seq.* of this code.

(c) The fund may accept monies including gifts, including bequests or other testamentary gifts made by will, trust, or other disposition, grants, loans, and other aid from any source and to participate in any federal, state, or local government programs in carrying out the purpose of this article.

(d) The funds in the Katherine Johnson Scholarship Fund may be invested and reinvested with a financial institution, an investment manager, a fund manager, provided to the West Virginia Board of Treasury Investments and to the West Virginia Investment Management Board or other investment professional for management and investment of the monies in accordance with the provisions of §12-6C-1 *et seq.* of this code. Any balance of the fund including accrued interest and other returns earned thereon at the end of the fiscal year shall remain in the fund for the purposes set forth in this article.

(e) Terms used in this article shall mean the same as those terms are defined in §18-2L-3 of this code.

On motion of Senator Rucker, the following amendments to the Finance committee amendment to the bill (Eng. H. B. 4845) were reported by the Clerk, considered simultaneously, and adopted:

On page nine, section one, lines four and five, by striking out "§18-2L-11(c)" and inserting in lieu thereof "§18-2L-10(c)";

And,

On page nine, section one, lines seven through nine, by striking out the words "Board of Trustees of the Katherine Johnson Academy (hereinafter referred to as the "academy board") established pursuant to §18-2L-1 *et seq.* of this code" and inserting in lieu thereof the word "commission".

The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed House Bill 4845, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4845) passed.

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

Eng. House Bill 4845—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10, and §18-2L-11; and to amend said code by adding thereto a new article, designated §18C-10-1, all relating generally to the establishment of the Katherine Johnson Academy as magnet school programs at colleges and universities in West Virginia; stating findings; defining terms; requiring chancellor for higher education to provide annual reports on the academic and financial performance of the academy programs; requiring a collaboration agreement to be entered into for each academy program; providing for restrictions on the amount that may be charged to academy students for certain purposes; authorizing the establishment of residential programs and commuter-based programs; allowing residential and commuter students to participate in all high school activities; establishing the Academy of Mathematics and Science and the Academy for the Performing Arts; requiring the Higher Education Policy Commission to select certain host institutions pursuant to a competitive bidding process; establishing certain minimum eligibility requirements for students; authorizing a host institution to determine admission and enrollment of students; requiring students accepted and admitted into an academy program to receive the PROMISE scholarship; addressing the PROMISE Scholarship not providing sufficient funding to pay for certain costs of a student; providing that no county board or college or university will be required to participate in this program; requiring the West Virginia Board of Education and the Higher Education Policy Commission to collaborate in promulgating rules that in the aggregate address certain minimum specified topics; and establishing the Katherine Johnson Scholarship Fund for the purpose of receiving, holding, investing, and expending both public and private moneys for the purposes of providing scholarships for students attending the Katherine Johnson Academy.

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

Eng. House Bill 4846, Relating to flying under the influence and other aviation offenses.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

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

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

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 24. AVIATION RELATED OFFENSES.

§17C-24-1. Definitions.

As used in this article, unless the context otherwise requires:

"Aeronautics" means the art and science of flight including, but not limited to, transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants,

and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and education about aeronautics.

"Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

"Air navigation" or "navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within this state.

"Air navigation facility" means any facility other than one owned or controlled by the federal government used in, available for use in, or designed for use in aid of air navigation, including airports, and any structures, mechanisms, lights, beacons, markers, communications system, or other instrumentalities or devices used or useful as an aid or constituting an advantage or convenience to the safe takeoff, navigation, and landing of aircraft or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

"Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

"Controlled substance" has the meaning ascribed to it in Chapter 60A of this code.

"Law-enforcement officer" means: (1) Any member of the State Police; (2) any sheriff and any deputy sheriff of any county of this state; (3) any member of a police department in any political subdivision of this state; and (4) any natural resources police officer of the Division of Natural Resources.

"Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon the ground within this state.

"Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

"Political subdivision" means any county, city, town, village, or other political subdivision of this state.

§17C-24-2. Operation of aircraft while under influence of alcohol, controlled substances, or drugs; criminal penalties.

(a) Any person who operates an aircraft in this state while:

(1) Under the influence of alcohol;

(2) Under the influence of any controlled substance;

(3) Under the influence of any other drug;

(4) Under the combined influence of alcohol any controlled substance, or any other drug; or

(5) Has an alcohol concentration in his or her blood of four-hundredths of one percent or more by weight is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a regional jail facility not more than one year or fined not more than $500, or both, in the discretion of the court.

(b) Any person who operates an aircraft in this state while:

(1) Under the influence of alcohol;

(2) Under the influence of any controlled substance;

(3) Under the influence of any other drug;

(4) Under the combined influence of alcohol any controlled substance, or any other drug; or

(5) Has an alcohol concentration in his or her blood of four-hundredths of one percent or more by weight who, when operating an aircraft while under the influence, does any act forbidden by law or fails to perform any duty imposed by law in the operation of the aircraft, which act or failure proximately causes bodily injury to any other person, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of imprisonment of not less than one year nor more than five years, or in the discretion of the court, be confined in a regional jail facility not more than one year and be fined not more than $500.

(c) Any person who knowingly permits his or her aircraft to be operated in this state by any other person who is:

(1) Under the influence of alcohol;

(2) Under the influence of any controlled substance;

(3) Under the influence of any other drug;

(4) Under the combined influence of alcohol and any controlled substance or any other drug; or

(5) Has an alcohol concentration in his or her blood of four-hundredths of one percent or more by weight is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a regional jail facility not more than one year or fined not more than $500, or both, in the discretion of the court.

(d) A person violating any provision of subsection (a) or (c) of this section is, for the second offense under this section, guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of imprisonment of not less than one year nor more than three years.

(e) A person violating any provision of subsection (b) of this section is, for the second offense under this section, guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of imprisonment of not less than one year nor more than five years.

(f) For purposes of subsections (d) and (e) of this section relating to second and subsequent offenses, the following types of convictions shall be regarded as convictions under this section:

(1) Any conviction under the provisions of the prior enactment of this section; or

(2) Any conviction under a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection (a), (b), or (c) of this section.

(g) A person may be charged in a warrant or indictment or information for a second or subsequent offense under this section if the person has been previously arrested for or charged with a violation of this section which is alleged to have occurred within the applicable time periods for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant, or indictment, or information shall set forth the date, location, and particulars of the previous offense or offenses. A person may not be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final.

(h) The fact that any person charged with a violation of subsection (a) or (b) of this section, or any person permitted to operate an aircraft as described under subsection (c) of this section, is or has been legally entitled to use alcohol, a controlled substance, or a drug, shall not constitute a defense against any charge of violating subsection (a), (b), or (c) of this section.

(i) When any person is convicted of violating any provision of this section, the clerk of the court in which the conviction occurred shall, within 72 hours after receipt thereof, transmit a true copy thereof to the federal aviation administration.

§17C-24-3. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

(a) Any person who operates an aircraft in this state is considered to have given his or her consent by the operation thereof to a preliminary breath analysis and a secondary chemical test of either his or her blood, breath, or urine for the purposes of determining the alcoholic content of his or her blood, breath, or urine. A preliminary breath analysis may be administered in accordance with the provisions of §17C-24-4 of this code whenever a law-enforcement officer has reasonable cause to believe a person committed an offense prohibited by §17C-24-2 of this code. A secondary test of breath, blood, or urine shall be incidental to a lawful arrest and shall be administered at the direction of the arresting law-enforcement officer. The law-enforcement agency by which the law-enforcement officer is employed shall designate which one of the secondary tests shall be administered: *Provided,* That if the designated test is a blood test and the person arrested refuses to submit to the blood test, then the law-enforcement officer making the arrest shall designate in lieu thereof either a breath or urine test to be administered.

(b) If any political subdivision or the Division of Natural Resources does not have available to its law-enforcement officers the testing equipment or facilities necessary to conduct any secondary test which a law-enforcement officer may administer under this article, any member of the State Police, the sheriff of the county in which the arrest is made, or any deputy of the sheriff or any municipal law-enforcement officer of another municipality within the county in which the arrest is made may, upon the request of the arresting law-enforcement officer and in his or her presence, conduct a secondary test. The results of the test may be used in evidence to the same extent and in the same manner as if the test had been conducted by the arresting law-enforcement

officer. Only the person actually administering or conducting the test is competent to testify as to the results and the veracity of the test.

§17C-24-4. Preliminary analysis of breath to determine alcoholic content of blood.

When a law-enforcement officer has reason to believe a person has committed an offense prohibited by §17C-24-2 of this code, the law-enforcement officer may require the person to submit to a preliminary breath analysis for the purpose of determining that person's blood alcohol content. The law-enforcement officer shall administer the breath analysis as soon as possible after he or she has a reasonable belief that the person has been operating an aircraft while under the influence of alcohol, controlled substances, or drugs. Any preliminary breath analysis required under this section shall be administered with a device and in a manner approved by the Bureau of Public Health for that purpose. The results of a preliminary breath analysis shall be used solely for the purpose of guiding the law-enforcement officer in deciding whether an arrest should be made. When a person is arrested following a preliminary breath analysis, the tests shall be administered in accordance with the provisions of this article.

§17C-24-5. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.

Only a doctor of medicine or a doctor of osteopathy, a registered nurse, or trained medical technician at the place of his or her employment, acting at the request and direction of the law-enforcement officer, may withdraw blood for the purpose of determining the alcoholic concentration of the blood. These limitations shall not apply to the taking of a breath test or a urine specimen. In withdrawing blood for the purpose of determining its alcoholic concentration, only a previously unused and sterile needle and sterile vessel may be used, and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to venipuncture. The person tested may, at his or her own expense, have a doctor of medicine or a doctor of osteopathy, registered nurse, or trained medical technician of his or her own choosing, at the place of his or her employment, administer a chemical test in addition to the test administered at the direction of the law-enforcement officer. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law-enforcement officer shall be made available to him or her. A person who administers any test upon the request of a law-enforcement officer, a hospital in or with which the person is employed or is otherwise associated or in which the test is administered and any other person, firm, or corporation by whom or with which that person is employed or is in any way associated, is not in any way criminally liable for the administration of the test or civilly liable in damages to the person tested unless for gross negligence or willful or wanton injury.

§17C-24-6. Interpretation and use of chemical test.

(a)(1) Upon trial for the offense of operating an aircraft in this state while under the influence of alcohol, controlled substances, or drugs, or upon the trial of any civil or criminal action arising out of acts alleged to have been committed by any person operating an aircraft while under the influence of alcohol, controlled substances, or drugs, evidence of the amount of alcohol in the person's blood at the time of the arrest or of the acts alleged, as shown by a chemical analysis of his or her breath, blood, or urine, is admissible if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged, and shall give rise to the following presumption or have the following effect: evidence that there was, at that time, four-hundredths of one percent or more by weight of alcohol in his or her blood, is prima facie evidence that the person was under the influence of alcohol.

(2) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred cubic centimeters of blood.

(b) A chemical analysis of a person's breath, blood, or urine, in order to give rise to the presumption or to have the effect provided for in subsection (a) of this section, shall be performed in accordance with methods and standards approved by the state Bureau of Public Health. A chemical analysis of blood or urine to determine the alcoholic concentration of blood shall be conducted by a qualified laboratory or by the scientific laboratory of the criminal identification bureau of the State Police.

(c) The provisions of this article shall not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, controlled substances, or drugs.

§17C-24-7. Right to demand test.

Any person lawfully arrested for operating an aircraft in this state while under the influence of alcohol, controlled substances, or drugs has the right to demand that a sample or specimen of his or her breath, blood, or urine be taken within two hours from and after the time of arrest and that a chemical test be performed. The analysis disclosed by the chemical test shall be made available to the arrested person immediately upon demand.

§17C-24-8. Fee for withdrawing blood sample and making urine test; payment of fees.

A reasonable fee shall be allowed to the person withdrawing a blood sample or administering a urine test at the request and direction of a law-enforcement officer in accordance with the provisions of this article. If the person whose blood sample was withdrawn or whose urine was tested was arrested and charged with a violation of §17C-24-2 of this code, the county having venue of the charge shall pay the fee. If the person is subsequently convicted of the charge, the fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid, notwithstanding any other provision of this code to the contrary, into the general fund of the county.

§17C-24-9. Unauthorized taking or operation of aircraft; penalty.

Any person who commits the following prohibited acts is guilty of a felony and, upon conviction thereof, shall be fined not less than 200 nor more than $5,000, and confined in a state correctional facility for not less than two nor more than 10 years.

(1) A person, other than the duly authorized agent, servant, or employee of the owner thereof, who takes, without the knowledge and consent of the owner, and operates within this state any aircraft owned by another person.

(2) A person who willfully and without the knowledge or consent of the owner or person in lawful charge thereof, and with the intent to deprive the owner or person in lawful charge of the possession or use thereof, either temporarily or permanently, takes possession of, enters and operates, or otherwise takes and uses, any aircraft belonging to another or in his or her lawful possession;

(3) Any person who assists, aids, and abets, or is present for the purpose and with the intent to assist, aid, or abet another person in taking possession of, entering, and operating, or otherwise taking and using the aircraft.

(4) Any person who receives, buys, conceals, or otherwise disposes of any such aircraft knowing the same to have been stolen or taken without the knowledge or consent of the owner or person in lawful charge thereof.

§17C-24-10. Federal license required for operation of aircraft.

(a) A person shall not operate or cause or authorize to be operated any aircraft within this state unless such aircraft has an appropriate effective certificate, or license issued by the United States, if such certificate, permit, or license is required by the United States.

(b) A person may not engage in aeronautics in this state unless he or she has an appropriate effective certificate, permit, rating, or license issued by the United States authorizing him or her to engage in the particular class of aeronautics in which he or she is engaged, if such certificate, permit, rating, or license is required by the United States.

(c) Where a certificate, permit, rating, or license is required by the United States, it shall be kept in the personal possession of a pilot when he or she is operating within this state and shall be presented for inspection upon the demand of any law enforcement officer, or any official, manager, or person in charge of any airport upon which they shall land, or upon the reasonable request of any other person.

(d) Where a certificate, permit, or license is required by the United States for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may readily be seen by passengers or inspectors, and shall be presented for inspection upon the demand of any law enforcement officer, or any official, manager, or person in charge of any airport upon which the aircraft shall land, or upon the reasonable request of any person.

§17C-24-11. Enforcement of aeronautics laws.

All law enforcement officers shall enforce and assist in the enforcement of this article and all other laws of this state relating to aeronautics. Law enforcement officers may inspect and examine at reasonable hours any aircraft, the credentials of any person engaged in aeronautics required by the laws of this state or of the United States to have in his or her possession credentials evidencing his or her authority or permission to engage in aeronautics, any premises and the buildings and other structures thereon, where airports, air navigation facilities, or other aeronautical activities are operated or conducted.

Engrossed House Bill 4846, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4846) 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 4846—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17C-24-1, §17C-24-2, §17C-24-3, §17C-24-4, §17C-24-5, §17C-24-6, §17C-24-7, §17C-24-8, §17C-24-9, §17C-24-10, and §17C-24-11 *et seq.*, all relating to flying under the influence and other aviation offenses; prohibiting operation of aircraft while under the influence of alcohol, controlled substances, or drugs; defining terms; providing a person operating an aircraft while under the influence is guilty of a misdemeanor; providing that injury of another person while operating an aircraft while under the influence is a felony; providing a person who knowingly allows another person to operate his or her aircraft while under the influence is guilty of a misdemeanor; providing increased penalties for subsequent offenses; providing for inclusion of previous offenses when determining number of offenses; proving that it is not a defense that the person was legally allowed to use alcohol, controlled substances, or drugs; requiring clerk of court to notify federal aviation administration of a conviction; providing for implied consent to testing; providing for preliminary analysis of breath to determine its alcohol concentration; providing for secondary testing and interpretation of such tests; providing person may demand additional testing; providing standards for blood withdrawal; allowing test results to be used in civil and criminal proceedings; allowing person to demand testing within two hours of arrest; providing for fee for withdrawing a blood sample or administering a urine test; providing that the unauthorized taking of an aircraft is a felony; requiring federal licensure to operate an aircraft and that evidence of licensure be in the person's personal possession and in the aircraft; providing criminal penalties; and requiring state law enforcement officers to collaborate in enforcing aeronautics laws.

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

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

Eng. Com. Sub. for House Bill 4105, Relating to service employees with National Association for Pupil Transportation Certifications.

On third reading, coming up in deferred order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was again reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules with the right to amend on third reading remaining in effect and with the unreported Education committee amendment pending.

Consideration of Engrossed Committee Substitute for House Bill 4105 having been concluded, the Senate proceeded to the consideration of

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.

Having been read a third time in prior proceedings today, and now coming up in deferred order with the Health and Human Resources committee amendment to the bill pending, and with the right having been granted on yesterday, Friday March 11, 2022, for further amendments to be received on third reading, was again reported by the Clerk.

The question being on the adoption of the Health and Human Resources committee amendment to the bill *(shown in the Senate Journal of today, pages 194 to 203, inclusive)*.

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

On page one, section nine, line eight, after the word "unless" by inserting the words "in the six months prior to the decedent's death the spouse has lived separate and apart from the decedent in a separate place of abode without cohabitation or".

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4340, as just amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4340) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

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 4340—A Bill to amend and reenact §16-19-9, §16-19-14 and §16-19-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-12-3 of said code, all relating to anatomical gifts; clarifying who may make an anatomical gift of decedent's body or part; clarifying the duties of procurement organization with regard to state medical examiner; requiring the state medical examiner to cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts; authorizing procurement organizations to conduct a test to evaluate the medical suitability of the body part; and authorizing

the state's chief medical examiner to enter into agreements with a procurement organization to facilitate the recovery of anatomical gifts.

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

Action as to Engrossed Committee Substitute for House Bill 4340 having been concluded, the Senate proceeded to the consideration of

Eng. Com. Sub. for House Bill 4344, Relating to foster care.

On third reading, coming up in deferred order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

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

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

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-125. Commission to Study Residential Placement of Children; findings; requirements; reports; recommendations.

[REPEALED]

§49-2-809. Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately to the department of child protective services by a method established by the department: *Provided*, That if the method for reporting is web-based, the Department of Health and Human Resources shall maintain a system for addressing emergency situations that require immediate attention and shall be followed by a written report within 48 hours if so requested by the receiving agency. The state department shall establish and maintain a 24-hour, seven-day-a-week telephone number to receive calls reporting suspected or known child abuse or neglect: *Provided, however*, That any report of child abuse and neglect by a Chapter 30 licensed health care professional mandatory reporter shall automatically be considered as accepted by centralized intake and a referral for investigation will be made to the county wherein the abuse and neglect occurred.

(b) A copy of any report of serious physical abuse, sexual abuse, or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney, or the coroner or medical examiner's office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

ARTICLE 4. COURT ACTIONS.

§49-4-405. Multidisciplinary treatment planning process involving child abuse and neglect; team membership; duties; reports; admissions.

(a) Within 30 days of the initiation of a judicial proceeding pursuant to ~~part six, of this article~~ §49-4-601 of this code, the Department of Health and Human Services shall convene a multidisciplinary treatment team to assess, plan, and implement a comprehensive, individualized service plan for children who are victims of abuse or neglect and their families. The circuit court shall set aside one day each month to enable multidisciplinary treatment teams to meet. The multidisciplinary team shall obtain and utilize any assessments for the children or the adult respondents that it deems necessary to assist in the development of that plan.

(b) In a case initiated pursuant to ~~part six of this article~~ §49-4-601 of this code~~-~~, the treatment team consists of:

(1) The child or family's case manager in the Department of Health and Human Resources;

(2) The adult respondent or respondents;

(3) The child's parent or parents, guardians, any co-petitioners, custodial relatives of the child, foster or preadoptive parents;

(4) Any attorney representing an adult respondent or other member of the treatment team;

(5) The child's counsel or the guardian ad litem;

(6) The prosecuting attorney or his or her designee;

(7) A member of a child advocacy center when the child has been processed through the child advocacy center program or programs or it is otherwise appropriate that a member of the child advocacy center participate;

(8) Any court-appointed special advocate assigned to a case;

(9) Any other person entitled to notice and the right to be heard;

(10) An appropriate school official; ~~and~~

(11) The managed care case coordinator; and

~~(11)~~(12) Any other person or agency representative who may assist in providing recommendations for the particular needs of the child and family, including domestic violence service providers.

The child may participate in multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise ordered by the court, a party whose parental rights have been terminated and his or her attorney may not be given notice of a multidisciplinary treatment team meeting and does not have the right to participate in any treatment team meeting.

(c) Prior to disposition in each case which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement with appropriate relatives then with foster care homes, facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

(d) The multidisciplinary treatment team shall submit written reports to the court as required by the rules governing this type of proceeding or by the court, and shall meet as often as deemed necessary but at least every three months until the case is dismissed from the docket of the court. The multidisciplinary treatment team shall be available for status conferences and hearings as required by the court.

(e) If a respondent or co-petitioner admits the underlying allegations of child abuse or neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her statements may not be used in any subsequent criminal proceeding against him or her, except for perjury or false swearing.

§49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.

(a) *Petitioner and venue.* — If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named party abuser resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

(b) *Contents of Petition.* — The petition shall be verified by the oath of some credible person having knowledge of the facts. The petition shall allege specific conduct including time and place, how the conduct comes within the statutory definition of neglect or abuse with references to the statute, any supportive services provided by the department to remedy the alleged circumstances, and the relief sought. Each petition shall name as a party each parent, guardian, custodian, other person standing in loco parentis of or to the child allegedly neglected or abused and state with specificity whether each parent, guardian, custodian, or person standing in loco parentis is alleged to have abused or neglected the child.

(c) *Court action upon filing of petition.* — Upon filing of the petition, the court shall set a time and place for a hearing and shall appoint counsel for the child. When there is an order for temporary custody pursuant to this article, the preliminary hearing shall be held within ~~ten~~ 10 days of the order continuing or transferring custody, unless a continuance for a reasonable time is granted to a date certain, for good cause shown.

(d) *Department action upon filing of the petition*. — At the time of the institution of any proceeding under this article, the department shall provide supportive services in an effort to remedy circumstances detrimental to a child.

(e) *Notice of hearing.* —

(1) The petition and notice of the hearing shall be served by the sheriff's office, without additional compensation, upon both parents and any other guardian, custodian, or person standing in loco parentis, giving to the persons at least five days' actual notice of a preliminary hearing and at least ten days' notice of any other hearing.

(2) Notice shall be given to the department, any foster or pre-adoptive parent, and any relative providing care for the child.

(3) In cases where personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified mail, addressee only, return receipt requested, to the last known address of the person. If the person signs the certificate, service is complete and the certificate shall be filed as proof of the service with the clerk of the circuit court.

(4) If service cannot be obtained by personal service or by certified mail, notice shall be by publication as a Class II legal advertisement in compliance with ~~article three, chapter fifty-nine~~ §59-3-1 *et seq.* of this code.

(5) A notice of hearing shall specify the time and place of the hearings, the right to counsel of the child, parents, and other guardians, custodians, and other persons standing in loco parentis with the child and the fact that the proceedings can result in the permanent termination of the parental rights.

(6) Failure to object to defects in the petition and notice may not be construed as a waiver.

(f) *Right to counsel.* —

(1) In any proceeding under this article, the child shall have counsel to represent his or her interests at all stages of the proceedings.

(2) The court's initial order shall appoint counsel for the child, and for any parent, guardian, custodian, or other person standing in loco parentis with the child if such person is without retained counsel.

(3) The court shall, at the initial hearing in the matter, determine whether persons other than the child for whom counsel has been appointed:

(A) Have retained counsel; and

(B) Are financially able to retain counsel.

(4) A parent, guardian, custodian, or other person standing in loco parentis with the child who is alleged to have neglected or abused the child and who has not retained counsel and is financially unable to retain counsel beyond the initial hearing, shall be afforded appointed counsel at every stage of the proceedings.

(5) Under no circumstances may the same attorney represent both the child and another party. The same attorney may not represent more than one parent or custodian: *Provided*, That one attorney may represent both parents or custodians where both parents or custodians consent to this representation after the attorney fully discloses to the client the possible conflict and where the attorney advises the court that he or she is able to represent each client without impairing his

or her professional judgment; if more than one child from a family is involved in the proceeding, one attorney may represent all the children.

(6) A parent who is a co-petitioner is entitled to his or her own attorney.

(7) The court may allow to each attorney appointed pursuant to this section a fee in the same amount which appointed counsel can receive in felony cases.

(8) The court shall, sua sponte or upon motion, appoint counsel to any unrepresented party if, at any stage of the proceedings, the court determines doing so is necessary to satisfy the requirements of fundamental fairness.

(g) *Continuing education for counsel.* — Any attorney representing a party under this article shall receive a minimum of eight hours of continuing legal education training per reporting period on child abuse and neglect procedure and practice. In addition to this requirement, any attorney appointed to represent a child must first complete training on representation of children that is approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop procedures for approval and certification of training required under this section. Where no attorney has completed the training required by this subsection, the court shall appoint a competent attorney with demonstrated knowledge of child welfare law to represent the parent or child. Any attorney appointed pursuant to this section shall perform all duties required of an attorney licensed to practice law in the State of West Virginia.

(h) *Right to be heard*. — In any proceeding pursuant to this article, the party or parties having custodial or other parental rights or responsibilities to the child shall be afforded a meaningful opportunity to be heard, including the opportunity to testify and to present and cross-examine witnesses. Foster parents, pre-adoptive parents, and relative caregivers shall also have a meaningful opportunity to be heard.

(i) *Findings of the court*. — Where relevant, the court shall consider the efforts of the department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected and whether the respondent is abusing, neglecting, or, if applicable, a battered parent, all of which shall be incorporated into the order of the court. The findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.

(j) *Priority of proceedings.* — Any petition filed and any proceeding held under this article shall, to the extent practicable, be given priority over any other civil action before the court, except proceedings under ~~section three hundred nine, article twenty-seven, chapter forty-eight~~ §48-27-309 of this code and actions in which trial is in progress. Any petition filed under this article shall be docketed immediately upon filing. Any hearing to be held at the end of an improvement period and any other hearing to be held during any proceedings under this article shall be held as nearly as practicable on successive days and, with respect to the hearing to be held at the end of an improvement period, shall be held as close in time as possible after the end of the improvement period and shall be held within ~~thirty~~ 30 days of the termination of the improvement period.

(k) *Procedural safeguards*. — The petition may not be taken as confessed. A transcript or recording shall be made of all proceedings unless waived by all parties to the proceeding. The rules of evidence shall apply. Following the court's determination, it shall ask the parents or custodians whether or not an appeal is desired and the response transcribed. A negative

response may not be construed as a waiver. The evidence shall be transcribed and made available to the parties or their counsel as soon as practicable, if the transcript is required for purposes of further proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating that he or she cannot pay the transcript.

ARTICLE 9. FOSTER CARE OMBUDSMAN PROGRAM.

§49-9-101. The Foster Care Ombudsman.

(a) There is continued within the Office of the Inspector General the position of the West Virginia Foster Care Ombudsman. The Office of the Inspector General shall employ a Foster Care Ombudsman to affect the purposes of this article.

(b) In addition to the duties provided in §9-5-27 of this code, the duties of the Foster Care Ombudsman include, but are not limited to, the following:

(1) Establishing a statewide procedure to receive, investigate, and resolve complaints filed on behalf of a child who is subject to a reported allegation of abuse and neglect, or a foster child, foster parent, or kinship parent, or, on the Foster Care Ombudsman's own initiative, on behalf of a foster child, relating to action, inaction, or decisions of the state agency, child-placing agency, or residential care facility which may adversely affect the foster child, foster parent, or kinship parent;

(2) Review periodically and make appropriate recommendations for the policies and procedures established by any state agency providing services to foster children, foster parents, kinship parents, including, but not limited to, the system of providing foster care and treatment;

(3) Pursuant to an investigation, provide assistance to a foster child, foster parent, or kinship parent who the Foster Care Ombudsman determines is in need of assistance, including, but not limited to, collaborating with an agency, provider, or others on behalf of the best interests of the foster child;

(4) Recommend action when appropriate, including, but not limited to, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil, and special rights of foster children who reside in this state;

(5) Conduct programs of public education when necessary and appropriate;

(6) Have input into the creation of, and thereafter make recommendations consistent with, ~~the foster children, foster parents, and kinship parents bill of rights~~ The Foster Child Bill of Rights in §49-2-126 of this code and The Foster and Kinship Parent Bill of Rights in §49-2-127 of this code;

(7) Take appropriate steps to advise the public of the services of the Foster Care Ombudsman, the purpose of the ombudsman, and procedures to contact the office; and

(8) Make inquiries and obtain assistance and information from other state governmental agencies or persons as the Foster Care Ombudsman requires for the discharge of his or her duties.

§49-9-103. Access to foster care children.

(a) The Foster Care Ombudsman shall, with proper identification, have access to a foster family or kinship family home, a state agency, a child-placing agency, or a residential care facility for the purposes of investigations of a complaint. The Foster Care Ombudsman may enter a foster family home, a state agency, a child-placing agency, or a residential care facility at a time appropriate to the complaint. The visit may be announced in advance or be made unannounced as appropriate to the complaint under investigation. Upon entry, the Foster Care Ombudsman shall promptly and personally advise the person in charge of his or her presence. If entry is refused by the person in charge, the Foster Care Ombudsman may apply to the magistrate court of the county in which a foster family home, ~~a~~ state agency, ~~a~~ child-placing agency, or a residential care facility is located for a warrant authorizing entry, and the court shall issue an appropriate warrant if it finds good cause therefor.

(b) For activities other than those specifically related to the investigation of a complaint, the Foster Care Ombudsman, upon proper identification, shall have access to a foster family home, ~~a~~ state agency, ~~a~~ child-placing agency, or a residential care facility between the hours of 8:00 a.m. and 8:00 p.m. in order to:

(1) Provide information on the Foster Care Ombudsman Program to a foster child, foster parents, or kinship parents;

(2) Inform a foster child, ~~a~~ foster parent, or ~~a~~ kinship parent of his or her rights and entitlements, and his or her corresponding obligations, under applicable federal and state laws; and

(3) Direct the foster child, the foster parents, or the kinship parents to appropriate legal resources;

(c) Access to a foster family home, ~~a~~ state agency, ~~a~~ child-placing agency, or a residential care facility under this section shall be deemed to include the right to private communication with the foster child, ~~the~~ foster parents, or the kinship parents.

(d) A Foster Care Ombudsman who has access to a foster family home, ~~a~~ state agency, ~~a~~ child-placing agency, or a residential care facility under this section shall not enter the living area of a foster child, foster parent, or kinship parent without identifying himself or herself to the foster child, foster parent, or kinship parent. After identifying himself or herself, an ombudsman shall be permitted to enter the living area of a foster child, foster parent, or kinship parent unless that foster child, foster parent, or kinship parent communicates on that particular occasion the foster child, foster parents', or kinship parents' desire to prevent the ombudsman from entering. A foster child, foster parent, or kinship parent has the right to terminate, at any time, any visit by the Foster Care Ombudsman.

(e) Access to a foster family home, ~~a~~ state agency, ~~a~~ child-placing agency, or a residential care facility pursuant to this section includes the right to tour the facility unescorted.

§49-9-105. Subpoena powers.

(a) The Foster Care Ombudsman may, in the course of any investigation:

(1) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena to compel at a specific time and place, by subpoena, the appearance, before a person authorized to administer oaths, the sworn testimony of any person whom the Foster Care Ombudsman reasonably believes may be able to give information relating to a matter under investigation; or

(2) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena duces tecum to compel any person to produce at a specific time and place, before a person authorized to administer oaths, any documents, books, records, papers, objects, or other evidence which the Foster Care Ombudsman reasonably believes may relate to a matter under investigation.

(b) A subpoena or subpoena duces tecum applied for by the Foster Care Ombudsman may not be issued until a circuit court judge in term or vacation thereof has personally reviewed the application and accompanying affidavits and approved, by a signed order entered by the judge, the issuance of the subpoena or subpoena duces tecum. Subpoenas or subpoenas duces tecum applied for pursuant to this section may be issued on an ex parte basis following review and approval of the application by the judge in term or vacation thereof.

(c) The Attorney General shall, upon request, provide legal counsel and services to the Foster Care Ombudsman in all administrative proceedings and in all proceedings in any circuit court and the West Virginia Supreme Court of Appeals.

(d) The Foster Care Ombudsman or his or her staff shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of his or her official duties. All related memoranda, work product, notes, or case files of the Foster Care Ombudsman Office are confidential and are not subject to discovery, subpoena, or other means of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. However, the Foster Care Ombudsman may provide testimony related to quarterly or annual reports submitted to the Legislative Oversight Commission on Health and Human Resources Accountability provided for in §9-5-27 and §49-9-102 of this code.

§49-9-106. Cooperation among the government departments or agencies.

(a) The Foster Care Ombudsman shall have access to the records of any state government agency reasonably necessary to any investigation. The Foster Care Ombudsman shall be notified of and be allowed to observe any survey conducted by a government agency affecting the health, safety, welfare, or rights of the foster child, the foster parents, or the kinship parents.

(b) The Foster Care Ombudsman shall develop procedures to refer any complaint to any appropriate state government department, agency, or office.

(c) When abuse, neglect, or exploitation of a foster child is suspected, the Foster Care Ombudsman shall make a referral to the Bureau for ~~Children and Families~~ Social Services, Office of Health Facility Licensure and Certification, or both.

(d) Any state government department, agency, or office that responds to a complaint referred to it by the Foster Care Ombudsman Program shall make available to the Foster Care Ombudsman copies of inspection reports and plans of correction, and notices of any citations and sanctions levied against the foster family home, the child-placing agency, or the residential care facility identified in the complaint.

§49-9-107. Confidentiality of investigations.

(a) Information relating to any investigation of a complaint that contains the identity of the complainant or foster child, foster parent, or kinship parent shall remain confidential except:

(1) ~~Where disclosure is authorized in writing by the complainant foster child, foster parent, kinship parent, or the guardian~~ Where imminent risk of serious harm is communicated directly to the Foster Care Ombudsman or his or her staff;

(2) Where disclosure is necessary to the Bureau for ~~Children and Families~~ Social Services in order for such office to determine the appropriateness of initiating an investigation regarding potential abuse, neglect, or emergency circumstances; or

(3) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both.

(b) The Foster Care Ombudsman shall maintain confidentiality with respect to all matters including the identities of complainants, witnesses, or others from whom information is acquired, except insofar as disclosures may be necessary to enable the Foster Care Ombudsman to carry out duties of the office or to support recommendations.

~~(b)~~ (c) Notwithstanding any other section within this article, all information, records, and reports received by or developed by the Foster Care Ombudsman Program which relate to a foster child, foster parent, or kinship parent, including written material identifying a foster child, foster parent, or kinship parent, are confidential pursuant to §49-5-101 *et seq.* of this code, and are not subject to the provisions of §29B-1-1 *et seq.* of this code, and may not be disclosed or released by the Foster Care Ombudsman Program, except under the circumstances enumerated in this section.

~~(c)~~ (d) Nothing in this section prohibits the preparation and submission by the Foster Care Ombudsman of statistical data and reports, as required to implement the provisions of this article or any applicable federal law, exclusive of any material that identifies any foster child, foster parent, kinship parent, or complainant.

~~(d)~~ (e) The Inspector General shall have access to the records and files of the Foster Care Ombudsman Program to verify its effectiveness and quality where the identity of any complainant or foster child, foster parent, or kinship parent is not disclosed.

Engrossed Committee Substitute for House Bill 4344, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4344 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—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. 4344) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent being granted, the unreported Finance committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4344—A Bill to repeal §49-2-125 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-2-809; to amend and reenact §49-4-405 of said code; to amend and reenact §49-4-601; and to amend and reenact §49-9-101, §49-9-103, §49-9-105, §49-9-106 and §49-9-107 of said code, all relating to foster care; deleting outdated language; requiring that any report by a healthcare provider mandatory reporter shall be automatically considered accepted by centralized intake and a referral for investigation made; requiring circuit courts to enable multidisciplinary treatment team to meet monthly; including managed care case coordinator in multidisciplinary treatment team; requiring sheriff's office to serve notice of hearing without additional compensation; requiring foster care ombudsman to make recommendations in accordance with the Foster Child Bill of Rights and the Foster and Kinship Parent Bill of Rights; authorizing ombudsman to have access to kinship family; exempting foster care ombudsman from testifying about official duties; making ombudsman's records confidential and not admissible in evidence; removing circumstance for authorizing disclosure of confidential matters; making investigation of complaint confidential except when imminent risk of harm reported to foster care ombudsman; and requiring ombudsman to maintain confidentiality with respect to all matters and exceptions.

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

Consideration of Engrossed Committee Substitute for House Bill 4344 having been concluded,

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

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

Eng. Com. Sub. for Senate Bill 533, Relating to funding for health sciences and medical schools in state.

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

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

On page two, following the article heading, by striking out §33-3-14e in its entirety and inserting in lieu thereof the following:

§33-3-14e. Use of insurance premium tax proceeds to support health sciences and medical schools.

(a) The Legislature recognizes that the schools of medicine, dentistry, nursing, and related programs of the Health Sciences Center of West Virginia University School of Medicine; the Medical School at Marshall University; and the West Virginia School of Osteopathic Medicine, each provide critical, medical, and related health educational and service opportunities for the significant benefit of the residents of the State of West Virginia. The Legislature finds and declares that it should dedicate a portion of the insurance tax proceeds credited to the general fund as contemplated by §33-3-14(c) of this code and §33-3-14a of this code to provide additional dedicated funds to the base of appropriation support for these schools.

(b) Effective July 1, 2022, to support these schools, and in addition to the base appropriations to these schools, the Governor shall include appropriations in each annual budget bill submitted to the Legislature from the amounts sent to the credit of the General Revenue Fund pursuant to §33-3-14(c) of this code and §33-3-14a of this code, as follows:

(1) To the schools of medicine, dentistry, nursing, and related programs of the Health Sciences Center of West Virginia University, $14 million;

(2) To the School of Medicine at Marshall University, $5,500,000; and

(3) To the West Virginia School of Osteopathic Medicine, $3,900,000.

(c) These funds shall be dedicated quarterly from the collection of the insurance premium tax in the months of July, October, February, and April of each fiscal year. Each school as set forth in subsection (b) of this section shall receive their dedicated funds at the rate of one quarter of the full amount in each of those months.

(d) Nothing in this section shall be construed to limit or reduce the amount of total appropriations to schools of medicine, dentistry, nursing, and related programs of the Health Sciences Center of West Virginia University, the Medical School at Marshall University, and the West Virginia School of Osteopathic Medicine to the amounts contemplated by this section.;

And,

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

Eng. Com. Sub. for Senate Bill 533—A Bill amend and reenact §11-19-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-19-13; and to amend said code by adding thereto a new section, designated §33-3-14e, all relating to funding for health sciences and medical schools in this state; eliminating the direction of proceeds of the soda tax into special medical school fund; providing for the eventual elimination of the tax; providing for a sunset date; directing a portion of insurance premium tax to health sciences and medical schools in this state; setting out findings; providing for specific amounts to be directed to Health Sciences Center at West Virginia University, Marshall University

School of Medicine, and West Virginia school of Osteopathic Medicine; providing for effective dates, providing for quarterly distribution for dedicated fund; and providing that the additional dedicated amounts directed from premium tax in addition to the base appropriations to these schools shall not limit or reduce total appropriation to the health sciences and medical schools.

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

Engrossed Committee Substitute for Senate Bill 533, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 533) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2022.

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

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 533) takes effect July 1, 2022.

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

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

Eng. Com. Sub. for Senate Bill 568, Relating to health insurance loss ratio information.

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

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

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

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3c. Loss ratio.

If an insurer considers a loss ratio at the time of renewal of a policy, the insurer shall, upon request of an insured, provide the loss ratio and the components of the loss ratio calculation to the insured no more than 90 days but no less than 60 days before the renewal date of the policy. For purposes of this section, "loss ratio" means the total losses paid out in medical claims divided by the total earned premiums.

Medical claims do not include dental only or vision only coverage.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS.

§33-24-6a. Loss ratio.

If a corporation utilizes a group's loss ratio as a rating factor at the time of renewal of a policy, plan, or contract, the corporation shall, upon request of an insured or subscriber, provide the loss ratio and the components of the loss ratio calculation to the insured or subscriber no more than 90 days but no less than 60 days before the renewal date of the policy, plan, or contract. For purposes of this section, "loss ratio" means the total losses paid out in medical claims divided by the total earned premiums: *Provided*, That that the requirements of this section do not apply to a dental service corporation as that term is defined in this article.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-10a. Loss ratio.

If a corporation considers a loss ratio at the time of renewal of a policy, plan, or contract, the corporation shall, upon request of a subscriber, provide the loss ratio and the components of the loss ratio calculation to the subscriber no more than 90 days but no less than 60 days before the renewal date of the policy, plan, or contract. For purposes of this section, "loss ratio" means the total losses paid out in medical claims divided by the total earned premiums.

Medical claims do not include dental only or vision only coverage.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-7b. Loss ratio.

If a health maintenance organization considers a loss ratio at the time of renewal of a policy, plan, or contract, the health maintenance organization shall, upon request of a subscriber, provide the loss ratio and the components of the loss ratio calculation to the subscriber no more than 90 days but no less than 60 days before the renewal date of the policy, plan, or contract. For purposes of this section, "loss ratio" means the total losses paid out in medical claims divided by the total earned premiums: *Provided, However*, that medical claims do not include dental only or vision only coverage. For purposes of this section, "subscriber" does not include a subscriber or beneficiary of any policy, plan, or contract approved by the Bureau of Medical Services of the Department of Health and Human Resources and entered into by a health maintenance organization with Medicaid or the Children's Health Insurance Program.

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

Engrossed Committee Substitute for Senate Bill 568, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 568) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 656, Providing tax credit for certain corporations with child-care facilities for employees.

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

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

On page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-97. Tax credit for employers providing child care for employees.

(a) *Definitions* — As used in this section, the term:

(1) "Commissioner" or "Tax Commissioner" are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia, or his or her delegate;

(2) "Cost of operation" means reasonable direct operational costs incurred by an employer as a result of providing employer provided or employer sponsored child care facilities; *Provided*, That the term cost of operation shall exclude the cost of any property that is qualified child care property.

(3) "Department" or "Tax Department" means the West Virginia State Tax Department.

(4) "Employer" means any employer upon whom an income tax is imposed by this article.

(5) "Employer provided" refers to child care offered on the premises of the employer.

(6) "Premises of the employer" refers to any location within the State of West Virginia and located on the workplace premises of the employer providing the child care or one of the employers providing the child care in the event that the child care property is owned jointly or severally by the taxpayer and one or more unaffiliated employers; *Provided*, That if such workplace premises are impracticable or otherwise unsuitable for the on-site location of such child care facility, as determined by the commissioner, such facility may be located within a reasonable distance of the premises of the employer.

(7) "Qualified child care property" means all real property, other than land, and tangible personal property purchased or acquired on or after July 1, 2022, or which property is first placed in service on or after July 1, 2022, for use exclusively in the construction, expansion, improvement, or operation of an employer provided child care facility, but only if:

(A) The children who use the facility are primarily children of employees of:

(i) The taxpayer and other employers in the event that the child care property is owned jointly or severally by the taxpayer and one or more employers; or

(ii) A corporation that is a member of the taxpayer's "affiliated group" within the meaning of section 1504(a) of the Internal Revenue Code; and

(B) The taxpayer has not previously claimed any tax credit for the cost of operation for such qualified child care property placed in service prior to taxable years beginning on or after January 1, 2022.

Qualified child care property includes, but is not limited to, amounts expended on building, improvements, and building improvements and furniture, fixtures, and equipment directly related to the operation of child care property as defined in this section.

(8) "Recapture amount" means, with respect to property as to which a recapture event has occurred, an amount equal to the applicable recapture percentage of the aggregate credits claimed under subsection (d) of this Section for all taxable years preceding the recapture year, whether or not such credits were used.

(9) "Recapture event" means any disposition of qualified child care property by the taxpayer, or any other event or circumstance under which property ceases to be qualified child care property with respect to the taxpayer, except for:

(A) Any transfer by reason of death;

(B) Any transfer between spouses or incident to divorce;

(C) Any transaction to which Section 381(a) of the Internal Revenue Code applies;

(D) Any change in the form of conducting the taxpayer's trade or business so long as the property is retained in such trade or business as qualified child care property and the taxpayer retains a substantial interest in such trade or business; or

(E) Any accident or casualty.

(10) "Recapture percentage" refers to the applicable percentage set forth in the following table:

If the recapture event occurs within-	The recapture percentage is:
Five full years after the qualified child care property is placed in service	100
The sixth full year after the qualified child care property is placed in service	90
The seventh full year after the qualified child care property is placed in service	80
The eighth full year after the qualified child care property is placed in service	70
The ninth full year after the qualified child care property is placed in service	60
The tenth full year after the qualified child care property is placed in service	50
The eleventh full year after the qualified child care property is placed in service	40
The twelfth full year after the qualified child care property is placed in service	30
The thirteenth full year after the qualified child care property is placed in service	20
The fourteenth full year after the qualified child care property is placed in service	10
Any period after the close of the fourteenth full year after the qualified child care property is placed in service	0

(11) "Recapture year" means the taxable year in which a recapture event occurs with respect to qualified child care property.

(b) *Credit for Capital Investment in Child Care Property* — A taxpayer shall be allowed a credit against the tax imposed under this article for the taxable year in which the taxpayer first places in service qualified child care property and for each of the ensuing four taxable years following such taxable year. The aggregate amount of the credit shall equal 50 percent of the cost of all qualified child care property purchased or acquired by the taxpayer and first placed in service during a taxable year, and such credit may be claimed at a rate of 20 percent per year over a period of five taxable years. In the case of a qualified child care property jointly owned by two or more unaffiliated employers, each employer's credit is limited to that employer's respective investment in the qualified child care property.

(c) *Limitations on Capital Investment Credit* — The tax credit allowable under subsection (b) of this Section shall be subject to the following conditions and limitations:

(1) Any such credit claimed in any taxable year but not used in such taxable year may be carried forward for three years from the close of such taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any succeeding taxpayer;

(2) In no event shall the amount of any such tax credit allowed under subsection (b) of this section, when combined with any such tax credit allowed under subsection (e) of this section, including any carryover of such credits from a prior taxable year, exceed 100 percent of the taxpayer's income tax liability as determined without regard to any other credits; and

(3) For every year in which a taxpayer claims such credit, the taxpayer shall attach a schedule to the taxpayer's West Virginia income tax return setting forth the following information with respect to such tax credit:

(A) A description of the child care facility;

(B) The amount of qualified child care property acquired during the taxable year and the cost of such property;

(C) The amount of tax credit claimed for the taxable year;

(D) The amount of qualified child care property acquired in prior taxable years and the cost of such property;

(E) Any tax credit utilized by the taxpayer in prior taxable years;

(F) The amount of tax credit carried over from prior years;

(G) The amount of tax credit utilized by the taxpayer in the current taxable year;

(H) The amount of tax credit to be carried forward to subsequent tax years; and

(I) A description of any recapture event occurring during the taxable year, a calculation of the resulting reduction in tax credits allowable for the recapture year and future taxable years, and a calculation of the resulting increase in tax for the recapture year.

(d) *Recapture of Credit* — If a recapture event occurs with respect to qualified child care property:

(1) The credit otherwise allowable under subsection (b) of this section with respect to such property for the recapture year and all subsequent taxable years shall be reduced by the applicable recapture percentage; and

(2) All credits previously claimed with respect to such property under subsection (b) of this Section shall be recaptured as follows:

(A) Any carryover attributable to such credits pursuant to subdivision (1) of subsection (c) of this section shall be reduced, but not below zero, by the recapture amount;

(B) The tax credit otherwise allowable pursuant to subsection (b) of this section for the recapture year, if any, as reduced pursuant to subdivision (1) of this subsection, shall be further reduced, but not below zero, by the excess of the recapture amount over the amount taken into account pursuant to paragraph (A) of this subdivision; and

(C) The tax imposed pursuant to this article for the recapture year shall be increased by the excess of the recapture amount over the amounts taken into account pursuant to paragraphs (A) and (B) of this subdivision, as applicable.

(e) *Credit for Operating Costs* — In addition to the tax credit provided under subsection (b) of this Section, a tax credit against the tax imposed under this article shall be granted to an employer who provides or sponsors child care for employees. The amount of the tax credit shall be equal to 50% percent of the cost of operation to the employer less any amounts paid for by employees during a taxable year.

(f) *Limitations on Credit for Operating Costs* — The tax credit allowed under subsection (e) of this Section shall be subject to the following conditions and limitations:

(1) Such credit shall when combined with the credit allowed under subsection (b) shall not exceed 100 percent of the amount of the taxpayer's income tax liability for the taxable year as determined without regard to any other credits;

(2) Any such credit claimed but not used in any taxable year may be carried forward for five years from the close of the taxable year in which the cost of operation was incurred; and

(3) The employer shall certify to the department the names of the employees, the name of the child care provider, and such other information as may be required by the department to ensure that credits are granted only to employers who provide or sponsor approved child care pursuant to this Section.

(g) *Rules* —The Tax Commissioner may promulgate such interpretive, legislative and procedural rules as the Commissioner deems to be useful or necessary to carry out the purpose of this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-44. Tax credit for employers providing child care for employees.

(a) *Definitions* — As used in this section, the term:

(1) "Commissioner" or "Tax Commissioner" are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia, or his or her delegate;

(2) "Cost of operation" means reasonable direct operational costs incurred by an employer as a result of providing employer provided or employer sponsored child care facilities; provided, however, that the term cost of operation shall exclude the cost of any property that is qualified child care property.

(3) "Department" or "Tax Department" means the West Virginia State Tax Department.

(4) "Employer" means any employer upon whom an income tax is imposed by this article or any employer organized as a nonprofit corporation under Internal Revenue Code § 501(c)(3) or § 501(c)(6) that is exempt from the tax imposed by this article pursuant to §11-24-5.

(5) "Employer provided" refers to child care offered on the premises of the employer.

(6) "Premises of the employer" refers to any location within the State of West Virginia and located on the workplace premises of the employer providing the child care or one of the employers providing the child care in the event that the child care property is owned jointly or severally by the taxpayer and one or more unaffiliated employers; provided, however, that if such workplace premises are impracticable or otherwise unsuitable for the on-site location of such child care facility, as determined by the commissioner, such facility may be located within a reasonable distance of the premises of the employer.

(7) "Qualified child care property" means all real property, other than land, and tangible personal property purchased or acquired on or after July 1, 2022, or which property is first placed in service on or after July 1, 2022, for use exclusively in the construction, expansion, improvement, or operation of an employer provided child care facility, but only if:

(A) The children who use the facility are primarily children of employees of:

(i) The taxpayer and other employers in the event that the child care property is owned jointly or severally by the taxpayer and one or more employers; or

(ii) A corporation that is a member of the taxpayer's "affiliated group" within the meaning of Section 1504(a) of the Internal Revenue Code; and

(B) The taxpayer has not previously claimed any tax credit for the cost of operation for such qualified child care property placed in service prior to taxable years beginning on or after January 1, 2022.

Qualified child care property includes, but is not limited to, amounts expended on building, improvements, and building improvements and furniture, fixtures, and equipment directly related to the operation of child care property as defined in this section.

(8) "Recapture amount" means, with respect to property as to which a recapture event has occurred, an amount equal to the applicable recapture percentage of the aggregate credits claimed under subsection (d) of this section for all taxable years preceding the recapture year, whether or not such credits were used.

(9) "Recapture event" refers to any disposition of qualified child care property by the taxpayer, or any other event or circumstance under which property ceases to be qualified child care property with respect to the taxpayer, except for:

(A) Any transfer by reason of death;

(B) Any transfer between spouses or incident to divorce;

(C) Any transaction to which Section 381(a) of the Internal Revenue Code applies;

(D) Any change in the form of conducting the taxpayer's trade or business so long as the property is retained in such trade or business as qualified child care property and the taxpayer retains a substantial interest in such trade or business; or

(E) Any accident or casualty.

(10) "Recapture percentage" refers to the applicable percentage set forth in the following table:

If the recapture event occurs within-	The recapture percentage is:
Five full years after the qualified child care property is placed in service	100
The sixth full year after the qualified child care property is placed in service	90
The seventh full year after the qualified child care property is placed in service	80
The eighth full year after the qualified child care property is placed in service	70
The ninth full year after the qualified child care property is placed in service	60
The tenth full year after the qualified child care property is placed in service	50
The eleventh full year after the qualified child care property is placed in service	40
The twelfth full year after the qualified child care property is placed in service	30

The thirteenth full year after the qualified child care property is placed in service 20

The fourteenth full year after the qualified child care property is placed in service 10

Any period after the close of the fourteenth full year after the qualified child care property is placed in service 0

(11) "Recapture year" means the taxable year in which a recapture event occurs with respect to qualified child care property.

(b) *Credit for Capital Investment in Child Care Property* — A taxpayer shall be allowed a credit against the tax imposed under this article for the taxable year in which the taxpayer first places in service qualified child care property and for each of the ensuing four taxable years following such taxable year. The aggregate amount of the credit shall equal 50 percent of the cost of all qualified child care property purchased or acquired by the taxpayer and first placed in service during a taxable year, and such credit may be claimed at a rate of 20 percent per year over a period of five taxable years. In the case of a qualified child care property jointly owned by two or more unaffiliated employers, each employer's credit is limited to that employer's respective investment in the qualified child care property.

(c) *Limitations on Capital Investment Credit* — The tax credit allowable under subsection (b) of this section shall be subject to the following conditions and limitations:

(1) Any such credit claimed in any taxable year but not used in such taxable year may be carried forward for three years from the close of such taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any succeeding taxpayer;

(2) In no event shall the amount of any such tax credit allowed under subsection (b) of this section, when combined with any such tax credit allowed under subsection (e) of this section, including any carryover of such credits from a prior taxable year, exceed 100 percent of the taxpayer's income tax liability as determined without regard to any other credits; and

(3) For every year in which a taxpayer claims such credit, the taxpayer shall attach a schedule to the taxpayer's West Virginia income tax return setting forth the following information with respect to such tax credit:

(A) A description of the child care facility;

(B) The amount of qualified child care property acquired during the taxable year and the cost of such property;

(C) The amount of tax credit claimed for the taxable year;

(D) The amount of qualified child care property acquired in prior taxable years and the cost of such property;

(E) Any tax credit utilized by the taxpayer in prior taxable years;

(F) The amount of tax credit carried over from prior years;

(G) The amount of tax credit utilized by the taxpayer in the current taxable year;

(H) The amount of tax credit to be carried forward to subsequent tax years; and

(I) A description of any recapture event occurring during the taxable year, a calculation of the resulting reduction in tax credits allowable for the recapture year and future taxable years, and a calculation of the resulting increase in tax for the recapture year.

(d) *Recapture of Credit* — If a recapture event occurs with respect to qualified child care property:

(1) The credit otherwise allowable under subsection (b) of this section with respect to such property for the recapture year and all subsequent taxable years shall be reduced by the applicable recapture percentage; and

(2) All credits previously claimed with respect to such property under subsection (b) of this Section shall be recaptured as follows:

(A) Any carryover attributable to such credits pursuant to subdivision (1) of subsection (c) of this section shall be reduced, but not below zero, by the recapture amount;

(B) The tax credit otherwise allowable pursuant to subsection (b) of this section for the recapture year, if any, as reduced pursuant to subdivision (1) of this subsection, shall be further reduced, but not below zero, by the excess of the recapture amount over the amount taken into account pursuant to paragraph (A) of this subdivision; and

(C) The tax imposed pursuant to this article for the recapture year shall be increased by the excess of the recapture amount over the amounts taken into account pursuant to paragraphs (A) and (B) of this subdivision, as applicable.

(e) *Credit for Operating Costs* — In addition to the tax credit provided under subsection (b) of this Section, a tax credit against the tax imposed under this article shall be granted to an employer who provides or sponsors child care for employees. The amount of the tax credit shall be equal to 50 percent of the cost of operation to the employer less any amounts paid for by employees during a taxable year.

(f) *Limitations on Credit for Operating Costs* — The tax credit allowed under subsection (e) of this Section shall be subject to the following conditions and limitations:

(1) Such credit shall when combined with the credit allowed under subsection (b) shall not exceed 100 percent of the amount of the taxpayer's income tax liability for the taxable year as determined without regard to any other credits;

(2) Any such credit claimed but not used in any taxable year may be carried forward for five years from the close of the taxable year in which the cost of operation was incurred; and

(3) The employer shall certify to the department the names of the employees, the name of the child care provider, and such other information as may be required by the department to ensure that credits are granted only to employers who provide or sponsor approved child care pursuant to this Section.

(g) *Transferrable Credit Available to Non-Profit Corporations* — In the case of non-profit corporations organized under Internal Revenue Code §501(c)(3) or §501(c)(6), which are exempt from tax under this article pursuant to §11-24-5 of this code, a credit in the amount calculated under the provisions of this section shall be available as a transferrable credit that may be transferred, sold or assigned to any other taxpayer to be applied against the tax owed under this article. Pursuant to rules promulgated by the Tax Department, a non-profit corporation applicant shall provide a schedule to the Tax Department with all information required under §11-24-44(c)(3) of this code. The Tax Department shall within 90 days certify the amount of transferrable credit available to be transferred, sold or assigned to another taxpayer. Any transferee, purchaser, or assignee of non-profit corporation credits certified to a non-profit corporation under this section takes the transferred, purchased, or assigned credits subject to any limitations placed on the amount of credit taken in a given year by §11-24-44(b), §11-24-44(c), §11-24-44(e) and §11-24-44(f) of this code.

(h) *Rules* —The Tax Commissioner may promulgate such interpretive, legislative and procedural rules as the Commissioner deems to be useful or necessary to carry out the purpose of this section and to implement the intent of the Legislature. The Tax Commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.;

And,

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

Eng. Com. Sub. for Senate Bill 656—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-97; and to amend said code by adding thereto a new section §11-24-44, all relating to providing a tax credit against the state corporate net income tax and the state personal income tax for expenditures related to the establishment and operation of employer-provided or sponsored child-care facilities; defining terms; providing for rulemaking; setting the amount of the credit; providing for limitation of the credit; providing for transferrable credit available to non-profit corporations; and providing for a recapture process.

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

Engrossed Committee Substitute for Senate Bill 656, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: Azinger, Karnes, and Martin—3.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 656) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 729, Relating to funding for infrastructure and economic development projects in WV.

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

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

On page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.

§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.

(a) ~~The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the board and West Virginia Economic Development Authority Board.~~

(b) Subject to a liquidity determination, the West Virginia Board of Treasury Investments shall make a revolving loan available to the West Virginia Economic Development Authority in an amount of up to $200 million. The revolving loan shall be used for business or industrial development projects authorized by §31-15-7 of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to §31-15-20 of this code which authorizes a $150 million revolving loan and §31-18B-1 *et seq.* of this code which authorizes a $50 million investment pool: *Provided*, That the West Virginia Economic Development Authority may not loan more than $15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to 50 percent of the West Virginia Economic Development Authority's weighted average interest rate for outstanding loans in the Business and Industrial Development Loan Program authorized by §31-15-7 of this code. The rate may not be lower than 1.50 percent and must be reset on July 1 of each year. Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool.

The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed 103 percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that 103 percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by §31-15-7 of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to §31-15-20 of this code or §31-18B-1 *et seq.* of this code.

(f) The directors of the West Virginia Board of Treasury Investments shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) *Inspection of records*. — Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to any loan issued by the board to the authority or any loan from the authority to a third party funded by a loan issued by the board. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan applications, loan agreements, board minutes, audit reports, and transaction records. Records of the authority held, from time to time, by the board pursuant to this subsection that are exempt from disclosure pursuant to the provisions of §31-15-22 of this code or §29B-1-1 *et seq.* of this code shall remain so while held by the board.

(h) Notwithstanding any other provision of this code to the contrary, the West Virginia Economic Development Authority shall pay to the West Virginia Board of Treasury Investments the entire outstanding balance of the revolving loan authorized by this section within 30 days of the balance in the Economic Development Project Fund created in §31-15-23a of this code becoming $600 million or more. Upon the repayment of the outstanding loan balance, the revolving loan authorized by this section shall terminate and no additional loan moneys shall be made available to the West Virginia Economic Development Authority pursuant to this section.

§12-6C-11b. Infrastructure investment reimbursement fund.

(a) The West Virginia Board of Treasury Investments shall make available to the Department of Transportation, subject to a liquidity determination, a revolving loan of up to $200 million from the Consolidated Fund for the purposes authorized by this section. The loan moneys shall be deposited in a special revenue fund, known as the Infrastructure Investment Reimbursement Fund.

(b) The Board of Treasury Investments shall make the loan moneys authorized by this section available upon receipt of the following:

(1) A written request by the Secretary of the Department of Transportation that the board deposit a specific amount of loan moneys, subject to the limitations provided in this section, into the Infrastructure Investment Reimbursement Fund;

(2) A written statement by the Secretary of the Department of Transportation certifying that the Department of Transportation will use the loan moneys for expenditures meeting the requirements of subsection (c) of this section; and

(3) Copies of any available documents demonstrating that the planned expenditures of loan moneys meet the requirements of subsection (c) of this section, including but not limited to any agreement or contract entered into by the Department of Transportation and the federal government.

(c) The Secretary of the Department of Transportation may authorize expenditures from the Infrastructure Investment Reimbursement Fund that qualify for cost reimbursement according to an agreement with the federal government pursuant to the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (2021): *Provided,* That the Secretary may also authorize expenditures to political subdivisions of the state pursuant to agreements they may have with the federal government pursuant to the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (2021). If the federal reimbursement to the Department of Transportation or a political subdivision of the state pursuant to an agreement is less than one hundred percent of the amount that must be expended by the Secretary or political subdivision, the Secretary may only request an amount equal to the expected reimbursement.

(d) Upon receiving moneys from the federal government to reimburse for expenditures from the Infrastructure Investment Reimbursement Fund, the Secretary of the Department of Transportation or political subdivision shall immediately reimburse the Infrastructure Investment Reimbursement Fund in an amount equal to the pro rata amount the expenditure from the fund is to the whole reimbursement payment.

(e) Any balance remaining in the fund at the end of each fiscal year shall be transferred to the Consolidated Fund. If, at any time during a fiscal year, the secretary determines that the balance in the fund exceeds the amount required for expenditures authorized in subsection (c) of this section, the Secretary shall provide notice of said determination to the Board of Treasury Investments and the balance of the fund shall be transferred to the Consolidated Fund.

(f) The secretary shall prepare and submit a quarterly report to the Joint Committee on Government and Finance, the Board of Treasury Investments, and the Governor which shall include, at a minimum:

(1) The aggregate outstanding amount of the loan authorized by this section; and

(2) For each project for which loan moneys were expended, the status of the project, the estimated completion date of the project, the amount of loan moneys expended for the project, the amount of state road moneys expended for the project, the amount of federal reimbursement moneys received for the project, and the remaining amount of federal reimbursement moneys projected to be received for the project.

(g) Upon request of the Board of Treasury Investments, the Secretary of the Department of Transportation shall provide the board with the opportunity to inspect and copy any records in the custody of the Department related to any transaction involving the Infrastructure Investment Reimbursement Fund. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, contracts or agreements, audit reports, and transaction records.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-20. AUTHORITY OF THE BOARD OF INVESTMENTS.

[Repealed].

§31-15-23a. Economic Development Project Fund.

(a) For the purposes of this section, the term "high impact development project" means a project meeting the following criteria, according to a resolution adopted in a meeting of the authority:

(1) The project has been approved for financing by the authority in an amount of $50 million or greater;

(2) The development agency or enterprise undertaking the project will privately invest an amount of $50 million or greater in the project; and

(3) The project is reasonably projected to create 200 or more jobs in the state.

(b) There is hereby created a special revenue fund in the State Treasury known as the Economic Development Project Fund. Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code. The fund shall consist of all moneys appropriated to the Economic Development Authority during the regular session of the Legislature, 2022, from available revenue surplus funds, transfers from the Industrial Development Loans (fund 9061), any earnings or interest accruing to said fund, and any other moneys appropriated to said fund by the Legislature.

(c) The Economic Development Authority shall transfer all funds in the Industrial Development Loans (fund 9061) to the Economic Development Project Fund created by this section and any loan repayments or other amounts that would otherwise have been paid into the Industrial Development Loans (fund 9061) shall be paid into the Economic Development Project Fund created by this section.

(d) The authority may use moneys in the Economic Development Project Fund to finance projects of industrial development agencies or enterprises according to the requirements of this article: *Provided,* That a minimum of $400 million in the fund must be reserved to finance high impact development projects.

(e) The authority shall keep itemized records of all fund transactions and agreements entered into in furtherance of Economic Development Project Fund expenditures. In administering the

fund, the authority shall adopt appropriate accounting practices and internal controls, including but not limited to, strict compliance with the requirements of §5A-8-9 of this code. Fund transactions shall be subject to an annual audit by an independent firm of certified public accountants.

(f) The authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor an annual report addressing the status of each project with outstanding financing issued pursuant to this section. The report shall, at a minimum, provide project-specific data addressing:

(1) The outstanding amount of Authority financing for each project;

(2) The total amount of private investment in each project;

(3) The number of jobs created by each project since the project's inception; and

(4) The number of jobs maintained by each project.

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

Engrossed Senate Bill 729, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 729) 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 729) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 138, Relating to Board of Medicine composition.

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

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

On page 1 by striking everything after the enacting clause and inserting in lieu thereof:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal.

The West Virginia Board of Medicine has assumed, carried on, and succeeded to all the duties, rights, powers, obligations, and liabilities heretofore belonging to or exercised by the Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates, permits, and other acts and undertakings of the Medical Licensing Board of West Virginia as heretofore constituted have continued as those of the West Virginia Board of Medicine until they expired or were amended, altered, or revoked. The board remains the sole authority for the issuance of licenses to practice medicine and surgery, to practice podiatry, and to practice as physician assistants in this state under the supervision of physicians licensed under this article. The board shall continue to be a regulatory and disciplinary body for the practice of medicine and surgery, the practice of podiatry, and for physician assistants in this state.

The board shall consist of ~~sixteen~~ 15 members. One member shall be the state health officer ex officio, with the right to vote as a member of the board. The other ~~fifteen~~ 14 members shall be appointed by the Governor, with the advice and consent of the Senate. Eight of the members shall be appointed from among individuals holding the degree of doctor of medicine, and ~~two~~ one shall hold the degree of doctor of podiatric medicine. Two members shall be physician assistants licensed by the board. Each of these members must be duly licensed to practice his or her profession in this state on the date of appointment and must have been licensed and actively practicing that profession for at least five years immediately preceding the date of appointment. Three lay members shall be appointed to represent health care consumers. Neither the lay members nor any person of the lay members' immediate families shall be a provider of or be employed by a provider of health care services. The state health officer's term shall continue for the period that he or she holds office as state health officer. Each other member of the board shall be appointed to serve a term of five years: *Provided,* That the members of the Board of Medicine holding appointments on the effective date of this section shall continue to serve as members of the Board of Medicine until the expiration of their term unless sooner removed. Each term shall begin on October 1 of the applicable year and a member may not be appointed to more than two consecutive full terms on the board.

A person is not eligible for membership on the board who is a member of any political party executive committee or, with the exception of the state health officer, who holds any public office or public employment under the federal government or under the government of this state or any political subdivision thereof.

In making appointments to the board, the Governor shall, so far as practicable, select the members from different geographical sections of the state. When a vacancy on the board occurs and less than one year remains in the unexpired term, the appointee shall be eligible to serve the remainder of the unexpired term and two consecutive full terms on the board.

No member may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality: *Provided,* That the expiration, surrender, or revocation of the professional license by the board of a member of the board shall cause the membership to immediately and automatically terminate.

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

Engrossed Committee Substitute for Senate Bill 138, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 138) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 246, Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations.

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

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

On page two, section two, line seven, following the word "furnishings" and the semicolon, by inserting the word "and";

On page two, section two, line nine, following the word "operational", by striking out the semicolon and inserting in lieu thereof a period;

On page two, section two, line ten, by striking out the paragraph designation "(D)";

On page three, section three, line twenty-six, following the words "boards shall", by inserting the words "adopt a policy to";

And,

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

Eng. Com. Sub. for Senate Bill 246—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-9G-1, §18-9G-2, and §18-9G-3, all relating to imposing water bottle filling station requirements for newly constructed public school buildings and existing public school buildings undergoing a major improvement; purpose; defining terms; requiring State Board of Education rules; setting forth requirements for any water bottle filling station installed in a public school building; and requiring county boards to adopt policies to permit students in schools with water bottle filling stations to carry water bottles.

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

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 246, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 246) passed with its House of Delegates amended title.

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

On motion of Senator Takubo, at 9:28 p.m., the Senate recessed until 9:45 p.m. tonight.

The Senate reconvened at 9:56 p.m. and proceeded to the eighth order of business and the consideration of

Eng. Com. Sub. for House Bill 4607, To remove opioid treatment programs from requiring a certificate of need.

On third reading, coming up in deferred order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Takubo, as member of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

At the request of Senator Takubo, unanimous consent being granted, further consideration of the bill was deferred until the conclusion of today's third reading calendar.

The Senate then resumed consideration of the remainder of its third reading calendar.

Eng. House Joint Resolution 104, Providing Term Limits for certain Constitutional Officers.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the resolution, from the Committee on the Judiciary, was reported by the Clerk:

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

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2022, which proposed amendment is that section four, article VII thereof, be amended to read as follows:

ARTICLE VII. EXECUTIVE DEPARTMENT.

§4. Eligibility.

None of the executive officers mentioned in this article shall hold any other office during the term of his or her service.

A person who has been elected or who has served as Governor during all or any part of two consecutive terms shall be ineligible for the office of Governor during any part of the term immediately following the second of the two consecutive terms. ~~The person holding the office of governor when this section is ratified shall not be prevented from holding the office of governor during the term immediately following the term he is then serving.~~

After January 1, 2025, a person may not serve more than three consecutive terms in one of the following offices: Secretary of State, State Auditor, State Treasurer, Attorney General, or Commissioner of Agriculture. Service of a term or partial term which begins prior to January 1, 2025, shall not be counted for the purposes of this limitation. Service of a term or partial term which begins after January 1, 2025, shall be counted for the purposes of this limitation.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Constitutional Officer Term Limit Amendment" and the purpose of the proposed amendment is summarized as follows: "To prevent any person from serving in the office of Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, or Attorney General for more than three consecutive terms for terms beginning after January 1, 2025".

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the resolution, the same was put and prevailed.

Engrossed House Joint Resolution 104, as just amended, was then put upon its adoption.

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

The nays were: Caputo and Stollings—2.

Absent: Plymale and Woelfel—2.

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

Eng. House Joint Resolution 104—Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article VII thereof, relating to prohibiting any individual from serving in the office of Secretary of State, Auditor, State Treasurer, Attorney General, or Commissioner of Agriculture, for more than three consecutive terms after January 1, 2025; eliminating language pertaining to effect of amendment on sitting Governor; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. H. J. R. 104) adopted, as follows:

Eng. House Joint Resolution 104—Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article VII thereof, relating to prohibiting any individual from serving in the office of Secretary of State, Auditor, State Treasurer, Attorney General, or Commissioner of Agriculture, for more than three consecutive terms after January 1, 2025; eliminating language pertaining to effect of amendment on sitting Governor; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2022, which proposed amendment is that section four, article VII thereof, be amended to read as follows:

ARTICLE VII. EXECUTIVE DEPARTMENT.

§4. Eligibility.

None of <u>the</u> executive officers mentioned in this article shall hold any other office during the term of his <u>or her</u> service.

A person who has been elected or who has served as Governor during all or any part of two consecutive terms shall be ineligible for the office of Governor during any part of the term immediately following the second of the two consecutive terms. ~~The person holding the office of governor when this section is ratified shall not be prevented from holding the office of governor during the term immediately following the term he is then serving.~~

After January 1, 2025, a person may not serve more than three consecutive terms in one of the following offices: Secretary of State, State Auditor, State Treasurer, Attorney General, or Commissioner of Agriculture. Service of a term or partial term which begins prior to January 1, 2025, shall not be counted for the purposes of this limitation. Service of a term or partial term which begins after January 1, 2025, shall be counted for the purposes of this limitation.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Constitutional Officer Term Limit Amendment" and the purpose of the proposed amendment is summarized as follows: "To prevent any person from serving in the office of Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, or Attorney General for more than three consecutive terms for terms beginning after January 1, 2025".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Eng. House Bill 4847, Relating to missing persons generally.

The Senate proceeded to the sixth order of business.

At the request of Senator Trump, and by unanimous consent, Senators Trump, Blair (Mr. President), 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, Swope, Sypolt, Takubo, Tarr, Weld, Woelfel, and Woodrum offered the following resolution from the floor:

Senate Resolution 58—Urging the President of the United States to expedite the entrance of Ukrainian refugees into the United States of America.

Whereas, The people of Ukraine, who love freedom and democracy, are under hostile and unprovoked attack and invasion by the totalitarian regime of Vladimir Putin's Russia; and

Whereas, The citizens of the United States stand with the people of Ukraine; and

Whereas, The citizens of West Virginia, who love freedom and self-governance, stand with the people of Ukraine; and

Whereas, The horrors of Russia's war of aggression against Ukraine are causing hundreds of thousands of Ukrainian citizens to be displaced from their homes, becoming refugees in other places; and

Whereas, The United States of America must provide humanitarian relief and refuge for the citizens of Ukraine who have been displaced; and

Whereas, The citizens of West Virginia are ready, willing, and able to do their part in the Ukrainian humanitarian crisis; therefore, be it

Resolved by the Senate:

That the Senate hereby urges the President of the United States to expedite the entrance of Ukrainian refugees into the United States of America; and, be it

Further Resolved, That the President of the United States should understand that the citizens of West Virginia are ready, willing, and able to welcome hundreds of thousands of Ukrainian refugees to the State of West Virginia as new residents of the Mountain State; 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 and to the State of West Virginia's congressional delegation.

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

The question being on the adoption of the resolution, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Woelfel—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 58) adopted.

Thereafter, at the request of Senator Lindsay, and by unanimous consent, the remarks by Senators Trump, Maynard, Weld, Romano, and Baldwin regarding the adoption of Senate Resolution 58 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, Senators Blair (Mr. President), Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Woodrum offered the following resolution from the floor:

Senate Resolution 59—Recognizing the dedicated public service of the Honorable Michael J. Romano.

Whereas, The Honorable Michael J. Romano was born in Clarksburg, West Virginia, the son of Melvin J. and Lucie A. Romano; and

Whereas, The Honorable Michael J. Romano attended West Virginia University and the West Virginia University College of Law; and

Whereas, The Honorable Michael J. Romano was elected to the Senate in 2014, where he served two terms representing the 12th senatorial district during the 82nd, 83rd, 84th, and 85th Legislatures; and

Whereas, The Honorable Michael J. Romano has served with distinction in the Senate and throughout his career of public service. He has steadfastly advocated for his constituents and for the benefit of the people of West Virginia; and

Whereas, The Honorable Michael J. Romano's other public service positions include serving on the Harrison County Commission and in the United States SEC Division of Enforcement; and

Whereas, The Honorable Michael J. Romano has decided not to seek reelection in 2022 and will be leaving the West Virginia Senate where he served with distinction; therefore, be it

Resolved by the Senate*:*

That the Senate hereby recognizes the dedicated public service of the Honorable Michael J. Romano; and, be it

Further Resolved, That the Senate expresses its most sincere gratitude and appreciation to the Honorable Michael J. Romano for his service to the Senate and the people of the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Honorable Michael J. Romano.

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

The question being on the adoption of the resolution, and on this question, Senator Trump demanded the yeas and nays.

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

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 59) adopted.

Without objection, Senator Romano addressed the Senate regarding his legislative tenure.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Romano were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, Senators Blair (Mr. President), 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, Swope, Takubo, Tarr, Trump, Weld, Woelfel, and Woodrum offered the following resolution from the floor:

Senate Resolution 60—Recognizing the dedicated public service of the Honorable Dave Sypolt.

Whereas, The Honorable Dave Sypolt was born in Morgantown, West Virginia, the son of Charles R. and Alice Sypolt; and

Whereas, The Honorable Dave Sypolt attended Glenville State College; and

Whereas, The Honorable Dave Sypolt was elected to the Senate in 2006-2018, serving four terms representing the 14th district in the 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, and 85th Legislatures; and

Whereas, The Honorable Dave Sypolt has served with distinction in many different leadership roles in the Senate, including as Chair of the Committee on Education; Chair of the Committee on Agriculture and Rural Development; Vice Chair of the Committee on Finance; and Vice Chair of the Committee on Energy, Industry & Mining; and

Whereas, The Honorable Dave Sypolt has served in other public positions, including serving as a Preston County surveyor, former Chairman of the Preston County Republican Executive Committee, member of the State Republican Executive Committee, and Chair of the Friends of the NRA Dinner; and

Whereas, The Honorable Dave Sypolt has decided not to seek reelection in 2022 and will be leaving the West Virginia Senate where he served with distinction; therefore, be it

Resolved by the Senate*:*

That the Senate hereby recognizes the dedicated public service of the Honorable Dave Sypolt; and, be it

Further Resolved, That the Senate expresses its most sincere gratitude and appreciation to the Honorable Dave Sypolt for his service to the Senate and the people of the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Honorable Dave Sypolt.

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

The question being on the adoption of the resolution, and on this question, Senator Trump demanded the yeas and nays.

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

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 60) adopted.

At the request of Senator Sypolt, unanimous consent being granted, Senator Sypolt addressed the Senate regarding his legislative tenure.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Sypolt were ordered printed in the Appendix to the Journal.

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

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

Eng. Com. Sub. for Senate Bill 6, Establishing common law "veil piercing" claims not be used to impose personal liability.

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

Eng. Senate Bill 253, Relating to voting precincts and redistricting.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, to take effect July 1, 2022, of

Eng. Com. Sub. for Senate Bill 312, Authorization for Department of Revenue to promulgate legislative rules.

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

Eng. Com. Sub. for Senate Bill 463, Best Interests of Child Protection Act of 2022.

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

Eng. Com. Sub. for Senate Bill 487, Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B.

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

Eng. Com. Sub. for Senate Bill 530, Encouraging public-private partnerships in transportation.

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

Eng. Com. Sub. for House Bill 2910, To modify the allowable number of magistrate judges per county.

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

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

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

Eng. Com. Sub. for House Bill 4377, To update the involuntary commitment process.

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

Eng. Com. Sub. for House Bill 4502, Establishing the BUILD WV Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, to take effect July 1, 2022, of

Eng. House Bill 4571, Modifying foundation allowance to account for transportation by electric powered buses.

Senator Sypolt, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 334, Authorizing miscellaneous agencies and boards to promulgate rules.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 334 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House of Delegates on page two, section one, lines twenty-five through thirty-seven, and that the Senate and House agree to an amendment as follows:

On page two, section one, lines twenty-five through thirty-seven, by striking all of subsection (f) and inserting in lieu thereof a new subsection (f) to read as follows:

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-2C-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Auctioneers, 61 CSR 11B), is authorized, with the following amendments:

On page 8, subdivision 16.1, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$100";

On page 8 subdivision 16.3, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$100";

On page 9, subdivision 16.6 by striking "two hundred dollars ($200)" and inserting in lieu thereof "$100";

On page 9, subdivision 16.7, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$100";

That the Senate agree to all other House of Delegates amendments to the bill;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Eng. Com. Sub. for Senate Bill 334—A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing and directing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules, as filed, as modified, and as amended by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to feeding of untreated garbage to swine; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to commercial feed; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to enrichment of flour and bread law regulations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to fruits and vegetables: certification for potatoes for seedling purposes; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Rural Rehabilitation Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Farm-to-Food Bank Tax Credit; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to seed certification; authorizing the State Auditor to promulgate a legislative rule relating to the procedure for local levying bodies to apply for permission to extend time to meet as levying body; authorizing the State Auditor to promulgate a legislative rule relating to accountability requirements for state funds and grants; authorizing the West Virginia Board of Chiropractic Examiners to promulgate a legislative rule relating to fees established by the Board; directing the West Virginia Board of Chiropractic Examiners to promulgate a legislative rule relating to chiropractic telehealth practices; authorizing the Contractor Licensing Board to promulgate a legislative rule relating to the Contractor Licensing Act; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to licensure; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselors fees; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist licensing; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule

relating to marriage and family therapist fees; authorizing the Dangerous Wild Animal Board to promulgate a legislative rule relating to dangerous wild animals; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the West Virginia Board of Dentistry; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; directing the West Virginia Board of Dentistry to promulgate a legislative rule relating to fees; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the formation and approval of dental corporation and dental practice ownership; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the administration of anesthesia by dentists; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the expanded duties of dental hygienists and dental assistants; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to teledentistry; directing the West Virginia Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; directing the West Virginia Board of Professional Engineers to promulgate a legislative rule relating to examination, licensure, and practice of professional engineers; authorizing the West Virginia Board of Funeral Service Examiners to promulgate a legislative rule relating to the fee schedule; authorizing the West Virginia Massage Therapy Licensure Board to promulgate a legislative rule relating to general provisions; directing the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners relating to medical imaging technologists; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures for physicians, podiatric physicians, and surgeons; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensure, practice requirements disciplinary and complaint procedures, continuing education, and physician assistants; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to dispensing of prescription drugs by practitioners; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatric physicians; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to practitioner requirements for accessing the West Virginia Controlled Substances Monitoring Program Database; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to registration to practice during a declared state of emergency; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to telehealth and interstate telehealth registration for physicians, podiatric physicians, and physician assistants; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to Osteopathic Physicians Assistants; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to practitioner requirements for controlled substances licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to telehealth practice and interstate telehealth registration for osteopathic physicians and physician assistants; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy care; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to the Controlled Substance Monitoring Program; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; directing the West Virginia Board of Psychologists to promulgate a legislative rule relating to fees; authorizing the Public Service Commission to promulgate a legislative rule relating to rules governing the occupancy of customer-provided conduit; authorizing the West

Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure or certification; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to the renewal of licensure and certification; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for registration and renewal of appraisal management companies; authorizing the West Virginia Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; authorizing the West Virginia Board of Examiners of Registered Professional Nurses to promulgate a legislative rule relating to telehealth practice; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration at the Division of Motor Vehicles; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration list maintenance by the Secretary of State; authorizing the Secretary of State to promulgate a legislative rule relating to the combined Voter Registration and Driver Licensing Fund; authorizing the Secretary of State to promulgate a legislative rule relating to the use of digital signatures; authorizing the Secretary of State to promulgate a legislative rule relating to regulation of political party headquarters finances; authorizing the Secretary of State to promulgate a legislative rule relating to standards and guidelines for electronic notarization, remote online notarization, and remote ink notarization; authorizing the Secretary of State to promulgate a legislative rule relating to real property electronic recording standards and regulations; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to qualifications for the profession of social work; directing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to the fee schedule; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to continuing education for social workers and providers; authorizing the West Virginia Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the State Treasurer to promulgate a legislative rule relating to Substitute Checks- Exceptional Items Fund; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for deposit of monies with the State Treasurer's Office by state agencies; authorizing the State Treasurer to promulgate a legislative rule relating to the selection of state depositories for disbursement accounts through competitive bidding; authorizing the State Treasurer to promulgate a legislative rule relating to the selection of state depositories for receipt accounts; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for processing payments from the State Treasury; authorizing the State Treasurer to promulgate a legislative rule relating to reporting debt; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for fees in collections by charge, credit, or debit card or by electronic payment; and authorizing the State Treasurer to promulgate a legislative rule relating to procedures for providing services to political subdivisions.

Respectfully submitted,

Dave Sypolt *(Chair),* Patricia Puertas Rucker, Glenn D. Jeffries *(Conferees on the part of the Senate).*

Geoff Foster *(Chair),* Shannon Kimes, Kayla Young *(Conferees on the part of the House of Delegates).*

On motions of Senator Sypolt, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

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

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

The nays were: None.

Absent: Beach, Plymale, 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 S. B. 334) passed with its conference amended title.

Senator Sypolt moved that the bill take effect from passage.

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

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 334) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report, and requested the concurrence of the Senate in the adoption thereof, as to

Eng. House Bill 4097, To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

Whereupon, Senator Weld, from the committee of conference on matters of disagreement between the two houses, as to

Eng. House Bill 4097, To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed House Bill 4097 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House agree to the amendments of the Senate to the bill and its title.

Respectfully submitted,

Brandon Steele *(Chair),* Josh Holstein, Phillip Diserio *(Conferees on the part of the House of Delegates).*

Ryan W. Weld *(Chair),* Michael T. Azinger, Michael A. Woelfel *(Conferees on the part of the Senate).*

Senator Weld, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Weld, the report was taken up for immediate consideration and adopted.

Engrossed House Bill 4097, as amended by the conference report, was then put upon its passage.

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

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4097) passed with its Senate amended title.

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

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

Eng. Com. Sub. for House Bill 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

Whereupon, Senator Takubo, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub for House Bill 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill 4333 having met,

after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

ARTICLE 26. HEARING-AID DEALERS AND FITTERS.

§30-26-21. Sunset and transfer of duties provision; effective date.

(a) The State Board of Hearing-Aid Dealers and Fitters established in this article shall terminate on June 30, 2023, unless continued by the Legislature. Pursuant to §4-10-12 and §4-10-13 of this code, the board shall commence all necessary activities pertinent to the wind-up of all board-related activities. Notwithstanding the termination of the board, the regulation and licensure of hearing aid fitters engaged in the practice of dealing in or fitting of hearing aids under §30-26-1 *et seq.* of this code shall continue with the exception of §30-26-17(6) of this code.

(b) Upon termination of the board, the West Virginia Board of Examiners for Speech-Language Pathology and Audiology shall supervise, regulate, and control the practice of dealing in or fitting of hearing aids in this state. Notwithstanding any other provision of code, hearing aids, mean any wearable device or instrument intended to aid, improve, or compensate for defective or impaired human hearing, may be advertised for mail-order sale in any advertising medium and sold by mail-order sale to any person in this state upon the effective date of this legislation.

ARTICLE 32. SPEECH LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

§30-32-5. Board of Examiners for Speech-Language Pathology and Audiology.

(a) The West Virginia Board of Examiners for Speech-Language Pathology and Audiology is continued. The members of the board in office on July 1, 2013, may, unless sooner removed, continue to serve until their respective terms expire or until their successors have been appointed and qualified.

(b) The board consists of the following members appointed by the Governor by and with the advice and consent of the Senate:

(1) ~~Two~~ Three persons who are licensed speech-language pathologists;

(2) Two persons who are licensed audiologists; ~~and~~

(3) One person who is a licensed hearing aid fitter; and

~~(3)~~ (4) One citizen member who is not licensed or registered under this article.

(c) The terms are for three years. No member may serve for more than two consecutive terms.

(d) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for at least three years.

(e) Each member of the board must be a resident of this state during the appointment term.

(f) No board member may serve as an officer of the West Virginia Speech Language and Hearing Association concurrently with his or her service on the board.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(h) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(i) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license or registration to practice is suspended or revoked.

(j) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(k) The board shall elect annually one of its members as chairperson and one of its members as secretary-treasurer who shall serve at the will and pleasure of the board.

(l) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(m) A majority of the members of the board constitutes a quorum.

(n) The board shall hold at least one annual meeting. Other meetings shall be held at the call of the chairperson or upon the written request of four members, at the time and place as designated in the call or request.

(o) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(p) Board members are immune from civil liability for the performance of their official duties so long as they act in good faith.

§30-32-7. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article, including:

(1) Standards and requirements for licenses and registrations;

(2) Requirements, qualifications and designation of third parties to establish educational requirements and to prepare and/or administer examinations and reexaminations;

(3) Procedures for the issuance and renewal of a license, registration and provisional license;

(4) A fee schedule;

(5) Continuing education and competency requirements for licensees and registrants;

(6) Establishment of competency standards;

(7) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee or registrant;

(8) Requirements for reinstatement of revoked licenses and registrations;

(9) Guidelines for telepractice;

(10) Rules to define the role of the speech-language pathology assistant or audiology assistant, including, but not limited to:

(A) The supervision requirements of licensees;

(B) The ratio of assistants to licensees;

(C) The scope of duties and restrictions of responsibilities of assistants;

(D) The frequency, duration and documentation of supervision required under the provisions of this article; and

(E) The quantity and content of pre-service and in-service instruction.

(11) Professional conduct and ethical standards of practice; and

(12) Any other rules necessary to effectuate the provisions of this article.

(b) The board may promulgate emergency rules in accordance with §29A-3-15 of this code to establish requirements and procedures for telepractice in accordance with the provisions of this article, including the scope of duties and restrictions of assistants in telepractice.

(c) All rules in effect on January 1, 2013 shall remain in effect until they are amended or repealed, and references to provisions of former enactments of this article are interpreted to mean provisions of this article.

(d) All rules in effect upon the sunset or termination of the Board of Hearing Aid Dealers and Fitters shall remain in effect until those rules are amended or repealed by the Board of Examiners of Speech Language Pathology and Audiology in accordance with the provisions of §29A-3-1 of this code.

§30-32-10a. Application for licensure; qualification for licensure; examination.

(a) Each person desiring to obtain a license from the board to engage in the practice of dealing in or fitting of hearing aids shall make application to the board. The application shall be made in such manner and form as prescribed by the board and shall be accompanied by the prescribed fee. The application shall state under oath that the applicant:

(1) Is a resident of this state;

(2) Is free of a felony conviction bearing a rational nexus to the profession pursuant to §30-1-24 of this code

(3) Is 18 years of age or older;

(4) Has an education equivalent to a four-year course in an accredited high school; and

(5) Is free of chronic infectious or contagious diseases.

(b) The board, after first determining that the applicant is qualified and eligible to take the examination, shall notify the applicant that he or she has fulfilled all of the qualifications and eligibility requirements as required and shall advise him or her of the date, time, and place for him or her to appear to be examined as required by the provisions of this article and the regulations promulgated by the board pursuant to this article. The board may promulgate rules relating to the frequency of examinations and other such related topics pursuant to §29A-3-1 of this code.

(c) Before obtaining a license to engage in the practice of dealing in or fitting of hearing- aids, an applicant must meet the following requirements:

(1) The applicant must pass the International Licensing Examination for Hearing Healthcare Professionals, prepared by the International Hearing Society, or an equivalent examination selected by the board.

(2) The applicant must pass a practical examination, which shall be a nationally recognized test selected by the board, or a test designed by the board to test the applicant's proficiency in the following techniques as they pertain to the fitting of hearing aids:

(A) Pure tone audiometry, including air conduction testing;

(B) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing; and

(C) Masking when indicated and effective masking.

(3) The applicant must pass an examination, which shall be developed by the board, to test an applicant's competency in the following subjects:

(A) Ability to counsel the person or family who will receive the hearing aid relative to the care and use of the instrument;

(B) Knowledge regarding the medical and rehabilitative facilities for hearing-handicapped children and adults in the area being served;

(C) Knowledge and understanding of the grounds for revocation, suspension, or probation of a license as outlined in this article or in rule; and

(D) Knowledge and understanding of criminal offenses relating to the profession.

(d) The board may promulgate rules to implement the requirements of this section, including emergency rules promulgated pursuant to the provisions of §29A-3-1 of this code.

(e) The provisions of this section will take effect upon the sunset or termination of the Board of Hearing Aid Dealers and Fitters, which in no event will be later than July 1, 2023.;

And,

That both houses recede from their respective positions as to the title of the bill, and agree to a new title, to read as follows:

Eng. Com. Sub. for House Bill 4333—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-26-21; to amend and reenact §30-32-5 and §30-32-7 of said code; and to amend said code by adding thereto a new section, designated §30-32-10a, all relating to sunsetting the Board of Hearing-Aid Dealers and Fitters; directing wind up and termination of board; continuing licensure and regulation of hearing aid dealers and fitters under board until date of termination, with certain exception; permitting mail order or online sales of hearing aids; transferring licensure and regulation of hearing aid dealers and fitters to West Virginia Board of Examiners for Speech-Language Pathology and Audiology upon termination of Board of Hearing-Aid Dealers and Fitters; revising composition of Board of Examiners for Speech-Language Pathology and Audiology; providing for rules of Board of Hearing-Aid Dealers and Fitters in effect at board's termination to remain in effect until amended or repealed by Board of Examiners for Speech-Language Pathology and Audiology; establishing process and qualifications for licensure of hearing aid dealers and fitters by Board of Examiners for Speech-Language Pathology and Audiology upon termination or sunset of Board of Hearing-Aid Dealers and Fitters; and authorizing advertising and sale of hearing aids by mail upon effective date of legislation.

Respectfully submitted,

Geoff Foster *(Chair),* Doug Smith, Kayla Young *(Conferees on the part of the House of Delegates).*

Tom Takubo *(Chair),* Jack David Woodrum, Robert H. Plymale *(Conferees on the part of the Senate).*

On motions of Senator Takubo, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill 4333, as amended by the conference report, was then put upon its passage.

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

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

Absent: Beach, Plymale, Weld, and Woelfel—4.

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. 4333) passed with its conference amended title.

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

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

Eng. Com. Sub. for House Bill 4098, Relating to Geothermal Energy Development.

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

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

On page 1, section 2, on line 7, after the word "resource" and the semicolon by inserting the word "and",

On page 1, section 2, beginning on line 8, by striking subdivision 3 in its entirety and renumbering the remaining subdivisions;

Beginning on page 1, section 2, beginning on line 16, by striking subsection c in its entirety;

On page 2, section 4, on line 3, after the word "conveying" by inserting the words "or reserving"

And,

On page 4, section 7, on line 18, after the word "drilling" and the comma by inserting the word "plugging" and a comma.

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

Engrossed Committee Substitute for House Bill 4098, as amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4098) passed with its Senate amended title.

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

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

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

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

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

On page 5, section §17H-1-6(a)(2), line 7, by removing the following language: "rules and regulations promulgated under";

And,

On page 6, section §17H-1-11(b), line 5, by striking "A" (the first letter in the subsection) and inserting in lieu thereof "No".

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

Engrossed Committee Substitute for House Bill 4787, as amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4787) passed with its Senate amended title.

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

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

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

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

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

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

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-5a. Off-premises sales not required to be bagged.

A licensee who is licensed for off-premises sales of nonintoxicating beer or nonintoxicating craft beer is not required to place nonintoxicating beer or nonintoxicating craft beer, in a bag.

§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program. The annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is $200 per third party entity, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code, and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements. —*

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) "Prepared food or a meal" shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched,

sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee may not have a pecuniary interest in a Class A retail dealer, as set forth in this article, therefore a third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third party delivery licensee to the person purchasing may not be greater than ~~five dollars~~ $20 per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed ~~five dollars.~~

(e) *Delivery Requirements*. —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third party delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class A retail dealer or third party delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;

(3) The Class A retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit;

(4) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county or contiguous counties where the Class A retail dealer is located;

(5) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class A retail dealer or third party delivery licensee shall pay and account for all sales and municipal taxes;

(6) A Class A retail dealer or third party delivery licensee may not deliver prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

(7) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not for resale; and

(8) A Class A retail dealer or third party delivery licensee shall not deliver and leave prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class A retail dealer or third party delivery licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be issued a retail transportation permit per §11-16-6d(g) of this code.

(g) *Retail Transportation Permit.* —

(1) A Class A retail dealer or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class A retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the Class A retail dealer or third party delivery licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement*. —

(1) A Class A retail dealer or third party delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class A retail dealers or licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class A retail dealer or third party delivery licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class B retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a telephone, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through a telephone order, a mobile ordering application, or web-based software program. The nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is $200 per third party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements. —*

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and nonintoxicating beer or nonintoxicating craft beer by the licensee or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed nonintoxicating beer or nonintoxicating craft beer bottles, cans, or growlers shall not be in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third party delivery licensee to the purchasing person may not be greater than ~~five dollars~~ $20 per delivery order. For any third party licensee also licensed for wine delivery as set forth in §60-8-6f of this code the total convenience fee for any order, sale, and delivery of sealed wine may not exceed ~~five dollars.~~ $20.

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. A Class B retail dealer and a third party licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class B retail dealer and a third party licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and submit the certification of the training to the commissioner;

(3) The Class B retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of the licensure;

(4) A Class B retail dealer and a third party licensee may deliver food and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail dealer is located;

(5) A Class B retail dealer and a third party licensee may only deliver food and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class B retail dealer and a third party licensee shall pay and account for all sales and municipal taxes;

(6) A Class B retail dealer and a third party licensee may not deliver food and nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

(7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are only for personal use, and not for resale; and

(8) A Class B retail dealer and a third party licensee shall not deliver and leave food and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the food and nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, requires a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used must create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class B retail dealer and a third party licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

(g) *Retail Transportation Permit. —*

(1) A Class B retail dealer and a third party licensee shall obtain and maintain a retail transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class B retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, required by the commissioner. Upon any change in vehicles or drivers, Class B retail dealer and a third party licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement. —*

(1) The Class B retail dealer and a third party licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class B retail dealers or third party licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class B retail dealer or third party licensee, their employees, or independent contractors.

(3) It is a violation for any Class B retail dealer or third party licensee, their employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-8. Form of application for license; fee and bond; refusal of license.

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of ~~such~~ the residency, and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, the person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees, or other persons in active control of the activities of the limited liability company, association, or trust relating to the license, shall include the residency for these persons on the application. All applicants and licensees ~~must~~ shall include a manager on the applicant's license application, or a licensee's renewal application, who ~~must~~ shall meet all other requirements of licensure. ~~including, but not limited to,~~ The applicant shall be a United States ~~citizenship or naturalization~~ citizen or a naturalized citizen, ~~passing~~ pass a background investigation, ~~being~~ be at least 21 years of age, ~~being a suitable person, being of good morals and character~~ and meet other requirements, all as set forth in this article and the rules promulgated thereunder, all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain licensure, a licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees, or other persons in active control of the activities of the trust relating to the license, shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e) of this code and shall further state, under oath, the names, addresses, Social Security numbers, and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust ~~must~~ shall state that the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number, and birth date;

(2) The place of birth of the applicant, that he or she is a citizen of the United States and of good moral character and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application ~~must~~ shall state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States and a person of good moral character. If the applicant is a firm, association, limited liability company, partnership, limited partnership, trust, or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries, or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary, or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a naturalized citizen, when and where naturalized, each of whom ~~must~~ shall qualify and sign the application;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the ~~place~~ premises or building in which ~~is proposed~~ the applicant proposes to do business conforms to all applicable laws of health, fire, and zoning regulations and is a safe and proper place or building; not within ~~300~~ 200 feet of a school or church measured from front door to front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition ~~against locating a proposed business in a place or building within 300 feet of a school~~ does not apply to a college, ~~or~~ university, or church that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within ~~300~~ 200 feet of the college, ~~or~~ university, or church;

(6) That the applicant is not incarcerated and has not, in the previous five years before application, (A) been convicted of a felony, (B) been convicted of a crime involving fraud, dishonesty or deceit, and/or (C) been convicted of a felony for violating alcohol-related distribution laws; ~~during the five years preceding the date of said application been convicted of a felony;~~

(7) That the applicant is the only person in any manner pecuniarily interested in the business ~~so asked~~ to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust instrument to the commissioner for his or her review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance of a license and, if any applicant fails to qualify, the commissioner shall refuse to issue the license ~~shall be refused.~~ In addition to the information furnished in any application, the commissioner may make ~~such~~ any additional and independent investigation of each applicant, manager, and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, ~~must~~ shall be submitted with all true and correct information. For the purpose of conducting ~~such~~ the independent investigation, the commissioner may withhold the granting or refusal to grant the license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it appears that the applicant and manager meet the requirements in the code and the rules, including, but not limited to, has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty or deceit in the previous five years before application, has not been convicted of a felony for violating any alcohol-related distribution laws; ~~being a suitable person of good reputation and morals;~~ having made no false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in the application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner is of the opinion:

(1) That the applicant or manager has, within the previous five years before application, (A) been convicted of a felony within the previous five years, (B) been convicted of a crime involving fraud, dishonesty, or deceit, or (C) been convicted of a felony for violating any alcohol-related distribution laws; ~~is not a suitable person to be licensed;~~

(2) That the place to be occupied by the applicant is not a suitable place; or is within ~~300~~ 200 feet of any school or church measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee so long as it is continuously so occupied. The prohibition ~~against locating any such place within 300 feet of a school~~ does not apply to a college, ~~or~~ university, or church that has notified the commissioner, in writing, that it has no objection to the location of any such place within ~~300~~ 200 feet;

(3) That the manager, owner, employee, or person is in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or

(4) That the license should not be issued for reason of conduct declared to be unlawful by this article.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-3a. Off-premises sales not required to be bagged.

Alcoholic liquors in this state are not required to be placed in a bag by a licensee who is licensed for off-premises sales of alcoholic liquors.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-26. Sale of certain liquors prohibited.

(a) Upon the effective date of this section, the commissioner is hereby directed to divest the state of all stocks of alcoholic liquors in the commissioner's possession manufactured in the Russian Federation, or by any person or entity located therein, and to cease purchasing such products during the time this section is in effect.

(b) The commissioner, at the direction of the Governor, is hereby authorized to auction to the highest bidder or sell at a public event all stocks of alcohol liquors in the commissioner's possession which were either manufactured in the Russian Federation or by a person or entity located therein.

(c) The state's proceeds from the sale authorized by subsection (b) of this section shall be paid to a licensed, recognized charitable organization or organizations engaged in assisting the people of Ukraine.

(d) The provisions of this section shall expire three years from the effective date of the section or until the Governor lifts the ban established in subsection (a) of this section.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-3a. Liquor sampling.

(a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee may~~,~~ ~~with the written approval of the commissioner,~~ conduct a liquor sampling event on a designated sampling day.

(b) At least five business days prior to the liquor sampling, the Class A retail licensee shall submit a written proposal to the commissioner ~~requesting to~~ informing the Commissioner that the Class A licensee will hold a liquor sampling event, including:

(1) The day of the event;

(2) The location of the event;

(3) The times for the event; and

(4) The specific brand and flavor of the West Virginia product to be sampled.

(c) Upon approval by the commissioner, a Class A retail licensee may serve a complimentary liquor sample of the approved brand and flavor of the West Virginia product that is purchased by the Class A retail licensee from the commissioner.

(d) The complimentary liquor samples on any sampling day shall not exceed:

(1) One separate and individual sample serving per customer verified to be 21 years of age or older; and

(2) One ounce in total volume.

(e) Servers at the liquor sampling event shall:

(1) Be employees of the Class A retail licensee; and

(2) Be at least 21 years of age or older.~~; and~~

~~(3) Have specific knowledge of the West Virginia product being sampled to convey to the customer.~~

(f) All servers at the liquor sampling event shall verify the age of the customer sampling liquor by requiring and reviewing proper forms of identification. Servers at the liquor sampling event may not serve any person who is:

(1) Under the age of 21 years;

(2) Intoxicated.

(g) A liquor sampling event shall:

(1) Occur only inside the Class A retail licensee's licensed premises; and

(2) Cease on or before 9:00 p.m. on any approved sampling day.

(h) Any liquor bottle used for sampling must be from the inventory of the licensee, and clearly and conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is broken on any liquor bottle or if any liquor bottle is opened, then that liquor bottle must be removed from the licensed premises immediately following the event.

(i) Violations of this section are subject to the civil and criminal penalties set forth in sections twenty-four, twenty-five-a, twenty-six and twenty-seven of this article;

~~(j) To implement the provisions of this section, the commissioner may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code or propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.~~

§60-3A-3b. Private liquor delivery license for a retail liquor outlet or a third party; requirements; limitations; third party license fee; private liquor bottle delivery permit; requirements, and curbside in-person and in-vehicle delivery by a retail liquor outlet.

(a) A retail liquor outlet that is licensed to sell liquor for off-premises consumption may apply for a private liquor delivery license permitting the order, sale, and delivery of sealed liquor bottles or cans in the original container. The order, sale, and delivery of sealed liquor bottles or cans in the original container is permitted for off-premises consumption when completed by the licensee to a person purchasing the sealed liquor bottles or cans through a telephone, a mobile ordering application, or a web-based software program, authorized by the licensee's license. There is no additional fee for a licensed retail liquor outlet to obtain a private liquor delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private liquor delivery license for the privilege of ordering and delivery of sealed liquor bottles or cans, from a licensed retail liquor outlet. The order and delivery of sealed liquor bottles or cans permitted for off-premises consumption by a third party licensee when a retail liquor outlet sells to a person purchasing the sealed liquor bottles or cans through telephone orders, a mobile ordering application, or a web-based software program. The private liquor delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private liquor delivery license application shall comply with licensure requirements in this article and shall provide any information required by the commissioner.

(d) Sale Requirements. -

(1) The purchase of sealed liquor bottles or cans in the original container may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed liquor bottles or cans in the original container by the licensee or third party licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and in §11-16-1 *et seq.* of the code, for nonintoxicating beer or nonintoxicating craft beer.

(3) "Food", for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of up to five 750 milliliter sealed liquor bottles for each order: *Provided*, That the entire delivery order may not contain any combination of sealed liquor bottles or cans in the original container, where the combination is more than 128 fluid ounces of liquor total; and

(5) A third party delivery licensee shall not have a pecuniary interest in a retail liquor outlet, as set forth in this article. A third party private liquor delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private liquor delivery licensee may not collect a percentage of the liquor delivery order, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third-party private liquor delivery licensee to the purchasing person shall be no greater than ~~five dollars~~ $20 per delivery order where a sealed liquor bottle or can in the original container is ordered by the purchasing person. For any third party licensee also licensed for other nonintoxicating beer or nonintoxicating craft beer delivery pursuant to §11-16-1 *et seq.* of this code, wine delivery pursuant to §60-8-1 *et seq.* of this code, or a sealed craft cocktail growler delivery pursuant to §60-7-1 *et seq.* of this code, the total convenience fee of any order, sale, and delivery of sealed alcoholic liquor or nonintoxicating beer, or nonintoxicating craft beer shall not exceed ~~five dollars.~~ $20.

(e) *Private Liquor Delivery Requirements. —*

(1) Delivery persons employed for the delivery of a sealed liquor bottles or cans in the original container shall be 21 years of age or older and a retail liquor outlet and a third-party private liquor delivery licensee shall file each delivery person’s name, driver’s license, and vehicle information with the commissioner;

(2) A retail liquor outlet and a third-party private liquor delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. A retail liquor outlet and a third-party private liquor delivery licensee shall submit certification of the training to the commissioner;

(3) The retail liquor outlet or third party private liquor delivery licensee shall hold a private liquor bottle delivery permit for each vehicle delivering a sealed liquor bottle or can in the original container pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) A retail liquor outlet or third party private liquor delivery licensee shall deliver food and a sealed liquor bottle or can order in the original container in the market zone or contiguous market zone where the licensed retail liquor outlet is located;

(5) A retail liquor outlet or third party private liquor delivery licensee may only deliver food and a sealed liquor bottle or can in the original container to addresses located in West Virginia, The retail liquor outlet or third party private liquor delivery licensee shall pay and account for all sales and municipal taxes;

(6) A retail liquor outlet or third party private liquor delivery licensee may not deliver food and a sealed liquor bottle or can in the original container to any licensee licensed under §11-16-1 *et seq.* of this code, and under this chapter;

(7) Deliveries of food and a sealed liquor bottle or can in the original container are only for personal use, and not for resale; and

(8) A retail liquor outlet or third party private liquor delivery licensee shall not deliver and leave food and a sealed liquor bottle or can in the original container at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application ~~applicant~~, or web-based software to accept the food and a sealed liquor bottle or can in the original container for delivery which is subject to verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, ~~accessible by the delivery driver for verification,~~ and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A retail liquor outlet or third party private liquor delivery licensee shall retain records for three years, and shall not unreasonably withhold the records from the commissioner's inspection; and

(5) The retail liquor outlet or third party delivery licensee shall hold a valid private liquor bottle delivery permit required by subsection (g) of this section for each vehicle that may offer delivery.

(g) *Private Liquor Bottle Delivery Permit*. —.

(1) A retail liquor outlet or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of and a sealed liquor bottle or can in the original container.

(2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) Subject to the requirement of §60-6-12 of this code, a private liquor bottle delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement*. —

(1) The retail liquor outlet or the licensed third party are responsible for any violations committed by their employees or independent contractors under this article, and more than one

violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a sealed liquor bottle. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this chapter.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

(i) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and curbside in-person or in-vehicle pick-up of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and delivery through a drive up or drive through structure, approved by the commissioner, of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-3A-8. Retail license application requirements; retail licensee qualifications.

(a) Prior to or simultaneously with the submission of a bid for a retail license or the payment of a purchase option for a Class A retail license, each applicant shall file an application with the commissioner, stating under oath, the following:

(1) If the applicant is an individual, his or her name and residence address;

(2) If the applicant is other than an individual, the name and business address of the applicant; the state of its incorporation or organization; the names and residence addresses of each executive officer and other principal officer, partner, or member of the entity; a copy of the entity's charter or other agreement under which the entity operates; the names and residence addresses of any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant; and all applicants and licensees must list a manager on the applicant's license application, or a licensee's renewal application, and further that the manager shall meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, ~~being a suitable person, being of good morals and character,~~ and meet other requirements, all as set forth in the code and the legislative rules, in order for the manager to be able to meet and conduct any regulatory matters, including, but not limited to, licensure or enforcement matters related to the applicant or licensee all in the interest of protecting public health and safety ~~and being a suitable applicant or licensee~~. In order to maintain active licensure, any change by a licensee in any manager listed on an application must be made immediately to the commissioner, in order to verify that the new manager meets licensure requirements;

(3) That the applicant and manager have not ~~never~~ (A) been convicted in this state or any other state of any felony in the five years preceding the date of application or (B) other crime involving ~~moral turpitude~~ fraud, dishonesty, or deceit in the five years preceding the date of application, or (C) been convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~, and if the applicant is other than an individual, that none of its executive officers, other principal officers, partners, or members, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been convicted; and

(4) That the applicant and the manager, each is a United States citizen of good moral character and, if a naturalized citizen, when and where naturalized; and, if a corporation organized and authorized to do business under the laws of this state, when and where incorporated, with the name and address of each officer; that each officer is a citizen of the United States and a person of good moral character; and if a firm, association, partnership, or limited partnership, that each member is a citizen of the United States and, if a naturalized citizen, when and where naturalized, each of whom must sign the application.

(b) An applicant and manager shall provide the commissioner any additional information requested by the commissioner including, but not limited to, authorization to conduct a criminal background and credit records check.

(c) Whenever a change occurs in any information provided to the commissioner, the change shall immediately be reported to the commissioner in the same manner as originally provided.

(d) The commissioner shall disqualify each bid submitted by an applicant under §60-3A-10 of this code and no applicant shall be issued or eligible to hold a retail license under this article, if:

(1) The applicant has been, within the five years preceding the date of application; (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud, dishonesty, or deceit ~~moral turpitude~~ or (C) convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~; or

(2) Any executive officer or other principal officer, partner, or member of the applicant, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been, within the five yeas preceding the date of application; (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud, dishonesty, or deceit ~~moral turpitude~~ or (C) convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~.

(e) The commissioner shall not issue a retail license to an applicant which does not hold a license issued pursuant to federal law to sell liquor at wholesale.

§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from state; transportation and storage; method of payment.

(a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according to a uniform pricing schedule. The commissioner shall obtain, if possible, upon request, any liquor requested by a retail licensee and those permitted to manufacture and sell liquor pursuant to ~~section three, article four of this chapter~~ §60-4-3 of this code.

(b) Wholesale prices shall be established in order to yield a net profit for the General Revenue Fund of not less than $6,500,000 annually on an annual volume of business equal to the average for the past three years. The net revenue derived from the sale of alcoholic liquors shall be deposited into the General Revenue Fund in the manner provided in ~~section seventeen, article three of this chapter~~ §60-3-17 of this code.

(c) Notwithstanding any provision of this code to the contrary, the commissioner shall specify the maximum wholesale markup percentage which may be applied to the prices paid by the commissioner for all liquor, other than wine, in order to determine the prices at which all liquor, other than wine, will be sold to retail licensees. A retail licensee shall purchase all liquor, other than wine, for resale in this state only from the commissioner, and the provisions of ~~sections twelve and thirteen, article six of this chapter~~ §60-6-12 and §60-6-13 of this code shall not apply to the transportation of the liquor: *Provided,* That a retail licensee shall purchase wine from a wine distributor who is duly licensed under ~~article eight of this chapter.~~ §60-8-1 *et seq.* of this code. All liquor, other than wine, purchased by retail licensees shall be stored in the state at the retail outlet or outlets operated by the retail licensee: *Provided, however,* That the commissioner, in his or her discretion, may upon written request permit a retail licensee to store liquor at a site other than the retail outlet or outlets.

(d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic funds transfer which shall be initiated by the commissioner on the business day following the retail licensees order or by money order, certified check, or cashier's check which shall be received by the commissioner at least 24 hours prior to the shipping of the alcoholic liquors: *Provided,* That if a retail licensee posts with the commissioner an irrevocable letter of credit or bond with surety acceptable to the commissioner from a financial institution acceptable to the commissioner guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks in an amount up to the amount of the letter of credit.

(e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of ~~article seven of this chapter~~ §60-7-1 *et seq.* of this code at less than ~~one hundred ten percent~~ 115 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

(2) A retail licensee may not sell liquor to the general public at less than ~~one hundred ten percent~~ 110 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

ARTICLE 4. LICENSES.

§60-4-22. Wholesale representatives' licenses.

(a) A person, firm or corporation may not be or act or serve as an agent, broker or salesman selling or offering to sell or soliciting or negotiating the sale of alcoholic liquor to the commission or to any distributor licensed pursuant to article eight of this chapter without first obtaining a license so to do in accordance with the provisions of this section. Only salaried employees of distilleries, manufacturers, producers or processors of alcoholic liquor may be licensed hereunder and no person may be licensed hereunder who sells or offers to sell alcoholic liquor to the commission or any distributor on a fee or commission basis. The commission shall be the licensing authority and may grant to persons of good moral character the license herein provided and may refuse to grant such license to any person (1) convicted of a felony, within ~~ten~~ five years prior to his or her application, ~~for such license~~ (2) convicted of a crime involving fraud, dishonesty, or deceit, within the previous five years before application, or (3) convicted of a felony violation of a state or federal liquor law within the previous five years before application; refuse to grant, suspend or revoke

licenses. Licenses shall be on an annual basis for the period from July 1, until June 30 next following. New and renewal licenses shall be granted only upon verified application to the commission presented on forms provided by the commission. Any person representing more than one producer, manufacturer or distributor of alcoholic liquors shall file a separate application and shall obtain a separate license for each such representation. The annual license fee shall be $100. The fee for any license granted for the remainder of any license year between January 1, and June 30 of the same calendar year shall be $50.

~~No person who is the father, mother, son, daughter, brother, sister, uncle, aunt, nephew or niece of a member of the commission or of any elected or appointed state official, county official or municipal official, or who is the spouse of any such person so related to a member of the commission or to any elected or appointive state official, county official or municipal official, may be granted a license. No member of the Legislature or the spouse of any such member may be granted a license. Nor may any member or officer of any political party executive committee of this state or the spouse of any such member or officer be granted a license.~~

(b) In addition to all other information which the commission may require to be supplied on the license application forms, each applicant shall be required to state his or her name and his or her residence address and the name and business address of the producer, manufacturer or distributor he or she represents; the name and address of each additional producer, manufacturer or distributor of alcoholic liquors he or she represents; the monetary total of all alcoholic liquor sales, if any, made by him or her to the commission or to any distributor licensed pursuant to article eight of this chapter during the fiscal year preceding the license year for which he or she is seeking a license; the monetary total of the gross income received by him or her on such sales, if any, during such fiscal year; whether he or she has, during such fiscal year, made or given, voluntarily or on request, any gift, contribution of money or property to any member or employee of the commission or of any distributor licensed pursuant to article eight of this chapter or to or for the benefit of any political party committee or campaign fund; and his or her relationship, if any, by blood or marriage, to any member of the commission or to any elected or appointive state official, county official or municipal official. All such applications shall be verified by oath of the applicant and shall be prepared and filed in duplicate. All such applications and a current list of all licensees hereunder shall be matters of public record and shall be available to public inspection at the commission's offices at the State Capitol. Every licensee who ceases to be an agent, broker or salesman, as herein contemplated, shall so advise the commission in writing and such person's name shall be immediately removed from the license list and his or her license shall be canceled and terminated.

(c) All persons licensed under this section shall be authorized representatives of the wineries, farm wineries, distilleries, mini-distilleries, manufacturers, producers, or processors of alcoholic liquor they represent. A licensed person may not share, divide, or split his or her salary with any person other than his or her wife or some legal dependent, nor may he or she make any contribution to any political party campaign fund in this state.

(d) All licensees shall be subject to all other provisions of this chapter and to the lawful rules promulgated by the commission. Licenses may be refused, suspended, or revoked by the commission for cause, including any of the applicable grounds of revocation specified in section nineteen of this article. Provisions of this article relating to notice, hearing and appeals shall, to the extent applicable, govern procedures on suspension and revocation of licenses hereunder.

(e) Any person, firm or corporation violating any provision of this section, including knowingly making of any false statement in a verified application for a license shall be guilty of a

misdemeanor offense and shall, upon conviction thereof, be fined not exceeding $1,000 or imprisoned in jail not exceeding 12 months, or be subject to both such fine and imprisonment in the discretion of the court.

§60-4-23. License to operate a facility where exotic entertainment is offered; definitions; restrictions, regulations and prohibitions; prohibitions against minors; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.

(a) For purposes of this section:

(1) "Exotic entertainment" means live nude dancing, nude service personnel or live nude entertainment, and "nude" means any state of undress in which male or female genitalia or female breasts are exposed.

(2) "Places set apart for traditional family-oriented naturism" means family nudist parks, clubs and resorts chartered by the American association for nude recreation or the naturist society, including all of their appurtenant business components, and also including places temporarily in use for traditional family-oriented naturist activities.

(b) No person may operate any commercial facility where exotic entertainment is permitted or offered unless such person is granted a license by the commissioner to operate a facility where exotic entertainment may be offered. The provisions of this subsection apply whether or not alcoholic liquor, wine or nonalcoholic beer is legally kept, served, sold, or dispensed in a facility, or purchased for use in a facility, or permitted to be brought by others into a facility and whether or not such person holds any other license or permit issued pursuant to chapter 60 of this code.

(c) A licensee is subject to all the regulatory provisions of §60-7-1 *et seq.* of this code ~~chapter~~, whether or not the licensee is otherwise a private club. The commissioner shall have all the powers and authorization granted under §60-7-1 *et seq.* of this code ~~chapter~~ to regulate, restrict, and sanction a licensee under this section. No licensee may purchase, keep, sell, serve, dispense, or purchase for use in a licensed facility, or permit others to bring into the facility, any alcoholic liquor, wine, or nonintoxicating beer or nonintoxicating craft beer without having the appropriate license ~~therefor~~. No licensee may operate a private club without being licensed ~~therefor~~.

(d) No person or licensee may allow a person under the age of 18 years to perform as an exotic entertainer. No person under the age of 21 years, other than a performing exotic entertainer, may be allowed to be in a commercial facility on any day on which any exotic entertainment is offered therein. No licensee may hold special nonalcoholic entertainment events for persons under age 21 pursuant to the provisions of §60-7-8 of this code ~~chapter~~ in the licensed facility.

~~(e) Any person operating a commercial facility where exotic entertainment is offered on the effective date of this section may apply to the commissioner for a license to operate a facility where exotic entertainment may be offered. Applications must be filed with the commissioner on or before July 1, 2000; thereafter no application for license may be received by the commissioner. The commissioner may issue a license to a person complying with the provisions of this chapter. Upon application for renewal, the commissioner shall annually, on July 1, of each succeeding year, renew the license of any licensee then in compliance with the provisions of this chapter. The commissioner shall specify the form of application and information required of applicants and~~

~~licensees. No license which has lapsed, been revoked or expired without renewal may be reissued.~~

(~~f~~e) A person to whom a license is issued or renewed under the provisions of this section shall pay annually to the commissioner a license fee of $3,000. A municipal corporation wherein any such licensee is located shall issue a municipal license to any person to whom the commissioner has issued a license and may impose a license fee not in excess of the state license fee.

(~~g~~f) A person shall not sell, assign, or otherwise transfer a license without the prior written approval of the commissioner. For purposes of this section, the merger of a licensee or the sale of more than 50 percent of the outstanding stock of or partnership interests in the licensee shall be deemed to be a sale, assignment, or transfer of a license under this section. A license shall not be transferred to another location, except within the county of original licensure. A transferee of a licensed facility may apply for reissuance of the transferor's license if the transferee applicant otherwise qualifies for a license. The commissioner is authorized to propose the promulgation of a legislative rule in accordance with the provisions of chapter 29A of this code, to implement the provisions of this subsection.

~~(h) This section shall be effective upon passage by the Legislature in the year 2000. On or before May 1, 2000, the commissioner shall promulgate an emergency legislative rule pursuant to the provisions of chapter twenty-nine-a of this code to effectuate the provisions of this section, and shall propose a legislative rule therefor, for consideration by the Legislature, prior to December 31, 2000.~~

(~~i~~g) Any person who violates any provision of this section, or principal of a firm or corporation which violates any provision of this section, or licensee, agent, employee, or member of any licensee who violates any provision of this section, or who violates any of the provisions of §60-7-12 of this code ~~chapter~~, on the premises of a licensed facility, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $3,000, or imprisoned for a period not to exceed one year, or both so fined and imprisoned.

(~~j~~h) The provisions of this section do not apply to places set apart for traditional family-oriented naturist activities.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-24. Requirement for posting informational sign.

~~Each store or outlet controlled or operated by the state Alcohol Beverage Control Commission, and any store, supermarket, club, restaurant, or~~ Any licensee licensed under this chapter to sell alcoholic liquors, including liquor, wine, hard cider, ~~other facility selling alcoholic beverages or~~ nonintoxicating beer or nonintoxicating craft beer for either ~~on-premise~~ on-premises or ~~off-premise~~ off-premises consumption, shall post in an open and prominent place within ~~such~~ the establishment, a blood-alcohol chart containing information showing the estimated percent of alcohol in the blood by the number of drinks in relation to body weight and time of consumption, ~~as follows:~~

~~FORM OMITTED~~

~~FORM OMITTED~~

~~The size of display and location of said blood-alcohol chart shall be prescribed by the commissioner, by rule and regulation~~ as provided in the chart available on the commissioner's website. Enforcement of the posting provisions of this section shall be carried out by the ~~West Virginia nonintoxicating beer commissioner~~ commissioner ~~in establishments which are~~ for all licensees required to post ~~such~~ the notice. ~~but are not subject to the supervision of the West Virginia Alcohol Beverage Control Commissioner~~

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses.

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

~~(a)~~ (1) "Applicant" means a private club applying for a license under the provisions of this article.

~~(b)~~ (2) "Code" means the official Code of West Virginia, 1931, as amended.

~~(c)~~ (3) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

~~(d)~~ (4) "Licensee" means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

~~(e)~~ (5) "Private club" means any corporation or unincorporated association which either: ~~(1)~~ (A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly- elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

~~(2)~~ (B) Is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

~~(3)~~ (C) Is organized and operated for legitimate purposes which has at least 100 duly- elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or

~~(4)~~ (D) Is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park, or at any airport, in which building or premises a club has been established, to which club are admitted only duly-elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(6) "Private bakery" means an applicant for a private club or licensed private club license that has a primary function of operating a food preparation business that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods. The applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, either: (A) In the icing, syrup, drizzle, or some other topping; (B) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (C) the alcohol can be added by the purchaser from an infusion packet containing alcohol no greater than 10 milliliters. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on or off-premises consumption. This applicant or licensee may sell the baked goods with alcohol added as authorized for on and off-premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subdivision which:

(i) Has at least 50 members;

(ii) Operates a kitchen that produces baked goods, as specified in this subdivision, including at least: (I) A baking oven and a four-burner range or hot plate; (II) a sink with hot and cold running water; (III) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (IV) baking utensils and pans, kitchen utensils, and other food consumption apparatus as determined by the commissioner; and (V) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(iii) Maintains, at any one time, $750 of food inventory capable of being prepared in the private bakery's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, baking items such as flour, sugar, icing, and other confectionary items, or canned prepared foods;

(iv) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private bakery are not sold items containing alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine, and a person under 21 years of age may enter the shop and purchase other items not containing alcoholic liquors; and

(v) Meet and be subject to all other private club requirements.

(7) "Private cigar shop" means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu, which may be met by utilizing a private caterer, for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subdivision which:

(A) Has at least 50 members;

(B) Operates a cigar shop and bar with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintains, at any one time, $500 of food inventory capable of being prepared in the private club bar's kitchen or has on hand at least $150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 21 years of age is not accompanied by a parent or legal guardian, that person may not be admitted as a guest; and

(E) Meets and is subject to all other private club requirements.

~~(7)~~ (8) "Private caterer" means a licensed private club restaurant, private hotel, or private resort hotel authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

~~(1)~~ (A) Have at least 10 members and guests attending the catering event;

~~(2)~~ (B) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

~~(3)~~ (C) Operate a private club restaurant on a daily operating basis;

~~(4)~~ (D) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors who have received certified training in verifying the legal identification, the age of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

~~(5)~~ (E) Provide to the commissioner, at least ~~7~~ seven days before the event is to take place:

~~(A)~~ (i) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

~~(B)~~ (ii) The name of the owner or operator of the unlicensed private venue;

~~(C)~~ (iii) A copy of the contract or contracts between the private caterer, the person contracting with the caterer, and the unlicensed private venue;

~~(D)~~ (iv) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises: *Provided*, That the unlicensed private venue shall: ~~(i)~~ (I) Be inside a building or structure, ~~(ii)~~ (II) have other facilities to prepare and serve food and alcohol, ~~(iii)~~ (III) have adequate restrooms and sufficient building facilities for the number of members and guests expected to attend the private catering event, and ~~(iv)~~ (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

~~(6)~~ (F) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

~~(7)~~ (G) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

~~(8)~~ (H) Meet and be subject to all other private club requirements; and

~~(9)~~ (I) Use an age verification system approved by the commissioner.

~~(g)~~ (9) "Private club bar" means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when licensed for ~~such~~ those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this ~~subsection~~ subdivision which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Operates a bar with a kitchen, including at least: ~~(A)~~ (i) A two-burner hot plate, air fryer, or microwave oven; ~~(B)~~ (ii) a sink with hot and cold running water; ~~(C)~~ (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; ~~(D)~~ (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and ~~(E)~~ (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

~~(3)~~ (C) Maintains, at any one time, $500 of food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

~~(4)~~ (D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

~~(5)~~ (E) Meets and is subject to all other private club requirements.

(10) "Private food truck" means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals for sale at various locations within the state while utilizing a propane or electric generator powered kitchen. The private food truck applicant shall obtain county or municipal approval to operate for food and liquor, wine, and nonintoxicating beer or nonintoxicating craft beer sales and service, while providing a food menu for members and guests. The private food truck applicant shall meet the criteria set forth in this subdivision which:

(A) Has at least 10 members;

(B) Operates with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; and (iv) plastic or metal kitchen utensils and other food consumption apparatus as determined by the commissioner;

(C) Maintains, at any one time, $500 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(D) Shall be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operate, and further each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(E) Provides the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to subsection (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

(F) Requires all nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from the licensed distributor where the private food truck has its home location or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code.

(G) Requires wine or hard cider sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(H) Requires liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private food truck has its main business location, all in accordance with §60-3A-1 *et seq.* of this code.

(I) A licensee authorized by this section shall utilize bona fide employees to sell, furnish, tender, or serve the nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(J) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery may obtain a private food truck license;

(K) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(L) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are not permitted to be served any alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine but may be permitted to purchase food or other items;

(M) Obtains all permits required by §60-6-12 of this code; and

(N) Meets and is subject to all other applicable private club requirements.

~~(h)~~ (11) "Private club restaurant" means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled with the restaurant, seating requirements for members and guests ~~must~~ shall be met by the restaurant area. The applicant for a private club restaurant license which: ~~shall meet the criteria set forth in this subsection which:~~

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Operate a restaurant and full kitchen with at least: ~~(A)~~ (i) Ovens and four-burner ranges; ~~(B)~~ (ii) refrigerators or freezers, or some combination of refrigerators and freezers greater than 50 cubic feet, or a walk-in refrigerator or freezer; ~~(C)~~ (iii) other kitchen utensils and apparatus as determined by the commissioner; and ~~(D)~~ (iv) freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

~~(3)~~ (C) Maintains, at any one time, $1,000 of fresh food inventory capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

~~(4)~~ (D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant:

~~(5)~~ (E) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to $10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative rules for carrying unconsumed wine off the licensed premises;

~~(6)~~ (F) ~~Must have~~ Has at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written waiver supplied to commissioner of the requirement from the historic association or district with jurisdiction over a historic building: *Provided, further* That in no event ~~shall~~ may a private club restaurant have less than one restroom; and

~~(7)~~ (G) ~~Shall meet and be~~ Meets and is subject to all other private club requirements.

~~(i)~~ (12) "Private manufacturer club" means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufacturers liquor, wine, nonintoxicating beer or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which: ~~meets the criteria set forth in this subsection and which:~~

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Offers tours, may offer complimentary samples, and may offer space as a conference center or for meetings;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

~~(4)~~ (D) Maintains, at any one time, $500 of fresh food inventory capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

~~(5)~~ (E) Owns or leases, controls, operates, and uses acreage amounting to at least one acre which is contiguous bounded or fenced real property that would be listed on the licensee's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(6)~~ (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer club's licensed premises, and as noted on the private manufacturer club's floorplan;

~~(7)~~ (G) Identifies a person, persons, an entity, or entities who or which has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

~~(8)~~ (H) Uses an age verification system approved by the commissioner; and

~~(9)~~ (I) Meets and is subject to all other private club requirements.

~~(j)~~ (13) "Private fair and festival" means an applicant for a private club or a licensed private club meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this ~~subsection~~ subdivision which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or appointed officers) of either the municipality or of the county in which the festival, fair, or other event is to be conducted;

~~(3)~~ (C) Prepares, provides, or engages a food vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any documentation or agreements ~~of such~~ to the commissioner prior to approval;

~~(4)~~ (D) Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer;

~~(5)~~ (E) Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

~~(6)~~ (F) Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event;

~~(7)~~ (G) Uses an age verification system approved by the commissioner; and

~~(8)~~ (H) Meets and is subject to all other private club requirements.

~~(k)~~ (14) "Private hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

~~(1)~~ (A) Has at least 2,000 members;

~~(2)~~ (B) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 20 hours per week;

~~(4)~~ (D) Maintains, at any one time, $2,500 of fresh food inventory capable of being prepared in the private hotel’s full kitchen and in calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

~~(5)~~ (E) Owns or leases, controls, operates, and uses acreage amounting to more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee’s floorplan and would be used for hotel and conferences and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(6)~~ (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private hotel's licensed premises and as noted on the private hotel's floorplan;

~~(7)~~ (G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

~~(8)~~ (H) Uses an age verification system approved by the commissioner; ~~and~~

~~(9)~~ (I) Meets and is subject to all other private club requirements; and

(J) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have secure access via key or key card to an in-room mini-bar in their rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of 1.6 cubic feet for the sale of nonintoxicating beer or nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding 750 ml of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, and 200 ml, with any combination of those liquor bottles not exceeding 750 ml; and (iv) any combination of canned or packaged food valued at least $50. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

~~(l)~~ (15) "Private resort hotel" means an applicant for a private club or licensed private club licensee which: ~~meeting the criteria set forth in this subsection which:~~

~~(1)~~ (A) Has at least 5,000 members;

~~(2)~~ (B) Offers short term, daily rate accommodations or lodging for members and their guests amounting to at least 50 separate bedrooms;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 25 hours per week;

~~(4)~~ (D) Maintains, at any one time, $5,000 of fresh food inventory capable of being prepared in the private resort hotel's full kitchen. ~~and~~ In calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

~~(5)~~ (E) Owns or leases, controls, operates, and uses acreage amounting to at least 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for destination, resort, and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(6)~~ (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private resort hotel's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises; ~~and as noted on the private resort hotel's floorplan;~~

~~(7)~~ (G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

~~(8)~~ (H) Uses an age verification system approved by the commissioner;

~~(9)~~ (I) Meets and is subject to all other private club requirements; ~~and~~

~~(10)~~ (J) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery; and

(K) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml with any combination of such liquor bottles not exceeding one and a half liters; and (iv) any combination of canned or packaged food valued at least $100. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

~~(m)~~ (16) "Private golf club" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this ~~subsection~~ subdivision which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf

club's floorplan and could be used for golfing events and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph D of this subsection and all adjoining buildings and structures on the private golf club's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private golf club's licensed premises; ~~and as noted on the private golf club's floorplan;~~

~~(6)~~ (F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises;

~~(7)~~ (G) Uses an age verification system approved by the commissioner; and

~~(8)~~ (H) Meets and is subject to all other private club requirements.

~~(n)~~ (17) "Private nine-hole golf course" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this ~~subsection~~ subdivision which:

~~(1)~~ (A) Has at least 50 members;

~~(2)~~ (B) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph (D) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private nine-hole golf course's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private nine-hole golf course's licensed premises; ~~and as noted on the private nine-hole golf course's floorplan;~~

~~(6)~~ (F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Uses an age verification system approved by the commissioner; and

~~(8)~~ (H) Meets and is subject to all other private club requirements.

~~(o)~~ (18) "Private tennis club" means an applicant for a private club or licensed private club licensee ~~meeting the criteria set forth in this subsection subdivision~~ which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

~~(3)~~ (C) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph (D) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private tennis club's floorplan ~~that would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private tennis club's licensed premises; ~~and as noted on the private tennis club's floorplan;~~

~~(6)~~ (F) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Meets and is subject to all other private club requirements; and

~~(8)~~ (H) Uses an age verification system approved by the commissioner.

(19) "Private college sports stadium" means an applicant for a private club or licensed private club licensee that operates a college or university stadium or coliseum for Division I, II, or III and involves a college public or private or university that is a member of the National Collegiate Athletic Association, or its successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may sell alcoholic liquors when conducting or temporarily hosting non-collegiate sporting events. This license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All alcohol sales shall take place within the confines of the college stadium: *Provided*, That any outside area approved for alcohol sales shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the alcohol sales area is closed in order to prevent entry and access by the general public. Further the applicant shall:

(A) Have at least 100 members;

(B) Maintain an open-air or closed-air stadium or coliseum venue primarily used for sporting events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also weddings, reunions, conferences, meetings, or other events where parties shall reserve the college stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or greater than a private club restaurant, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food or meals to ~~serve~~ its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private college stadium's floorplan and could be used for contracted-for temporary non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private college sports stadium's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private college sports stadium's licensed premises and as noted on the private college sports stadium's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

~~(p)~~ (20) "Private professional sports stadium" means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when ~~such~~ the events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may not sell alcoholic liquors when conducting or hosting non-professional sporting events, and further the applicant shall:

~~(1)~~ (A) Have at least 1,000 members;

~~(2)~~ (B) Maintain an open-air or closed-air stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions, conferences, meetings, or other events where parties ~~must~~ reserve the stadium venue in advance of the event;

~~(3)~~ (C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

~~(4)~~ (D) Own or lease, control, operate, and use acreage amounting to at least three contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted- for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

~~(5)~~ (E) List the entire property from ~~subdivision (4)~~ paragraph (D) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private professional sports stadium's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which would~~ and be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private professional sports stadium's licensed premises; ~~and as noted on the private professional sports stadium's floorplan;~~

~~(6)~~ (F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Meet and be subject to all other private club requirements; and

~~(8)~~ (H) Use an age verification system approved by the commissioner.

~~(q)~~ (21) "Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, retailers who sell West Virginia-made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant, and all ~~business~~ businesses that are members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

~~(1)~~ (A) Have at least 100 members;

~~(2)~~ (B) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

~~(3)~~ (C) Have one or more members operating who maintain, at any one time, $1,000 of fresh food inventory capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

~~(4)~~ (D) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted-for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

~~(5)~~ (E) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed

premises whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

~~(6)~~ (F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Have at least two separate and unrelated vendors applying for the license and certifying that all vendors in the association have agreed to the liability responsibility associated with a private farmers market license;

~~(8)~~ (H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

~~(9)~~ (I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

~~(10)~~ (J) Provide a copy of a written agreement between all the vendors of the association that is executed by all vendors stating that each vendor is jointly and severally liable for any violations of this chapter committed during the event;

~~(11)~~ (K) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members, patrons, and guests ages, to verify whether a member, patron, or guest is intoxicated and to provide for the public health and safety of members, patrons, and guests;

~~(12)~~ (L) Use an age verification system approved by the commissioner; and

~~(13)~~ (M) Meet and be subject to all other private club requirements.

~~(r)~~ (22) "Private wedding venue or barn" means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

~~(1)~~ (A) Has at least 25 members;

~~(2)~~ (B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties ~~must~~ reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises ~~and~~ that is capable of serving freshly prepared food, or may engage a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that, the property is not less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's

floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph (D) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises, ~~which~~ and would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private wedding venue or barn's licensed premises; ~~and as noted on the private wedding venue or barn's floorplan;~~

~~(6)~~ (F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Meets and is subject to all other private club requirements; and

~~(8)~~ (H) Uses an age verification system approved by the commissioner.

~~(s)~~ (23) "Private multi-sport complex" means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Maintains an open-air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties ~~must~~ reserve the parts of the sports complex in advance of the sporting or other event;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private ~~professional sports stadium~~ multi-sport complex. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

~~(4)~~ (D) Maintains, at any one time, $1,000 of fresh food inventory capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

~~(5)~~ (E) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private multi-sport complex's floorplan and could be used for contracted-for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

~~(6)~~ (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private multi-sport complex's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private multi-

sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

~~(7)~~ (G) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(8)~~ (H) Meets and is subject to all other private club requirements; and

~~(9)~~ (I) Uses an age verification system approved by the commissioner.

The Department of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation, or public authority operating any park or airport may lease, as lessor, a building or portion thereof or other limited premises in any park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-2a. Dual licensing permitted; conditions.

(a) Any licensee defined in §60-7-2 of this code is authorized to apply for and hold additional licenses for the purpose of holding events, such as fairs and festivals, and creating tourism opportunities that will show case businesses in this state.

(b) A licensee may host an event on the licensee's licensed premises if the licensee is in good standing with the Commissioner and the licensee submits to the Commissioner its floorplan of the licensed venue in which the event would be held to comprise the event's lawful premises, which shall only include spaces in buildings or rooms of the licensed premises where the licensee has control of the space for the set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the event at the licensed premises. The venue's floorplan during the set time period as stated in the contract shall comprise the licensed premises for the event, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed premises; *Provided*, That the venue shall:

(1) Have facilities to prepare and serve food and alcohol,

(2) have adequate restrooms, and sufficient building facilities for the number of members and guests expected to attend the event, and

(3) otherwise be in compliance with health, fire, safety, and zoning requirements.

(c) A licensee defined in §60-7-2 of this code may not be limited or restricted in any way as to the number of events that may be held on the premises so long as the licensee continues to operate its primary business in good standing with the Commissioner.

§60-7-6. Annual license fee; partial fee; and reactivation fee.

(a) The annual license fee for a license issued under the provisions of this article to a fraternal or veterans' organization or a nonprofit social club is $750.

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section is $1,000 if the private club bar or restaurant has fewer than 1,000 members; $1,000 for a private club restaurant, private hotel, or private resort hotel to be licensed as a private caterer as defined in §60-7-2 of this code; $500 if the private club is a private bakery; $1,500 if the private club is a private wedding venue or barn or a private cigar shop; $2,000 if the private club is a private nine-hole golf course, private farmers market, private food truck, private college sports stadium, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; $2,500 if the private club bar or private club restaurant has 1,000 or more members; $4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, the private resort hotel may designate areas within the licensed premises for the lawful sale, service, and consumption of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas is $7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas is $12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas shall be $17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas is $22,500. A private resort hotel that obtained the license and paid the $22,500 annual license fee may, upon application to and approval of the commissioner, designate additional areas for a period not to exceed seven days for an additional fee of $150 per day, per designated area.

(c) The fee for any license issued following January 1 of any year that expires on June 30 of that year is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional $150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

(e) The commissioner shall pay the fees to the State Treasurer ~~and credited to~~ for deposit into the General Revenue Fund of the state.

(f) The Legislature finds that the hospitality industry has been particularly damaged by the COVID-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article. Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows;

(1) License fees for the license period beginning July 1, 2021, shall be reduced to one third of the rate set forth in subsections (a) and (b) of this section;

(2) License fees for the license period beginning July 1, 2022, shall be two thirds of the rate set forth in subsections (a) and (b) of this section; and

(3) License fees for the license period beginning July 1, 2023, and beyond, shall be as set forth in subsections (a) and (b) of this section.

§60-7-8a. Special license for a private fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S2 private fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair and festival or other event is located;

(2) Shall make application with the commission at least 15 days pursuant to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of ~~$750~~ $500; and

(4) Be approved by the commissioner to operate the private fair, festival, or other event. (c) A private fair and festival license under this section shall be for a duration of no more than 10 consecutive days ~~and no more than six licenses may be issued to the same person or entity in a calendar year~~.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section must be purchased from the licensed distributor that services the area in which the private fair and festival is held or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code. Sales of sealed containers of nonintoxicating beer or nonintoxicating craft beer may be sold for off-premises consumption if the nonintoxicating beer and nonintoxicating craft beer are purchased from the licensed distributor that services the area in which the private fair, festival, or other event is being held and such licensed distributor agrees to offer such sales prior to the start of the private fair, festival, or other event.

(e) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code. Sales of sealed containers of wine may be sold for off-premises consumption if the wine is purchased from a licensed distributor, winery, or farm winery and the licensed distributor, winery, or farm winery agrees to offer sales prior to the start of the private fair, festival, or other event.

(f) Liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 *et seq.* of this code. Sales of sealed containers of liquor may be sold for off-premises consumption if the liquor is purchased from the licensed retail liquor outlet in the market zone or contiguous market zone where the private fair, festival, or other event is occurring and the licensed retail liquor outlet agrees to offer such sales prior to the start of the private fair, festival, or other event.

(g) A licensee authorized by this section may utilize bona fide employees or volunteers to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(h) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker representatives may attend a private fair and festival and discuss their respective products but shall not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(i) A license issued under this section and the licensee are subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each private fair and festival require, including without limitation, the right to revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

(j) During events authorized by this section, licensees may also sell promotional and other items relating to promoting their business and its products.

§60-7-8f. Private delivery license for a licensed private club restaurant, private manufacturer club, or a third party; requirements; limitations; third party license fee; private cocktail delivery permit; and requirements.

(a) A licensed private club restaurant or private manufacturer club licensed to sell liquor for on-premises consumption may apply for a private delivery license permitting the order, sale, and delivery of liquor and a nonalcoholic mixer or beverage in a sealed craft cocktail growler, when separately licensed for craft cocktail growler sales. The order, sale, and delivery of a sealed craft cocktail growler is permitted for off-premises consumption when completed by the licensee to a person purchasing the craft cocktail growler through a telephone, a mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a licensed private club restaurant or private manufacturer club to obtain a private delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted by a third party who obtains a license under this section when a private club restaurant or private manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone orders, a mobile ordering application, or a web-based software program. The private delivery license nonprorated, nonrefundable annual fee is $200 for each third party entity, with no limit on the number of drivers and vehicles.

(c) The private delivery license application shall comply with licensure requirements in this article and shall require any information required by the commissioner; *Provided*, That the license application may not require a third party applicant to furnish information pursuant to §60-7-12 of this code.

(d) *Sale Requirements*. —

(1) The craft cocktail growler purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or

a meal, and craft cocktail growler by the licensed private club restaurant, private manufacturer club, or third party private delivery licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for nonintoxicating beer or nonintoxicating craft beer.

(3) "Prepared food or a meal" for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for each order of food or meal; *Provided*, That the entire delivery order may not contain any combination of craft cocktail growlers of more than 128 fluid ounces total; and

(5) A third party private delivery licensee shall not have a pecuniary interest in a private club restaurant or private manufacturer club licensee, as set forth in this article. A third party private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third-party private delivery licensee to the purchasing person shall be no greater than ~~five dollars~~ $20 per delivery order where a craft cocktail growler is ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed ~~five dollars~~ $20.

(e) *Craft Cocktail Growler Delivery Requirements*. —

(1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21 years of age or older. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall file each delivery person’s name, driver’s license, and vehicle information with the commissioner;

(2) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or the private club restaurant or private manufacturing club shall hold a private cocktail delivery permit for each vehicle delivering a craft cocktail growler pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third party private delivery licensee, a private club restaurant, or private manufacturer club may occur in the county or contiguous counties where the licensed private club restaurant or private manufacturer club is located;

(5) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to addresses located in West Virginia. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall account for and pay all sales and municipal taxes;

(6) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to any other licensee;

(7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for personal use, and not for resale; and

(8) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall not deliver and leave the prepared food or a meal, and a sealed craft cocktail growler at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery, subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as application, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall retain records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) The third party private delivery licensee or the private club restaurant or private manufacturing club shall hold a valid private cocktail delivery permit under subsection (g) of this section for each vehicle used for delivery: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(g) *Private Cocktail Delivery Permit.* —

(1) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and a sealed craft cocktail growler, subject to the requirements of this article.

(2) A third party private delivery licensee, a private club restaurant, or private manufacturer club licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The third party private delivery licensee, the private club restaurant, or the private manufacturers club licensed by this section are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-7-17. Repealer.

[Repealed.]

ARTICLE 8. SALE OF WINES.

§60-8-6c. Winery and farm winery license to sell wine growlers and provide complimentary samples prior to purchasing a wine growler.

(a) *Legislative findings*. — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of wine and its industry in this state to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed winery or farm winery with its principal place of business and manufacture located in this state to have certain abilities to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of wine*. — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may, when licensed under this section, offer only wine manufactured by the licensed winery or farm winery for retail sale to customers from the winery or farm winery's licensed premises for consumption off of the licensed premises only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal consumption, and not for resale. A licensed winery or farm winery may

not sell, give, or furnish wine for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section or unless separately licensed as a private wine restaurant or a private manufacturer club.

(c) *Complimentary samples*. — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may offer complimentary samples of wine as set forth in §60-4-3b of this code.

(d) *Retail sales*. — Every licensed winery or farm winery under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting wine growler sales and is subject to all applicable requirements and penalties in this article.

(e) *Payment of taxes and fees*. — A winery or farm winery licensed under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and shall meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising*. — A winery or farm winery under this section may advertise a particular brand or brands of wine produced by the licensed winery or farm winery and the price of the wine subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(g) *Wine Growler defined*. — For purposes of this section and section §60-8-6d of the code, "wine growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-premises sales only of wine for personal consumption, and not for resale. The wine served and sold in a sealed wine growler may include ice or water mixed with the wine to create a frozen alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers shall be sanitized daily and shall be under control and served by the licensee from the secure area. Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. For purpose of this article, a secure seal means using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of wine growler to form a seal that ~~must~~ shall be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

(h) *Wine Growler requirements*. — A winery or farm winery licensed under this section shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed winery or farm winery under this section may refill a wine growler subject to the requirements of this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(i) *Wine Growler labeling*. — A winery or farm winery licensed under this section selling wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing the

name of the licensee selling the wine growler, the brand of the wine in the wine growler, the alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning requirements.

(j) *Wine Growler sanitation*. — A licensed winery or farm winery authorized under this section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and county health requirements prior to its filling and sealing. In addition, the licensed winery or farm winery shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under this article.

(k) *Fee*. — There is no additional fee for a licensed winery or farm winery authorized under this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

(l) *Limitations on licensees*. — To be authorized under this section, a licensed winery or farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or farm winery's principal place of business and manufacture located in the State of West Virginia. A licensed winery or farm winery authorized under this section is subject to the applicable penalties under this article for violations of this section.

(m) *Rules*. — The commissioner, in consultation with the Bureau for Public Health, may propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8-6e. Private wine delivery license for a licensed Class A wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class A wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a Class A wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted by a third party licensee when sold by a Class A wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program for off-premises consumption. The private wine delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements*. —

(1) The wine purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of prepared food or a meal, and sealed wine by the licensee or third-party licensee.

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) "Prepared food or a meal" for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of no more than 384 fluid ounces of wine per delivery order; and

(5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine as provided in this section. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to prepared food or a meal. The convenience fee charged by the third-party private wine delivery licensee to the purchasing person may be no greater than ~~five dollars~~ $20 per delivery order where wine is ordered by the purchasing person. For any third-party private wine delivery licensee also licensed for nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed ~~five dollars.~~ $20.

(e) *Private Wine Delivery Requirements*. —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class A wine licensee shall file each delivery person’s name, driver’s license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or the Class A wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The third-party private wine delivery licensee shall submit certification of the training to the commissioner;

(3) The third party private wine delivery licensee or Class A wine licensee shall hold a retail transportation permit for each vehicle delivering sealed wine per subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) Delivery of food or a meal, and sealed wine orders by a third-party private wine delivery licensee or Class A wine licensee may occur in the county or contiguous counties where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class A wine licensee may only deliver prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party private wine delivery licensee or Class A wine licensee shall account for and pay all sales and municipal taxes;

(6) The third-party private wine delivery licensee or Class A wine licensee may not deliver prepared food or a meal, and sealed wine to any other wine licensees;

(7) Deliveries of food or a meal, and sealed wine are only for personal use, and not for resale; and

(8) The third-party private wine delivery licensee or Class A wine licensee shall not deliver and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal, and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner, and the third-party private wine delivery licensee and Class A wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class A wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit per subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit*. —

(1) A Class A wine licensee or a third-party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and sealed wine.

(2) A Class A wine licensee or a third-party private wine delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The licensee or the third-party private wine delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-8-6f. Private wine delivery license for a licensed Class B wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class B wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles, cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone order, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for a Class B wine licensee to obtain a private wine delivery license. The order, sale, and delivery process shall meet the requirements of this section, and subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of the ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption by a third party licensee when sold by a Class B wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program. The private wine delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements*. —

(1) The wine purchase may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed wine by the licensee or third-party private wine delivery licensee.

(2) Any purchasing person must be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed wine bottles, cans, or growlers shall not be in excess of 384 fluid ounces of wine; and

(5) A third-party private wine delivery licensee shall not have a pecuniary interest in a Class B wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to food only. ~~The convenience fee charged by the third-party private wine delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed five dollars.~~ The convenience fee charged by the third-party private wine delivery licensee to the purchasing person shall be no greater than $20 per delivery order where wine is ordered by the purchasing person. For any third-party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed $20.

(e) *Private Wine Delivery Requirements*. —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class B wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or Class B wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and certification. The third-party private wine delivery licensee or Class B wine licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or Class B wine licensee must hold a retail transportation permit for each vehicle delivering sealed wine as required by subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine orders by a third-party private wine delivery licensee or Class B wine licensee in the county where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine to addresses located in West Virginia with all sales and municipal taxes accounted for and paid;

(6) A third-party private wine delivery licensee or Class B wine licensee may not deliver food and sealed wine to any other wine licensees;

(7) Deliveries of food and sealed wine are only for personal use, and not for resale; and

(8) A third-party private wine delivery licensee or Class B wine licensee shall not deliver and leave food and sealed wine at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone, a mobile ordering application, or web-based software to accept the food and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ must include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The third-party private wine delivery licensee or Class B wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class B wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit under subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit*. —

(1) A Class B wine licensee or third party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of food and wine.

(2) A Class B wine licensee or third party private wine delivery licensee shall provide vehicle and driver information requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement*. —

(1) The licensee or third-party private wine delivery licensee are each responsible for any violations committed by their employees or agents under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, ~~on~~ upon conviction thereof, shall be punished by a fine not exceeding $200: *Provided*, That there is exemption from this prohibition for: (a) A private bakery, private cigar shop, private caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private food truck, private nine-hole golf course, private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private college sports stadium or coliseum, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with ~~§60-7-2(f)(115)~~, ~~§60-7-2(h)(49)~~, ~~§60-7-2(i)(8), §60-7-2(j)(7), §60-7-2(k)(84), §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(78), §60-7-2(o)(8), §60-7-2(p)(87), §60-7-2(q)(128), §60-7-2(r)(8), §60-7-2(s)(97),~~ §60-7-2(6)(iv), §60-7-2(7)(D), §60-7-2(8)(I), §60-7-2(10)(L), §60-7-2(11)(D), §60-7-2(12)(H), §60-7-2(13)(6), §60-7-2(14)(H), 60-7-2(15)(H), §60-7-2(16)(G), §60-7-2(17)(G), §60-7-2(18)(H), §60-7-2(19)(H), §60-7-2(20)(H), §60-7-2(21)(L), §60-7-2(22)(H), §60-7-2(23)(H), §60-7-8c(b)(14), §60-7-8d, and §60-8-32a of this code; or (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner; and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan, by using a mandatory carding or identification program by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer are asked and required to provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer.;

And,

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

Eng. House Bill 4848—A Bill to repeal §60-7-17 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-16-5a, to amend and reenact §11-16-6d, §11-16-6f, and §11-16-8 of said code; to amend said code by adding thereto a new section designated §60-1-3a; to amend said code by adding thereto a new section, designated §60-3-26; to amend and reenact §60-3A-3a, §60-3A-3b, §60-3A-8, and §60-3A-17 of said code; to amend and reenact §60-4-22 and §60-4-23 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and 60-7-8f of said code; to amend said code by adding thereto a new section designated §60-7-2a; to amend and reenact §60-8-6c, §60-8-6e, and §60-8-6f of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements; clarifying that licenses are not required to place nonintoxicating beer, wine, and liquor in a bag after purchase; removing requirement that servers at a sampling have specific knowledge of the West Virginia product being sampled; providing for modification of the 300 foot requirement to 200 feet with the option for a college, university, or church to provide a written waiver; directing the Commissioner of the Alcoholic Beverage Control Administration to discontinue the state's acquisition of alcoholic liquors manufactured in the Russian Federation or by any person or entity located therein; establishing duration of the ban; authorizing the commissioner, at the Governor's direction, to sell or auction alcoholic liquors made in the Russian Federation or under the authority of a business located within the federation with the proceeds going to charitable organizations assisting the people of Ukraine; increasing the maximum convenience fee charge for delivery of nonintoxicating beer and alcoholic liquors to $20; removing delivery provisions requiring storage of a scanned image of legal identification but requiring review of legal identification for nonintoxicating beer and alcoholic liquors; increasing the markup to private clubs from 110 percent to 115 percent; clarifying licensure requirements for nonintoxicating beer and alcoholic liquors; clarifying licensure requirements for wholesale representatives; removing prohibition against an elected official or his or her relative being employed as a wholesale representative; repealing an exotic entertainment; revising the blood alcohol chart; creating a license for a private bakery to produce confections with alcohol added, setting forth license requirements and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-premises consumption, setting forth license requirements and setting a license fee; creating a license for a private college sports stadium for alcohol sales in certain areas of Division I, II, or III sports stadiums, setting forth license requirements, and setting a license fee; allowing private multi-sport complex to also serve nonintoxicating beer and nonintoxicating craft beer from a golf cart; creating a license for a private food truck to conduct food and alcohol sales at various locations where permitted by a county or municipality, setting forth license requirements and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resort hotels to utilize in-room mini bars for limited nonintoxicating beer and alcoholic liquor sales to adults 21 years of age or over, and setting forth requirements; removing language automatically repealing inconsistent code language; authorizing wine growler sales where wine may be mixed with ice and water by the licensee to produce a frozen alcoholic beverage for sale by the licensee in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance house or other places of entertainment for certain private clubs with an age verification system.

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

Engrossed House Bill 4848, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Boley, Brown, Caputo, Clements, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Blair (Mr. President)—21.

The nays were: Azinger, Baldwin, Geffert, Grady, Karnes, Martin, Roberts, Smith, Stover, and Woodrum—10.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4848) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 552, Relating to tax sale process.

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

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

On page 31, section 4, line 5, after the first use of the word "of" by deleting the word "three" and in lieu thereof inserting the word "two";

On page 25, §11A-3-53, line 8, by inserting a new paragraph, as follows:

"If at any within 180 days following the approval of the sale by the Auditor, the sheriff, clerk of the county commission, assessor or Auditor determines that the tax lien on the subject property should be cancelled or dismissed, the Auditor shall issue a certificate of cancellation on the tax lien and shall cause the money paid on the day of the sale to be refunded.";

on page 30, §11A-3-69, line 8, after the number "29" by inserting ", §11A-3-30 and §11A-3-31";

On pages 37 and 38 by striking §16-18-30 in its entirety;

And,

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

Eng. Com. Sub. for Senate Bill 552—A Bill to repeal §11A-2-18 of the Code of West Virginia, 1931, as amended; to repeal §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, and §11A-3-31 of said code; to amend and reenact §11A-1-8 of said code; to amend and reenact §11A-2-14 of said code; to amend and reenact §11A-3-1, §11A-3-2, §11A-3-4, §11A-3-8, §11A-3-9, §11A-3-10, §11A-3-11, §11A-3-12, §11A-3-13, §11A-3-32, §11A-3-39 §11A-3-42, §11A-3-

44, §11A-3-45, §11A-3-46, §11A-3-48, §11A-3-50, §11A-3-52, §11A-3-53, §11A-3-54, §11A-3-55, §11A-3-56, §11A-3-66, and §11A-3-69 of said code; to amend and reenact §11A-4-3 and §11A-4-4 of said code; to amend and reenact §16-18-3 of said code; to amend and reenact §22-15A-30 of said code; to amend and reenact §31-18E-9 of said code; and to amend and reenact §31-21-11 of said code, all relating to delinquent and dilapidated property and the process for the collection of delinquent real estate taxes and sales of tax liens and property; modifying the method by which notice is provided regarding the payment of property taxes; requiring a sheriff to accept credit cards as a form of payment for property taxes; allowing a sheriff to offer discounts on tax liability to taxpayers that pay with a credit card; modifying the deadline by which a sheriff must present delinquent lists to its county commission; modifying the deadline that a county commission certifies a delinquent list to the auditor; modifying the form of certain notice provided by the sheriff regarding delinquent taxes; repealing provisions related to the annual sheriff's sale; modifying provisions related to the annual sheriff's sale to be related to certification to the Auditor; providing that a sheriff provide a redemption receipt if property is redeemed prior to certification to the auditor; directing a portion of the redemption fee to the Courthouse Facilities Improvement Fund; modifying the policy related to the sale of tax liens; modifying the process by which a sheriff provides its second notice of delinquent real estate; modifying the timing and payment of redemption for delinquent properties prior to certification to the auditor; modifying dates for auditor to certify list of lands to be sold; providing any property not redeemed to the sheriff is to be certified to the auditor; providing that the sheriff prepare a list of all the tax liens on delinquent real estate redeemed prior to certification or certified to the auditor; providing that the sheriff account for the proceeds from redemptions prior to certification; providing a sheriff may modify its redemption and certification list within 30 days after the publication of such list; providing for the publication of such list; requiring sheriffs keep separate accounts for redemption moneys; modifying the deposit and disposition of certain funds; modifying certain fees related to redemption; identifying lands subject to sale by the deputy commissioner; relating to the obligation that the auditor certify and deliver a list of lands subject to sale by the deputy commissioner; addressing annual auctions held by the deputy commissioner and the publication of notice of public auctions held by the deputy commissioner; relating to auditor's sale of delinquent and nonentered land; relating to moving certain obligations from the deputy commissioner to the auditor; relating to the requirements that a purchaser must satisfy before he or she can secure a deed; relating to the sale of certain delinquent lands subject to sale and certain entities right of first refusal therein; relating to the receipt to purchaser for purchase price at auditor's sale; relating to the purchaser's obligation to secure deed to delinquent property; relating to refund to purchaser for property determined to be nonexistent; relating to the notice to redeem provided to a person entitled to redeem delinquent property; relating to redemption of delinquent property; modifying fees for redemption; clarifying effect of repeal of certain code; directing portion of fees for specific purpose; providing for certain delinquent taxpayers to redeem in installment payments; modifying the procedure for and duration of right to set aside deed; modifying definition of blighted property; modifying the Reclamation of Abandoned and Dilapidated Properties Program; relating to the right of certain entities to purchase delinquent properties; modifying compensation due deputy commissioner; modifying the reclamation of abandoned and dilapidated properties program; requiring certain periodic reports; providing the department of environmental protection with the right to enter into certain statewide contracts; modifying certain entities rights to acquire tax delinquent properties; and modifying certain obligations of the West Virginia Land Stewardship Corporation land bank program.

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

Engrossed Committee Substitute for Senate Bill 552, as amended by the House of Delegates, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 552) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 536, Relating generally to controlled substance criminal offenses.

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

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

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

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-401. Prohibited acts; penalties

(a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

Any person who violates this subsection with respect to:

(i) A controlled substance classified in Schedule I or II, which is a narcotic drug or which is methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than $25,000, or both fined and imprisoned: *Provided*, That any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than $50,000, or be imprisoned in a state correctional facility for not less than 3 nor more than 15 years, or both fined and imprisoned;

(ii) Any other controlled substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than $15,000, or both fined and imprisoned;

(iii) A substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than $10,000, or both fined and imprisoned;

(iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and confined: *Provided,* That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, or methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than $25,000, or both fined and imprisoned;

(ii) Any other counterfeit substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than $15,000, or both fined and imprisoned;

(iii) A counterfeit substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than $10,000, or both fined and imprisoned;

(iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and confined: *Provided,* That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor, and disposition may be made under §60A-4-407 of this code, subject to the limitations specified in said section, or upon conviction thereof, the person may be confined in jail not less than 90 days nor more than six months, or fined not more than $1,000, or both fined and confined: *Provided,* That notwithstanding any other provision of this act to the contrary, any first offense for possession of synthetic cannabinoids as defined by §60A-1-101(d)(32) of this code; 3,4-methylenedioxypyrovalerone (MPVD) and 3,4-methylenedioxypyrovalerone and/or mephedrone as defined in §60A-1-101(f) of this code; or less than 15 grams of marijuana, shall be disposed of under §60A-4-407 of this code.

(d) It is unlawful for any person knowingly or intentionally:

(1) To create, distribute, deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or

(2) To create, possess, sell, or otherwise transfer any equipment with the intent that the equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or the container or label of a counterfeit substance or an imitation controlled substance.

(3) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and confined. Any person 18 years old or more who violates subdivision (1) of this subsection and distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than that person is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than $10,000, or both fined and imprisoned.

(4) The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo.

(e) It is unlawful for any person knowingly or intentionally:

(1) To adulterate another controlled substance using fentanyl as an adulterant;

(2) To create a counterfeit substance or imitation controlled substance using fentanyl; or

(3) To cause the adulteration or counterfeiting or imitation of another controlled substance using fentanyl.

(4) Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years, or fined not more than $50,000, or both fined and imprisoned.

(5) For purposes of this section:

(i) A controlled substance has been adulterated if fentanyl has been mixed or packed with it; and

(ii) Counterfeit substances and imitation controlled substances are further defined in §60A-1-101 of this code.

§60A-4-409. Prohibited acts — Transportation of controlled substances into state; penalties

(a) Except as otherwise authorized by the provisions of this code, it is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 15 years, or fined not more than $25,000, or both: *Provided*, That any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than $50,000 or imprisoned in a state correctional facility for a definite term of not less than 10 nor more than 20 years, or both fined and imprisoned.

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 10 years, or fined not more than $15,000, or both: *Provided*, That for the substance marijuana, as scheduled in subdivision (24) subsection (d), §60A-2-204 of this code, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than $10,000, or both;

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, 100 grams or more of phencyclidine, 10 grams or more of lysergic acid diethylamide, or 50 grams or more of methamphetamine or 500 grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 30 years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving 100 but fewer than 1,000 grams of heroin, not less than 500 but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than 99 grams of phencyclidine, not less than one but fewer than 10 grams of lysergic acid diethylamide, or not less than five but fewer than 50 grams of methamphetamine or not less than 50 grams but fewer than 500 grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 20 years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than 10 grams nor more than 100 grams of heroin, not less than 50 grams nor more than 500 grams of cocaine or cocaine base, not less than two grams nor more than 10 grams of phencyclidine, not less than 200 micrograms nor more than one gram of lysergic acid diethylamide, or not less than 499 milligrams nor more than five grams of methamphetamine or not less than 20 grams nor more than 50 grams of a substance or material containing a measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 15 years.

(f) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.

~~§60A-4-415. Unlawful manufacture, delivery, transport into state, or possession of fentanyl~~; aggravated transportation of fentanyl into state; penalties.

~~(a) For purposes of this section,~~

~~(1) "Controlled substance" shall have the same meaning as provided in subsection (e), section one hundred one, article one of this chapter.~~

~~(2) "Fentanyl" refers to the substance identified in subdivision (9), subsection (c), section two hundred six, article two of this chapter and any analog or derivative thereof.~~

~~(b) Any person who violates the provisions of subsection (a), section four hundred one of this article or section four hundred nine of this article in which fentanyl is a controlled substance involved in the offense, either alone or in combination with another controlled substance, shall be guilty of a felony, and upon conviction thereof, shall be punished in accordance with the following:~~

~~(1) If the net weight of fentanyl involved in the offense is less than one gram, such person shall be imprisoned in a correctional facility not less than two nor more than ten years.~~

~~(2) If the net weight of fentanyl involved in the offense is one gram or more but less than five grams, such person shall be imprisoned in a correctional facility not less than three nor more than fifteen years.~~

~~(3) If the net weight of fentanyl involved in the offense is five grams or more, such person shall be imprisoned in a correctional facility not less than four nor more than twenty years.~~

§60A-4-418. Use of a minor to commit a felony drug offense; penalties.

Any person over the age of 21 who knowingly and intentionally causes, aids, abets, or encourages a person under the age of 18 to distribute, dispense, manufacture, or possess with the intent to distribute a controlled substance in violation or the provisions of this chapter is guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000 or imprisoned in a state correctional facility for not more than five years, or both fined and imprisoned.

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

Engrossed Committee Substitute for Senate Bill 536, as amended by the House of Delegates, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 536) passed with its title.

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

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

Eng. Senate Bill 685, Relating to WV Real Estate License Act.

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

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

On page 1 by striking everything following the enacting clause and inserting in lieu thereof the following:

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

§30-40-4. Definitions.

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

~~(a)~~ "Applicant" means any person who is making application to the commission for a license.

~~(b)~~ "Associate broker" means any person who qualifies for a broker's license, but who is employed or engaged by a licensed broker to engage in any activity regulated by this article, in the name of and under the direct supervision of the licensed broker.

~~(c)~~ "Broker" means any person who for compensation or with the intention or expectation of receiving or collecting compensation:

(1) Lists, sells, purchases, exchanges, options, rents, manages, leases, or auctions any interest in real estate; or

(2) Directs or assists in the procuring of a prospect calculated or intended to result in a real estate transaction; or

(3) Advertises or holds himself or herself out as engaged in, negotiates, or attempts to negotiate, or offers to engage in any activity enumerated in subdivision (1) of this subsection.

~~(d)~~ "Commission" means the West Virginia Real Estate Commission as established §30-40-6 of this code.

~~(e)~~ "Compensation" means fee, commission, salary, or other valuable consideration, in the form of money or otherwise.

~~(d)~~ "Designated broker" means a person holding a broker's license who has been appointed by a partnership, association, corporation, or other form of business organization engaged in the real estate brokerage business, to be responsible for the acts of the business and to whom the

partners, members, or board of directors have delegated full authority to conduct the real estate brokerage activities of the business organization.

~~(g)~~ "Distance education" means courses of instruction in which instruction takes place through media where the teacher and student are separated by distance and sometimes by time.

"Entity" means a business, company, corporation, limited liability company, association, or partnership.

~~(h)~~ "Inactive" means a licensee who is not authorized to conduct any real estate business and is not required to comply with any continuing education requirements.

~~(i)~~ "License" means a license to act as a broker, associate broker, or salesperson.

~~(j)~~ "Licensee" means a person holding a license.

~~(k)~~ "Member" means a commissioner of the Real Estate Commission.

~~(l)~~ "Real estate" means any interest or estate in land, and anything permanently affixed to land.

~~(m)~~ "Salesperson" means a person employed or engaged by or on behalf of a broker to do or deal in any activity included in this article, in the name of and under the direct supervision of a broker, other than an associate broker. *Provided,* That for the purposes of receiving compensation, a salesperson may designate an entity to receive any compensation payable to the salesperson, including, but not limited to, a limited liability corporation or an S-corporation.;

And,

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

Eng. Senate Bill 685—A Bill to amend and reenact §30-40-4 of the Code of West Virginia, 1931, as amended, relating to West Virginia Real Estate License Act; amending definitions; permitting a salesperson to designate an entity to receive compensation.

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

Following discussion,

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill (Eng. S. B. 685) was deferred until the conclusion of miscellaneous business.

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

Eng. Senate Bill 686, Clarifying use of notes and bonds of WV Housing Development Fund.

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

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

On page 11, following section 6, by striking the section heading and inserting in lieu thereof: "**§31-18-9. Borrowing of money.**";

And,

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

Eng. Senate Bill 686—A Bill to amend and reenact §31-18-6 and §31-18-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Housing Development Fund; providing certain limits on loans made or purchased with the proceeds of notes or bonds of the Housing Development Fund; and authorizing the Housing Development Fund to allocate a portion of its state ceiling allocation to political subdivisions or city or county housing authorities authorized to issue bonds or notes for qualified residential rental projects under certain circumstances.

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

Engrossed Senate Bill 686, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Beach, Geffert, Plymale, and Woelfel—4.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 686) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Beach, Geffert, Plymale, and Woelfel—4.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 686) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 582, Creating WV Workforce Resiliency Act.

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

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

On page 5, section 2, line 9, by striking, after the word "managerial" the word "or" and inserting in lieu thereof the word "and"; and,

On page 5, section 2, line 10, by striking after the word "and" the forward slash and the word "or".

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

Engrossed Committee Substitute for Senate Bill 582, as amended by the House of Delegates, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 582) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 441, Providing confidentiality of video and other records of correctional juvenile facilities.

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

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

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

ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-8a. Facility video and security records confidential; exceptions.

(a) The contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to the commissioner's agents, representatives, and designees, but such records are

otherwise confidential and not subject to public disclosure or release except as set forth in this section.

(b) Notwithstanding any provision of this code to the contrary, the contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to an appropriate law-enforcement agency, when disclosure or release is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution: *Provided*, That, with respect to records relating to juvenile residents, the law-enforcement agency in receipt of any such records shall treat the records as confidential pursuant to the provisions set forth in §49-5-101(a) of this code.

(c) Disclosure or release may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal with the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed or released records: *Provided*, That the disclosure or release of records from a juvenile facility required for an employee grievance shall be made strictly in accordance with the provisions of §49-5-101 of this code.

(d) The commissioner may authorize an attorney, licensed before the bar of this State and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division, but such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to institution of a suit or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.

(e) The confidentiality provisions of this section shall extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record.;

And,

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

Eng. Com. Sub. for Senate Bill 441—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-4-8a, relating to the confidentiality of video, incident reports, or investigation reports of a correctional or juvenile facility; providing that the commissioner's agents, representatives, or other designees may view any video, incident report, or investigation report of a correctional or juvenile facility; permitting the disclosure of video, incident reports, or investigation reports to law enforcement under certain conditions; requiring the law enforcement agency to treat the records as confidential pursuant to §49-5-101(a); permitting the disclosure of such items in a civil or administrative proceeding upon and appropriate order; providing that release of records from a juvenile facility related to an employee grievance shall be in accordance with §49-5-101; permitting the viewing of facility video to any licensed state attorney investigating a potential claim against the division; preventing the disclosure to any licensed state attorney unless a protective order is entered; and extending the confidentiality provisions of this section to any person receiving copies of the video, incident report, or investigation report.

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

Engrossed Committee Substitute for Senate Bill 441, as amended by the House of Delegates, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 441) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 548, Authorizing Workforce WV employers to obtain employment classifications and work locations.

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

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

On page 1 by striking everything following the enacting clause and inserting in lieu thereof the following:

ARTICLE 10. GENERAL PROVISIONS.

§21A-10-11. Reporting requirements and required information; use of information; libel and slander actions prohibited.

(a) Each employer, including labor organizations as defined in subsection (i) of this section, shall, quarterly, submit certified reports on or before the last day of the month next following the calendar quarter, on forms to be prescribed by the commissioner. The reports shall contain:

(1) The employer's assigned unemployment compensation registration number, the employer's name, and the address at which the employer's payroll records are maintained;

(2) Each employee's Social Security account number, name, and the gross wages paid to each employee, ~~which shall include the first $12,000 of remuneration and all amounts in excess of that amount, notwithstanding §21-1A-28(b)(1) of this code~~ including any remunerations below and above the threshold wage described by §21A-1A-28 of this code;

(3) The total gross wages paid within the quarter for employment, which includes money wages and the cash value of other remuneration, ~~and shall include the first $12,000 of remuneration paid to each employee and all amounts in excess of that amount, notwithstanding §21-1A-28(b)(1) of this code~~ including any remunerations below and above the threshold wage described by §21A-1A-28 of this code;

(4) Each employee's job title and the county in which the majority of the employee's job duties are performed; and

~~(4)~~ (5) Other information that is reasonably connected with the administration of this chapter.

(b) Information obtained may not be published or be open to public inspection to reveal the identity of the employing unit or the individual.

(c) Notwithstanding the provisions of subsection (b) of this section, the commissioner may provide information obtained to the following governmental entities for purposes consistent with state and federal laws:

(1) The United States Department of Agriculture;

(2) The state agency responsible for enforcement of the Medicaid program under Title XIX of the Social Security Act;

(3) The United States Department of Health and Human Services or any state or federal program operating and approved under Title I, Title II, Title X, Title XIV or Title XVI of the Social Security Act;

(4) Those agencies of state government responsible for economic and community development; early childhood, primary, secondary, postsecondary, and vocational education; the West Virginia P-20 longitudinal data system established pursuant to §18B-1D-10 of this code; and vocational rehabilitation, employment, and training, including, but not limited to, the administration of the Perkins Act and the Workforce Innovation and Opportunity Act;

(5) The Tax Division, but only for the purposes of collection and enforcement;

(6) The Division of Labor for purposes of enforcing the wage bond pursuant to the provisions of §21-5-14 of this code;

(7) The contractors licensing board for the purpose of enforcing the contractors licensing provisions pursuant to §30-42-1 *et seq.* of this code;

(8) Any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices;

(9) Any claimant for benefits or any other interested party to the extent necessary for the proper presentation or defense of a claim; and

(10) The Insurance Commissioner for purposes of its Workers Compensation regulatory duties.

(d) The agencies or organizations which receive information under subsection (c) of this section shall agree that the information shall remain confidential as not to reveal the identity of the employing unit or the individual consistent with the provisions of this chapter.

(e) The commissioner may, before furnishing any information permitted under this section, require that those who request the information shall reimburse WorkForce West Virginia for any cost associated for furnishing the information.

(f) The commissioner may refuse to provide any information requested under this section if the agency or organization making the request does not certify that it will comply with the state and federal law protecting the confidentiality of the information.

(g) A person who violates the confidentiality provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $20 nor more than $200 or confined in a county or regional jail not longer than 90 days, or both.

(h) An action for slander or libel, either criminal or civil, may not be predicated upon information furnished by any employer or any employee to the commissioner in connection with the administration of any of the provisions of this chapter.

(i) For purposes of subsection (a) of this section, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. It includes any entity, also known as a hiring hall, which is used by the organization and an employer to carry out requirements described in 29 U. S. C. §158(f)(3) of an agreement between the organization and the employer.;

And,

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

Eng. Senate Bill 548—A Bill to amend and reenact §21A-10-11 of the Code of West Virginia, 1931, as amended, relating to authorizing WorkForce West Virginia to obtain information regarding employment classifications and work locations from employers; clarifying that the financial information required by the reports described by §21A-10-11 include all remunerations above and below the threshold wage as described by §21A-1A-28.

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

Engrossed Senate Bill 548, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—27.

The nays were: Baldwin, Jeffries, Lindsay, and Romano—4.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 548) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 611, Removing cap on bidder's contract bond.

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

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

On page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-20. Bidder's bond required; return or forfeiture of bond.

(a) In any case where a contract for work and materials shall be let as a result of competitive bidding, the successful bidder shall, ~~promptly and~~ within 20 days after notice of award, execute a formal contract to be approved as to its form, terms, and conditions by the commissioner, and shall also execute and deliver to the commissioner a good and sufficient surety or collateral bond, payable to the State of West Virginia, to be approved by the commissioner, in such amount as the commissioner may require, but not to exceed 110 percent of the contract price, conditioned that ~~such~~ the contractor shall well and truly perform ~~his~~ the contract. ~~and~~ The commissioner may determine individual contractor surety or collateral bond amounts based upon objective criteria set by the commissioner, and any final decision that adversely affects a contractor shall be a contested case subject to appeal under Chapter 29A of this code.

(b) The contractor shall pay in full to the persons entitled thereto for all material, gas, oil, repairs, supplies, tires, equipment, rental charges for equipment and charges for the use of equipment, and labor used by ~~him in and about~~ the contractor in the performance of such contract, or which reasonably appeared, at the time of delivery or performance, would be substantially consumed in and about the performance of ~~such~~ the contract. ~~An action either at law or in equity,~~ A legal action may be maintained upon ~~such~~ the bond for breach thereof by any person for whose benefit the ~~same~~ bond was executed or by his or her assignee.

(c) The bidder who has the contract awarded to him or her and who fails within 20 days after notice of the award to execute the required contract and bond shall forfeit such check or bond, ~~and the check or bond~~ which shall be taken and considered as liquidated damages and not as a penalty for failure of such bidder to execute ~~such~~ the contract and bond.

(d) Upon the execution of ~~such~~ the contract and bond by the successful bidder, his or her check or bond shall be ~~returned~~ released to him or her. The checks or bonds of the unsuccessful

bidders shall be ~~returned~~ released to them promptly after the bids are opened and the contract awarded to the successful bidder.

(e) A duplicate copy of such contract and bond shall be furnished by the Commissioner of the Division of Highways, in ~~loose-leaf form~~ electronic or paper form as may be required, to the ~~clerk of the county court~~ county clerk of the county in which such contract is to be performed. ~~and it shall be~~ It is the duty of the county clerk to bind and preserve the same in his or her office and index the same in the name of the commissioner and of the contractor.;

And,

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

Eng. Com. Sub. for Senate Bill 611—A Bill to amend and reenact §17-4-20 of the Code of West Virginia, 1931, as amended, relating to contract bidder's surety or collateral bond; modifying cap on contract bidder's surety or collateral bond; authorizing Commissioner of Highways to determine bond amounts based on objective criteria; setting forth that any final decision would be considered a contested case subject to appeal; and updating outdated language.

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

Engrossed Committee Substitute for Senate Bill 611, as amended by the House of Delegates, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 611) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 726, Relating to pre-trial diversion agreements and deferred prosecution agreements.

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

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

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

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-22. Pretrial diversion agreements; conditions; drug court programs.

(a) A prosecuting attorney of any county of this state or a person acting as a special prosecutor may enter into a pretrial diversion agreement with a person ~~under investigation or~~ charged with an offense against the State of West Virginia, when he or she considers it to be in the interests of justice. The agreement is to be in writing and is to be executed in the presence of the person's attorney, unless the person has executed a waiver of counsel.

(b) Any agreement entered into pursuant to the provisions of subsection (a) of this section may not exceed 24 months in duration. The duration of the agreement must be specified in the agreement. The terms of any agreement entered into pursuant to the provisions of this section may include conditions similar to those set forth in §62-12-9 of this code relating to conditions of probation. The agreement may require supervision by a probation officer of the circuit court, with the consent of the court. An agreement entered into pursuant to this section must include a provision that the applicable statute of limitations be tolled for the period of the agreement.

(c) A person who has entered into an agreement for pretrial diversion with a prosecuting attorney and who has successfully complied with the terms of the agreement is not subject to prosecution for the offense or offenses described in the agreement or for the underlying conduct or transaction constituting the offense or offenses described in the agreement, unless the agreement includes a provision that upon compliance the person agrees to plead guilty or nolo contendere to a specific related offense, with or without a specific sentencing recommendation by the prosecuting attorney.

(d) No person charged with a violation of the provisions of §17C-5-2 of this code may participate in a pretrial diversion program: *Provided*, That a court may defer proceedings in accordance with §17C-5-2b of this code. ~~No person charged with a violation of the provisions of section twenty-eight, article two of this chapter may participate in a pretrial diversion program unless the program is part of a community corrections program approved pursuant to the provisions of article eleven-c, chapter sixty-two of this code. No person indicted for a felony crime of violence against the person where the alleged victim is a family or household member as defined in section two hundred three, article twenty-seven, chapter forty-eight of this code or indicted for a violation of the provisions of sections three, four or seven, article eight-b of this chapter is eligible to participate in a pretrial diversion program. No defendant charged with a violation of the provisions of section twenty-eight, article two of this chapter or subsections (b) or (c), section nine, article two of this chapter where the alleged victim is a family or household member is eligible for pretrial diversion programs if he or she has a prior conviction for the offense charged or if he or she has previously been granted a period of pretrial diversion pursuant to this section for the offense charged. Notwithstanding any provision of this code to the contrary, defendants charged with violations of the provisions of section twenty-eight, article two, chapter sixty-one of this code or the provisions of subsection (b) or (c), section nine, article two of said chapter where the alleged victim is a family or household member as defined by the provisions of section two hundred three, article twenty-seven, chapter forty-eight of this code are ineligible for participation in a pretrial diversion program before July 1, 2002, and before the community corrections subcommittee of the Governor's Committee on Crime, Delinquency and Correction established pursuant to the provisions of section two, article eleven-c, chapter sixty-two of this code, in consultation with the working group of the subcommittee, has approved guidelines for a safe and effective program for diverting defendants charged with domestic violence.~~

~~(e) The provisions of section twenty-five of this article are inapplicable to defendants participating in pretrial diversion programs who are charged with a violation of the provisions of section twenty-eight, article two, chapter sixty-one of this code. The community corrections subcommittee of the Governor's Committee on Crime, Delinquency and Correction established pursuant to the provisions of section two, article eleven-c, chapter sixty-two of this code shall, upon approving any program of pretrial diversion for persons charged with violations of the provisions of section twenty-eight, article two, chapter sixty-one of this code, establish and maintain a central registry of the participants in the programs which may be accessed by judicial officers and court personnel.~~

(e) No person is eligible for pretrial diversion programs if charged with:

(1) A felony crime of violence against the person where the alleged victim is a family or household member as defined in §48-27-203 of this code;

(2) A violation of §61-8-12 of this code or a felony violation of the provisions of §61-8B-1 *et seq.*, §61-8C-1 *et seq.,* and §61-8D-1 *et seq.* of this code;

(3) A violation of §61-2-9a(a) of this code;

(4) A violation of §61-2-9d of this code;

(5) A violation of § 61-2-28 of this code; or

(6) A violation of §61-2-9 of this code where the alleged victim is a family or household member as defined in §48-27-203 of this code.

§61-11-22a. Deferred adjudication.

(a) Upon the entry of a guilty plea to a felony or misdemeanor before a circuit or magistrate court of this state entered in compliance with the provisions of Rule 11 of the West Virginia Rules of Criminal Procedure ~~11~~ or Rule 10 of the West Virginia Rules of Criminal Procedure for Magistrate Courts and applicable judicial decisions, the court may, upon motion, defer acceptance of the guilty plea and defer further adjudication thereon and release the defendant upon such terms and conditions as the court deems just and necessary. Terms and conditions may include, but are not limited to, periods of incarceration, drug and alcohol treatment, counseling and participation in programs offered under ~~articles eleven-a, eleven-b and eleven-c, chapter sixty-two~~ §62-11A-1 *et seq.*, §62-11B-1 *et seq.*, and §62-11C-1 *et seq.* of this code.

(b) If the offense to which the plea of guilty is entered is a felony, the circuit court may defer adjudication for a period not to exceed three years. If the offense to which the plea of guilty is entered is a misdemeanor, the court may defer adjudication for a period not to exceed two years.

(c) Unless otherwise specified by this section, a person is ineligible for a deferred adjudication program if he or she is charged with;

(1) A felony crime of violence against the person where the alleged victim is a family or household member as defined in §48-27-203 of this code;

(2) A violation of §61-8-12 of this code or a felony violation of the provisions of §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, and §61-8D-1 *et seq.* of this code;

(3) A violation of §61-2-9a(a) of this code;

(4) A violation of §61-2-9d of this code;

(5) A violation of §61-2-28 prosecuted under the provisions of subsections (c) or (d) of that section; or

(6) A violation of §61-2-9(a) of this code, or a violation of §61-2-9(b) or §61-2-9(c) of this code prosecuted under the provisions of subsection (d) of that section, where the alleged victim is a family or household member as defined in §48-27-203 of this code.

(7) A violation of §61-2-9(b) or §61-2-9(c) of this code or §61-2-28(a) or §61-2-28(b) of this code where a weapon was used in the commission of the crime, the defendant has a prior conviction of any of the offenses listed in subsection (c) of this section, the defendant has a prior felony conviction, or the defendant has previously entered into a prior pre-trial diversion or deferred adjudication of crimes where the alleged victim is a family or household member as defined in §48-27-203 of this code.

(d) A person charged under §61-2-9a, §61-2-9d, or §61-2-9(a) of this code who has not previously been convicted of any of the offenses set forth in subsection (c) of this section, who has no prior felony conviction, and who has not previously entered into a prior pre-trial diversion or deferred adjudication of crimes where the alleged victim is a family or household member as defined in §48-27-203 of this code, is eligible to participate in a deferred adjudication program: *Provided*, That the person is not eligible for dismissal upon successful completion of the deferred period.

(e)(1) A person charged with a first offense violation of §61-2-28(a) or §61-2-28(b) of this code or a violation of §61-2-9(b) or §61-2-9(c) of this code where the alleged victim is a family or household member as defined in §48-27-203 is eligible for deferred adjudication if agreed to by the state and the defendant: *Provided*, That, for purposes of this section, "first offense violation" means the person would not, due to any prior charges or convictions, be subject to the enhancement provisions set forth in §61-2-9(d) or §61-2-28(c) or §61-2-28(d);

(2) In addition to terms and conditions authorized in subsection (a) of this section, a person participating in a deferred adjudication program pursuant to this subsection may be required to participate in compliance hearings and batterer intervention programs licensed under §48-26-402 of this code;

(3) Notwithstanding the provisions of subsection (b) of this section, a deferral under this subsection shall be for a period of not less than 18 months nor more than three years; and

(4) A person may not participate in more than one deferred adjudication pursuant to this subsection.

~~(c)~~ (f) If the defendant complies with the court-imposed terms and conditions he or she shall be permitted to withdraw his or her plea of guilty and the matter dismissed or, as may be agreed upon by the court and the parties, enter a plea of guilty or no contest to a lesser offense.

~~(d)~~ (g) In the event the defendant is alleged to have violated the terms and conditions imposed upon him or her by the court during the period of deferral the prosecuting attorney may file a

motion to accept the defendant's plea of guilty and, following notice, a hearing shall be held on the matter.

~~(e)~~ (h) In the event the court determines that there is reasonable cause to believe that the defendant violated the terms and conditions imposed at the time the plea was entered, the court may accept the defendant's plea to the original offense and impose a sentence in the court's discretion in accordance with the statutory penalty of the offense to which the plea of guilty was entered or impose such other terms and conditions as the court deems appropriate.

~~(f)~~ (i) The procedures set forth in this section are separate and distinct from that set forth in Rule 11(a)(2) of the West Virginia Rules of Criminal Procedure ~~11(a)(2)~~.

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

Engrossed Senate Bill 726, as amended by the House of Delegates, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 726) passed with its title.

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

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

Eng. Senate Bill 711, Establishing alternative educational opportunities for elective course credit.

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

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

On page 4, section §18-2-7f, line 85, after the word "Denial" by deleting the words "and Appeal Process";

On page 4, section §18-2-7f, line 88, after the word "board" and the period, by deleting the next sentence in its entirety;

On page 4, section §18-2-7f, line 91, following the word "application" by deleting the word "appeal";

And,

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

Eng. Senate Bill 711—A Bill to amend and reenact §18-2-7f of the Code of West Virginia, 1931, as amended, relating to establishing alternative educational opportunities for elective course credit; requiring the state board to establish, develop, and maintain a program whereby students can earn elective course credit for extended learning opportunities that take place outside of the traditional classroom setting; specifying minimum entities eligible to provide extended learning opportunity programs; requiring individuals or entities seeking certification as an eligible extended learning opportunity program to successfully complete an application process; imposing requirements on extended learning opportunity providers pertaining to compliance with applicable federal and state health and safety laws and regulations, compliance with standards and safeguards provided by the West Virginia Board of Education, background checks for key personnel or instructional staff, and proof of insurance; addressing the denial of a program application; providing for monitoring, evaluation, and inspection of approved programs; allowing extension of approval or disqualification for violation of state law or state board policies; allowing appeal of disqualification; requiring the county boards of education to adopt an alternative educational opportunities policy that facilitates implementation and participation; requiring parental or legal guardian approval for participation of student under 18; allowing students transferring schools to request acceptance of elective course credits awarded for program completion; addressing transportation to and from an approved program; allowing auditing of approved programs at any time and disqualification for not meeting certain provisions; and requiring report to the Legislative Oversight Commission on Education Accountability with respect to the implementation of extended learning opportunity programs.

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

Engrossed Senate Bill 711, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of miscellaneous business, following consideration of Engrossed Senate Bill 685 already placed in that position.

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

Eng. Com. Sub. for House Bill 4001, Generally relating to broadband.

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

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

On page eight through eleven of the amendment, by striking out Article 8 in its entirety and inserting in lieu thereof the following:

ARTICLE 8. ELIGIBLE TELECOMMUNICATIONS CARRIERS.

§31G-8-1. Legislative Findings.

The Legislature of the State of West Virginia finds and declares that:

(1) The certification of Eligible Telecommunications Carriers is a responsibility primarily delegated to the states.

(2) The proper utilization and oversight of disbursement of funds from the Universal Service Fund established by the federal government and managed by the Federal Communications Commission is in the public interest, convenience, and necessity.

(3) Failure to perform material obligations imposed upon an Eligible Telecommunications Carrier in connection with disbursement of funding from the Universal Service Fund is detrimental to the public interest, convenience, and necessity.

(4) Proper oversight and certification of compliance are necessary and proper for the continuing issuance of Eligible Telecommunications Status and are in the public interest.

§31G-8-2. Definition.

"Eligible Telecommunications Carrier" means the status for a telecommunications carrier to be eligible for Universal Service Fund support pursuant to 47 CFR § 54.201.

§31G-8-3. Eligible Telecommunications Carriers Status.

Notwithstanding any other provision of this code to the contrary, eligible Telecommunications Carriers Status shall be issued by the Public Service Commision. Issuance thereof shall not be unreasonably withheld, considering the recommendation of the Attorney General, and only if the applicant for Eligible Telecommunications Carrier status is in compliance with the following:

(a) The Attorney General shall check the Universal Service Administrative Company HUB for any commitments, and/or obligations of Eligible Telecommunications Carriers in the state of West Virginia.

(b) The Attorney General shall require certification of completion thereof and ongoing compliance therewith, under penalty of perjury prior to making a favorable recommendation to the Public Service Commission of the application to be an Eligible Telecommunications Carrier. The Attorney General shall transmit all such recommendations which shall not be unreasonably withheld to the Public Service Commission within 15 days of an application, after which time a favorable recommendation will be deemed to be received.

§31G-8-4. Misrepresentation in Certification for Eligible Telecommunications Carrier Status, penalty.

(a) If the Attorney General finds evidence that an Eligible Telecommunications Carrier has materially misrepresented compliance in their certification referenced in §31G-8-3 of this code,

notification of such material misrepresentation shall be transmitted to the West Virginia Public Service Commission. The Public Service Commission shall conduct a hearing on the merits thereof and if after a hearing the Eligible Telecommunications Carrier is found to be materially non-compliant, the Public Service Commission shall assess a fine equal to the amount of any subsidization received for which the commitment, assertion or obligation was established. Any such fine shall be limited to such proportional amount as that which was awarded to the Eligible Telecommunications Carrier for a particular area or act to be performed and shall not be construed to include all amounts awarded statewide. The Public Service Commission or Attorney General shall seek enforcement of any fine and any court of competent jurisdiction in this state shall order payment and compliance with the order of the Public Service Commission associated herewith. Funds from any fine shall be deposited into the Broadband Development Fund, less any reasonable expenses and costs of the Public Service Commission in connection therewith.

(b) When such determination has been made, the Attorney General, and any other Department, office, bureau, or agency and any political subdivision of this state, shall cause any Eligible Telecommunications Carrier and its subsidiaries found to be materially non-compliant under subsection (a) of this section or failing to make the certification required thereunder, to no longer be certified as an Eligible Telecommunications Carrier and to be ineligible for any state grants, awards, procurement, leasing, licensing other than a business license issued by the Secretary of State or any business license by a political subdivision of this state, easement, right-of-way access, or purchase until such material misrepresentation is cured: *Provided*, That nothing in this section shall be construed or applied retro actively to prevent the installation, repair, maintenance or other required work for any Carrier of Last Resort required to provide telephone service in this state: *Provided however*, That nothing in this section shall be construed to prevent an internet service provider from repairing or replacing telecommunications facilities in rights-of-way or easements that internet service provider currently has facilities situated within.;

And,

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

Eng. Com. Sub. for House Bill 4001—A Bill to amend and reenact §31G-1A-7 of the Code of the West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §31G-1A-8; to amend said code by adding thereto a new section, designated §31G-3-5; to amend said code by adding thereto a new section, designated §31G-4-2a; to amend said code by adding thereto a new article, designated §31G-7-1, §31G-7-2, §31G-7-3, §31G-7-4 and §31G-7-5; and to amend said code by adding thereto a new article, designated §31G-8-1, §31G-8-2 §31G-8-3 and §31G-8-4, all relating to certain provisions relating to broadband; adding certain provisions to the administration of the Broadband Development Fund, including regulating the disposal of grant funded assets; relating to creating the Broadband Carrier Neutral and Open Access Infrastructure Development Fund; providing for the administration of the fund, sources of funding for the fund, and the purposes for expenditures from the fund; authorizing expenditures from the fund from collections and pursuant to legislative appropriations; providing that a broadband project or extension shall be a carrier neutral and open access project if it is funded by 100 percent of public money; creating a process for the mapping of disturbances in rights of way; creating utility pole rights of way and easement mapping initiative; creating existing customer protections for the Office of the Attorney General in coordination with the Office of Broadband and Department of Economic Development; establishing fees; providing for competitive access infrastructure; providing for credits; defining modems and other connection devices; defining competitive access infrastructure; defining eligible telecommunications carriers; defining the

status of such; and providing for penalties where misrepresentation of eligible telecommunications carrier status occurs.

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

Engrossed Committee Substitute for House Bill 4001, as amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. House Bill 2300, Including Family Court Judges in the Judges' Retirement System.

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

On further motion of Senator Takubo, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

Engrossed House Bill 2300, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—29.

The nays were: Jeffries and Nelson—2.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2300) passed with its title.

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

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

Eng. Com. Sub. for House Bill 4012, Prohibiting the showing of proof of a COVID-19 vaccination.

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

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of 90 days from passage.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Brown, Caputo, Geffert, Jeffries, Lindsay, Romano, and Stollings—8.

Absent: Beach, Plymale, and Woelfel—3.

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. 4012) takes effect from passage.

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

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

Eng. Com. Sub. for House Bill 4688, Relating to Emergency Medical Services Retirement System Act.

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

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

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

Eng. Com. Sub. for House Bill 4688—A Bill to amend and reenact §16-5V-2, §16-5V-6 and §16-5V-31 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §16-5V-6a and §16-5V-6b, all relating to the Emergency Medical Services Retirement System; defining terms; updating terms to comply with federal laws; authorizing certain 911 personnel and county firefighters to be members of the Emergency Medical Services Retirement System under certain circumstances; providing for transfer of assets pertaining to county firefighters; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System.

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

Engrossed Committee Substitute for House Bill 4688, as amended, was then 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, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4688) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

Eng. Com. Sub. for Senate Bill 334, Authorizing miscellaneous agencies and boards to promulgate rules.

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

Eng. House Bill 3073, Relating to the West Virginia Emergency School Food Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. House Bill 4307, Increase some benefits payable from Crime Victims Compensation Fund.

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

Eng. Com. Sub. for House Bill 4353, Relating to On Cycle Elections - Voter Turnout Act.

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

Eng. Com. Sub. for House Bill 4408, Relating to contracts for construction of recreational facilities in state parks and forests.

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

Eng. Com. Sub. for House Bill 4600, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness.

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

Eng. House Bill 4642, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts.

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

Eng. Com. Sub. for House Bill 4667, Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

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

Eng. Com. Sub. House Bill 4668, Relating to air bag fraud.

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

Eng. House Bill 4827, Relating to the promotion and development of public-use vertiports.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

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

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

On page 1 by striking everything after the clause and inserting in lieu thereof the following:

ARTICLE 2Q. UNBORN CHILD WITH A DISABILITY PROTECTION AND EDUCATION ACT.

§16-2Q-1. Abortion may not be performed because of a disability, except in a medical emergency.

(a) As used in this article:

"Abortion" means the same as that term is defined in §16-2F-2 of this code.

"Attempt to perform or induce an abortion" means the same as that term is defined in §16-2M-2 of this code.

"Because of a disability" means on account of the presence or presumed presence of a disability or diagnosis in a fetus including, but not limited to, chromosomal disorders or morphological malformations occurring as the result of atypical gene expressions.

"Commissioner" means the Commissioner of the Bureau for Public Health.

"Licensed medical professional" means a person licensed under Chapter 30 of this code practicing within his or her scope of practice.

"Medical emergency" means the same as that term is defined in §16-2I-1 of this code.

"Nonmedically viable fetus" means the same as that term is defined in §16-2M-2 of this code.

"Reasonable medical judgment" means the same as that term is defined in §16-2M-2 of this code.

(b) Except in a medical emergency or a nonmedically viable fetus, a licensed medical professional may not perform or attempt to perform or induce an abortion, unless the patient acknowledges that the abortion is not being sought because of a disability. The licensed medical professional shall document these facts in the patient's chart and report such with the commissioner.

(c) Except in a medical emergency or a nonmedically viable fetus, a licensed medical professional may not intentionally perform or attempt to perform or induce an abortion of a fetus, if the abortion is being sought because of a disability.

(d) (1) If a licensed medical professional performs or induces an abortion on a fetus, the licensed medical professional shall, within 15 days of the procedure, cause to be filed with the commissioner, on a form supplied by the commissioner, a report containing the following information:

(A) Date the abortion was performed;

(B) Specific method of abortion used;

(C) A statement from the patient confirming that the reason for the abortion was not because of a disability;

(D) Probable health consequences of the abortion to the patient;

(E) Whether a medical emergency existed; and

(F) Whether the fetus was a nonmedically viable fetus.

(2) The licensed medical professional shall sign the form as his or her attestation under oath that the information stated is true and correct to the best of his or her knowledge.

(3) Reports required and submitted under this section may not contain the name of the patient upon whom the abortion was performed or any other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who obtained or sought to obtain an abortion.

(g) A licensed medical professional that administers, or causes to be administered, a test for a disability or diagnosis to a fetus shall provide the patient with educational information made available by the bureau as provided in this section, within a reasonable time, if the test result confirms the presence of a disability.

(h) The Bureau for Public Health shall make the following available through the bureau's publicly accessible internet website:

(1) Up-to-date, evidence-based information about any in-utero disability or diagnosis that has been peer reviewed by medical experts and any national disability rights organizations. The information provided shall include the following:

(A) Physical, developmental, educational, and psychosocial outcomes;

(B) Life expectancy;

(C) Clinical course;

(D) Intellectual and functional development;

(E) Treatment options; and

(F) Any other information the bureau deems necessary;

(2) Contact information regarding first call programs and support services, including the following:

(A) Information hotlines specific to any in-utero fetal disabilities or conditions;

(B) Relevant resource centers or clearinghouses;

(C) Information about adoption specific to disabilities;

(D) National and local disability rights organizations; and

(E) Education and support programs.

(i)The information provided in accordance with this section shall conform to the applicable standard or standards provided in the Enhanced National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care as adopted by the United States Department of Health and Human Services and published in the Federal Register on September 24, 2013.

(j) A licensed medical professional who intentionally or recklessly performs or induces an abortion in violation of this section is considered to have acted outside the scope of practice

permitted by law or otherwise in breach of the standard of care owed to a patient, and is subject to discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice.

(k) A person, not subject to subsection (f) of this section, who intentionally or recklessly performs or induces an abortion in violation of this article is considered to have engaged in the unauthorized practice of medicine in violation of §30-3-13 of this code, and upon conviction, subject to the penalties contained in that section.

(l) A penalty may not be assessed against any patient upon whom an abortion is performed or induced or attempted to be performed or induced.;

And,

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 468—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2Q-1, relating to restricting abortion; defining terms; requiring licensed medical professional to provide certain information; requiring Department of Health and Human Resources to make certain information available on website; prohibiting abortion because of a disability; providing exceptions; requiring commissioner to create forms; providing for professional sanctions; and providing criminal penalties.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 468, as amended by the House of Delegates, was then put upon its passage.

Senator Tarr moved the previous question.

Following a point of inquiry to the President, with resultant response thereto,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 468 pass?"

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

The nays were: Beach, Brown, Caputo, Geffert, and Romano—5.

Absent: Plymale and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 468) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 268, Creating exemption from compulsory school attendance for child who participates in learning pod or micro school.

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

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

On page 7, section 1, line 159 after the word "together" by striking out the words "in a group of up to 100 students"

On page 7, section 1, line 163, after the word "school" by striking out the words "of up to 100 students"

On page 7, section 1, line 164, after the word "school" by striking out the words "of up to 100 students"

On page 10, section 1, line 232, after the words "provisions of" by striking out the words "section eleven, article twenty, chapter eighteen" and inserting in lieu thereof "§18-20-11";

And,

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

Eng. Com. Sub. for Senate Bill 268—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating to creating a new exemption from compulsory school attendance for a child who participates in a learning pod or microschool; defining learning pod and microschool; requiring parent or custodian to present to the county superintendent or county board a notice of intent to participate in the learning pod or microschool; establishing qualifications for person or persons providing instruction; requiring annual academic assessment of the child in one of four specified ways; requiring the results of the annual academic assessment of the child to be submitted to the county superintendent; allowing the results of the annual academic assessment to be submitted as composite results; requiring the county board upon request to notify the parents or legal guardian of the services available to assist in the assessment of the child’s eligibility for special education services; requiring the county superintendent to offer such assistance as may assist the person or persons providing instruction; allowing any child participating in a learning pod or microschool to attend any class offered by the county board under certain conditions; providing that no learning pod or microschool is subject to any other provision of law relating to education other than the law pertaining to placement of video cameras in certain special education classrooms; and clarifying that learning pods and microschools are not the same as homeschooling.

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

Senator Tarr moved the previous question.

The question being on the adoption of Senator Tarr's motion for the previous question, and on this question, Senator Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Romano, and Stollings—9.

Absent: Plymale and Woelfel—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Tarr's motion for the previous question had prevailed.

The previous question having been ordered, that being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 268, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Woodrum, and Blair (Mr. President)—20.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Nelson, Romano, Stollings, Trump, and Weld—12.

Absent: Plymale and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 268) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 498, Creating Anti-Racism Act of 2022.

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

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

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

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9b. Anti-Racism Act of 2022.

(a) A school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities, within the scope of his or her employment, may not require or otherwise compel a student, teacher, administrator, or other employee to affirm, adopt, or adhere to any of the following concepts:

(1) One race is inherently, morally, or intellectually superior to another race;

(2) An individual, by virtue of the individual's race, is inherently racist or oppressive, whether consciously or unconsciously;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;

(4) An individual's moral character is determined by the individual's race; or

(5) An individual, by virtue of the individual's race, bears responsibility for actions committed by other members of the same race.

(b) Nothing in subsection (a) of this section prohibits:

(1) The discussion of those concepts in theory as part of an academic course;

(2) The discussion, examination, or debate regarding race and its impact on historical or current events, including the causes of those current or historical events; or

(3) The right to freedom of speech protected by the First Amendment of the United States Constitution and the West Virginia Constitution.

(c) Any student, parent or guardian of a student, or employee who believes that this act has been violated, may file a complaint pursuant to the state board policy on conflict resolution.

(d) The number, nature and resolution of each substantiated complaint for the previous year shall be reported as follows:

(1) Each school principal shall report to the county superintendent by August 1 each year;

(2) The county superintendent shall report to the state superintendent by September 1 each year; and

(3) The state superintendent, or his or her designee, shall report to the Legislative Oversight Commission on Education Accountability by October 1 each year.

(e) If necessary for the implementation of this section, the Board of Education is authorized to promulgate additional emergency and legislative rules pursuant to §29A-3B-1 *et seq.* of this code.;

And,

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

Eng. Com. Sub. for Senate Bill 498—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9b; all relating to prohibiting a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities, within the scope of his or her employment, from requiring or otherwise compelling a student, teacher, administrator, or other employee to affirm, adopt or adhere to certain specified concepts; limiting prohibitions; providing that complaints may be filed pursuant to current state board policy; requiring reports of substantiated complaints to the Legislative Oversight Commission on Education Accountability annually; and allowing the state board to promulgate rules.

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

Senator Tarr moved the previous question.

The question being on the adoption of Senator Tarr's motion for the previous question, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Romano, and Stollings—10.

Absent: Plymale and Woelfel—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Tarr's motion for the previous question had prevailed.

The previous question having been ordered, that being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 498, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Romano, and Stollings—10.

Absent: Plymale and Woelfel—2.

Prior to the announcement of the vote on the passage of Engrossed Committee Substitute for Senate Bill 498, and the constitutional expiration of the Regular Session of the Legislature having arrived at 12:00 a.m., the Senate adjourned *sine die.*

The Joint Committee on Enrolled Bills, after it examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of the regular sixty-day session of the Legislature, filed its reports with the Clerk of bills so enrolled, showing the date such bills were presented to the Governor; said reports are included in the final Journal, together with Governor's action on said bills.

The following reports of the Joint Committee on Enrolled Bills were filed as follows:

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 15th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 25), Updating provisions of Medical Professional Liability Act.

(S. B. 135), Relating to acquisition and disposition of property by urban development authority.

(S. B. 172), Increasing compensation of elected county officials.

(Com. Sub. for Com. Sub. for S. B. 181), Creating Core Behavioral Health Crisis Services System.

(S. B. 213), Establishing licensed professional counseling compact.

(Com. Sub. for S. B. 245), Revising wage payment and collection.

(Com. Sub. for S. B. 274), Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually.

(Com. Sub. for S. B. 330), Authorizing DOT to promulgate legislative rules.

(S. B. 427), Permitting WV Board of Medicine investigators to carry concealed weapon.

(S. B. 440), Establishing Uniform Commercial Real Estate Receivership Act.

(Com. Sub. for S. B. 443), Including police and firefighter as electors of trustees for certain pension funds.

(Com. Sub. for S. B. 466), Relating to limitations on civil actions or appeals brought by inmates.

(Com. Sub. for S. B. 470), Relating generally to health care decisions.

(Com. Sub. for S. B. 476), Relating to imposition of minimum severance tax on coal.

(S. B. 478), Relating to Neighborhood Investment Program.

(S. B. 492), Relating to electronic collection of tolls.

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

(Com. Sub. for S. B. 508), Requiring certain attire for deer hunters with muzzleloaders.

(Com. Sub. for S. B. 522), Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

(Com. Sub. for S. B. 528), Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund.

(S. B. 531), Increasing annual salaries of certain state employees.

(Com. Sub. for S. B. 535), Providing for revocation of school personnel certification or licensure in certain circumstances.

(S. B. 546), Expanding uses of fees paid by students at higher education institutions.

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

(S. B. 570), Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias.

(Com. Sub. for S. B. 571), Declaring certain claims to be moral obligations of state.

(Com. Sub. for S. B. 575), Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities.

(Com. Sub. for S. B. 584), Relating to WV Infrastructure and Jobs Development Council.

(Com. Sub. for S. B. 585), Creating administrative medicine license for physicians not practicing clinical medicine.

(S. B. 591), Relating to process for filling vacancies in state Legislature.

(Com. Sub. for S. B. 593), Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes.

(Com. Sub. for S. B. 595), Relating to Dangerousness Assessment Advisory Board.

(S. B. 603), Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

(Com. Sub. for S. B. 616), Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses.

(S. B. 624), Making supplementary appropriation to DHHR, Division of Health, Laboratory Services.

(Com. Sub. for S. B. 625), Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account.

(S. B. 633), Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund.

(S. B. 634), Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations.

(Com. Sub. for S. B. 641), Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System.

(Com. Sub. for S. B. 643), Removing residency requirement of members appointed to county airport authority.

(Com. Sub. for S. B. 694), Relating to oil and gas conservation.

(Com. Sub. for S. B. 698), Relating to number and selection of members for Governor's Veterans Council.

(S. B. 715), Decreasing and increasing existing items of appropriations from State Fund, General Revenue.

(S. B. 716), Supplemental appropriation to DOE, WV BOE, Strategic Staff Development.

(S. B. 717), Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board.

(S. B. 718), Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund.

(S. B. 719), Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees.

(S. B. 720), Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund.

(S. B. 722), Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund.

(S. B. 723), Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund.

(S. B. 724), Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority.

And,

(S. B. 725), Supplementing and amending appropriations to DHS, WV State Police.

Respectfully submitted,

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

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 17th 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. 1), Creating Mining Mutual Insurance Company.

(Com. Sub. for S. B. 138), Relating to Board of Medicine composition.

(Com. Sub. for S. B. 205), Expanding PEIA Finance Board membership.

(S. B. 228), Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV.

(Com. Sub. for S. B. 231), Relating generally to broadband connectivity.

(Com. Sub. for S. B. 232), Relating to punishment for third offense felony.

(Com. Sub. for S. B. 242), Restricting authority to prevent or limit owner's use of natural resources or real property in certain agricultural operations.

(Com. Sub. for S. B. 246), Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations.

(Com. Sub. for Com. Sub. for S. B. 247), Relating to certified community behavioral health clinics.

(Com. Sub. for S. B. 250), Budget Bill.

(Com. Sub. for S. B. 261), Requiring video cameras in certain special education classrooms.

(Com. Sub. for Com. Sub. for S. B. 262), Relating generally to financial institutions engaged in boycotts of energy companies.

(Com. Sub. for Com. Sub. for S. B. 264), Relating to conservation districts law of WV.

(Com. Sub. for S. B. 268), Creating exemption from compulsory school attendance for child who participates in learning pod or micro school.

(Com. Sub. for S. B. 334), Authorizing miscellaneous agencies and boards to promulgate rules.

(Com. Sub. for Com. Sub. for S. B. 434), Updating authority to airports for current operations.

(Com. Sub. for S. B. 438), Relating generally to WV Security for Public Deposits Act.

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

(Com. Sub. for S. B. 518), Allowing nurses licensed in another state to practice in WV.

(S. B. 529), Encouraging additional computer science education in WV schools.

(Com. Sub. for S. B. 533), Relating to funding for health sciences and medical schools in state.

(Com. Sub. for S. B. 536), Relating generally to controlled substance criminal offenses.

(S. B. 548), Authorizing Workforce WV employers to obtain employment classifications and work locations.

(Com. Sub. for S. B. 552), Relating to tax sale process.

(Com. Sub. for S. B. 568), Relating to health insurance loss ratio information.

(Com. Sub. for S. B. 573), Providing system where magistrates shall preside in certain instances outside normal court hours.

(Com. Sub. for S. B. 606), Relating to WV Medical Practice Act.

(Com. Sub. for S. B. 609), Allowing DOH Commissioner to accept ownership of rented and leased equipment.

(Com. Sub. for Com. Sub. for S. B. 647), Prohibiting discrimination in organ donation process.

(Com. Sub. for S. B. 662), Relating to creation, expansion, and authority of resort area district.

(S. B. 686),Clarifying use of notes and bonds of WV Housing Development Fund.

(Com. Sub. for S. B. 704), Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

(S. B. 714), Relating to tie votes by Coal Mine Safety and Technical Review Committee.

(S. B. 729), Relating to funding for infrastructure and economic development projects in WV.

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

(S. B. 732), Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.

(S. B. 733), Supplementing and amending appropriation to Executive, Governor’s Office.

(H. B. 2631), Provide for WVDNR officers to be able to work "off duty".

(Com. Sub. for H. B. 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.

(H. B. 4019), Relating to deadlines for public charter schools.

(Com. Sub. for H. B. 4050), Defining terms related to livestock trespassing.

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

(Com. Sub. for H. B. 4282), Relating to establishing next generation 911 services in this state.

(H. B. 4286), Relating to exempting persons employed as attorneys from the civil service system.

(Com. Sub. for H. B. 4295), To transfer the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management.

(Com. Sub. for H. B. 4297), To facilitate the sharing of information between the Department of Health and Human Resources and the State Auditor's office in order to investigate reports of financial abuse and neglect of a vulnerable adult.

(Com. Sub. for H. B. 4311), Creating criminal penalties for illegal voting activity.

(Com. Sub. for H. B. 4345), Relating to motor vehicle registration cards by establishing electronic or mobile registration cards.

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

(Com. Sub. for H. B. 4406), To establish the West Virginia Military Hall of Fame.

(Com. Sub. for H. B. 4408), Relating to contracts for construction of recreational facilities in state parks and forests.

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

(Com. Sub. for H. B. 4418), Relating to the Small Business Supplier Certification Assistance Program.

(Com. Sub. for H. B. 4420), To modify definitions of school bus operators.

(Com. Sub. for H. B. 4426), Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

(Com. Sub. for H. B. 4430), Relating to definitions of base salary and overtime for police and firemen pensions.

(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.

(Com. Sub. for H. B. 4461), Relating to the consolidation of all administrative fees collected by the agency into the existing "Tax Administration Services Fund".

(H. B. 4462), Relating to Deferred Retirement Option Plan evaluations.

(Com. Sub. for H. B. 4484), Declaring certain claims against agencies of the state to be moral obligations of the state.

(Com. Sub. for H. B. 4489), Require counties to post open positions on statewide job bank.

(Com. Sub. for H. B. 4491), To establish requirements for carbon dioxide sequestration.

(H. B. 4517), Relating to the repealing requirements to display video ratings.

(Com. Sub. for H. B. 4562), Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

(H. B. 4578), Relating to authorizing the Superintendent of the State Police to administer the Handle with Care program.

(Com. Sub. for H. B. 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.

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

(Com. Sub. for H. B. 4631), Establishing a bone marrow and peripheral blood stem donation awareness program.

(H. B. 4649), Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical Services.

(Com. Sub. for H. B. 4675), Relating to autonomous delivery vehicles.

(H. B. 4758), Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program.

(H. B. 4769), Eliminate the requirement to send recommended decisions by certified mail.

(Com. Sub. for H. B. 4785), Relating to judicial vacancies.

And,

(Com. Sub. for H. B. 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.

Respectfully submitted,

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

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 18th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for Com. Sub. for S. B. 530), Encouraging public-private partnerships in transportation.

(Com. Sub. for S. B. 582), Creating WV Workforce Resiliency Act.

(Com. Sub. for S. B. 610), Relating to duties, powers and responsibilities of DOT Secretary.

(Com. Sub. for S. B. 611), Removing cap on bidder's contract bond.

(Com. Sub. for S. B. 656), Providing tax credit for certain corporations with child-care facilities for employees.

(S. B. 693), Clarifying meeting voting requirements for political party executive committees.

And,

(S. B. 726), Relating to pre-trial diversion agreements and deferred prosecution agreements.

Respectfully submitted,

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

Senator Lindsay, 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 18th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4600), Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness.

Respectfully submitted,

Richard D. Lindsay,
Member, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 23rd day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 6), Establishing common law "veil piercing" claims not be used to impose personal liability.

(S. B. 253), Relating to voting precincts and redistricting.

(Com. Sub. for S. B. 312), Authorization for Department of Revenue to promulgate legislative rules.

(Com. Sub. for S. B. 424), Relating generally to 2022 Farm Bill.

(Com. Sub. for S. B. 441), Providing confidentiality of video and other records of correctional juvenile facilities.

(Com. Sub. for S. B. 463), Best Interests of Child Protection Act of 2022.

And,

(Com. Sub. for S. B. 487), Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B.

Respectfully submitted,

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

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 24th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

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

(H. B. 2300), Including Family Court Judges in the Judges' Retirement System.

(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.

(H. B. 3073), Relating to the West Virginia Emergency School Food Act.

(H. B. 3082), Stabilizing funding sources for the DEP Division of Air Quality.

(Com. Sub. for H. B. 3231), Public Utilities not required to pay interest on security deposits.

(Com. Sub. for H. B. 4002), Creating the Certified Sites and Development Readiness Program.

(Com. Sub. for H. B. 4012), Prohibiting the showing of proof of a COVID-19 vaccination.

(Com. Sub. for H. B. 4021), Relating to the Medical Student Loan Program.

(Com. Sub. for H. B. 4059), Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

(H. B. 4110), Relating to staffing levels at multi-county vocational centers.

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

(Com. Sub. for H. B. 4242), Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

(Com. Sub. for H. B. 4285), Relating to real estate appraiser licensing board requirements.

(H. B. 4288), Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

(H. B. 4291), Relating to authorizing legislative rules regarding higher education.

(H. B. 4307), Increase some benefits payable from Crime Victims Compensation Fund.

(H. B. 4331), West Virginia's Urban Mass Transportation Authority Act.

(Com. Sub. for H. B. 4336), Providing for the valuation of natural resources property.

(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. Sub. for H. B. 4373), To exclude fentanyl test strips from the definition of drug paraphernalia.

(Com. Sub. for H. B. 4380), Relating to transportation of athletic teams.

(H. B. 4419), Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

(H. B. 4433), Providing that retirement benefits are not subject to execution.

(H. B. 4438), Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

(H. B. 4450), Removing the $0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles.

(H. B. 4463), To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.

(Com. Sub. for H. B. 4466), Relating to School Building Authority's review of school bond applications.

(Com. Sub. for H. B. 4488), Relating to coal mining and changing fees for permitting actions.

(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.

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

(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.

(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.

(H. B. 4568), To allow phased rehabilitations of certified historic structures.

(Com. Sub. for H. B. 4570), To allow veterinary telehealth in West Virginia with out of state providers.

(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.

(Com. Sub. for H. B. 4634), Relating to occupational licensing or other authorization to practice.

(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.

(H. B. 4642), Relating to pecuniary interests of county and district officers, teachers and school officials in contracts.

(Com. Sub. for H. B. 4644), Prohibiting the restriction, regulation, use or administration of lawn care and pest care products.

(H. B. 4647), Relating to the Board of Funeral Service Examiners.

(Com. Sub. for H. B. 4662), Relating to licensure of Head Start facilities in this state.

(Com. Sub. for H. B. 4667), Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

(H. B. 4743), Relating to security and surveillance requirements of medical cannabis organization facilities.

(H. B. 4778), Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts.

(H. B. 4827), Relating to the promotion and development of public-use vertiports.

And,

(H. B. 4847), Relating to missing persons generally.

Respectfully submitted,

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

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2096), Reinstating the film investment tax credit.

(Com. Sub. for H. B. 2733), Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

(H. B. 2817), Donated Drug Repository Program.

(Com. Sub. for H. B. 2910), To modify the allowable number of magistrate judges per county.

(Com. Sub. for H. B. 4001), Generally relating to broadband.

(Com. Sub. for H. B. 4003), Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

(Com. Sub. for H. B. 4008), Relating to Higher Education Policy Commission funding formula.

(Com. Sub. for H. B. 4020), Relating to reorganizing the Department of Health and Human Resources.

(H. B. 4097), To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

(Com. Sub. for H. B. 4098), Relating to Geothermal Energy Development.

(Com. Sub. for H. B. 4112), Provide consumers a choice for pharmacy services.

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

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

(H. B. 4296), To revise outdated provisions within Chapter 23 of the West Virginia Code, which pertains to workers' compensation.

(Com. Sub. for H. B. 4324), To update collaborative pharmacy practice agreements.

(Com. Sub. for H. B. 4329), To clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act.

(Com. Sub. for H. B. 4333), Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

(Com. Sub. for H. B. 4340), Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(Com. Sub. for H. B. 4353), Relating to On Cycle Elections - Voter Turnout Act.

(Com. Sub. for H. B. 4377), To update the involuntary commitment process.

(Com. Sub. for H. B. 4393), To increase the managed care tax if the managed care organization receives a rate increase.

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

(Com. Sub. for H. B. 4492), Creating the Division of Multimodal Transportation.

(Com. Sub. for H. B. 4499), Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

(Com. Sub. for H. B. 4502), Establishing the BUILD WV Act.

(Com. Sub. for H. B. 4511), To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

(H. B. 4535), Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

(Com. Sub. for H. B. 4540), To update all retirement plans to comport with federal law.

(Com. Sub. for H. B. 4560), Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers.

(Com. Sub. for H. B. 4563), Provide for a license plate for auto mechanics.

(H. B. 4566), Creating the Economic Enhancement Grant Fund.

(Com. Sub. for H. B. 4567), Relating to business and occupation or privilege tax.

(H. B. 4571), Modifying foundation allowance to account for transportation by electric powered buses.

(Com. Sub. for H. B. 4596), Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

(Com. Sub. for H. B. 4629), Relating to procedures for certain actions against the state.

(Com. Sub. for H. B. 4668), Relating to air bag fraud.

(Com. Sub. for H. B. 4688), Relating to Emergency Medical Services Retirement System Act.

(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. Sub. for H. B. 4756), Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds.

(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. Sub. for H. B. 4787), Creating the Highly Automated Motor Vehicle Act.

(Com. Sub. for H. B. 4826), Relating to e-sports.

(H. B. 4829), Modifying definitions of certain school cafeteria personnel.

And,

(H. B. 4848), Relating to nonintoxicating beer, wine and liquor licenses.

Respectfully submitted,

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

Executive Communications

The Clerk then presented the following communications from His Excellency, the Governor, showing the Governor's action on enrolled bills presented to him in post-session reports:

Jim Justice
Governor of West Virginia
March 15, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Five Hundred Fifteen (515), which was presented to me on March 12, 2022.

Senate Bill No. Five Hundred Seventeen (517), which was presented to me on March 12, 2022.

Senate Bill No. Five Hundred Twenty-Five (525), which was presented to me on March 12, 2022.

Senate Bill No. Five Hundred Twenty-Six (526), which was presented to me on March 12, 2022.

Senate Bill No. Five Hundred Twenty-Seven (527), which was presented to me on March 12, 2022.

Senate Bill No. Six Hundred Twenty-Six (626), which was presented to me on March 12, 2022.

You will note that I have approved these bills on March 15, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 15, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Six Hundred Twenty-Seven (627), which was presented to me on March 12, 2022.

Senate Bill No. Six Hundred Twenty-Eight (628), which was presented to me on March 12, 2022.

Senate Bill No. Six Hundred Twenty-Nine (629), which was presented to me on March 12, 2022.

Senate Bill No. Six Hundred Thirty (630), which was presented to me on March 12, 2022.

Senate Bill No. Six Hundred Thirty-Six (636), which was presented to me on March 12, 2022.

Senate Bill No, Six Hundred Thirty-Seven (637), which was presented to me on March 12, 2022.

You will note that I have approved these bills on March 15, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 18, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Five Hundred Twenty-Eight (528), which was presented to me on March 15, 2022.

Senate Bill No. Six Hundred Twenty-Four (624), which was presented to me on March 15, 2022.

Senate Bill No. Six Hundred Thirty-Three (633), which was presented to me on March 15, 2022.

Senate Bill No. Six Hundred Thirty-Four (634), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Fifteen (715), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Sixteen (716), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 18, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 18, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Seven Hundred Seventeen (717), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Eighteen (718), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Nineteen (719), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Twenty (720), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Twenty-Two (722), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Twenty-Three (723), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 18, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Jim Justice
Governor of West Virginia
March 18, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Seven Hundred Twenty-Four (724), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Twenty-Five (725), which was presented to me on March 15, 2022.

Senate Bill No. Seven Hundred Thirty-One (731), which was presented to me on March 17, 2022.

Senate Bill No. Seven Hundred Thirty-Two (732), which was presented to me on March 17, 2022.

Senate Bill No. Seven Hundred Thirty-Three (733), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 18, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 21, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. One Hundred Seventy-Two (172), which was presented to me on March 15, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. Four Hundred Sixty-Eight (468), which was presented to me on March 17, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. Six Hundred Forty-Seven (647), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 21, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 23, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Twenty-Five (25), which was presented to me on 15, 2022.

Senate Bill No. One Hundred Thirty-Five (135), which was presented to me on March 15, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. One Hundred Eighty-One (181), which was presented to me on March 15, 2022.

Senate Bill No. Two Hundred Thirteen (213), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Two Hundred Forty-Five (245), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Three Hundred Thirty (330), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 23, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 23, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Four Hundred Twenty-Seven (427), which was presented to me on March 15, 2022.

Senate Bill No. Four Hundred Forty (440), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Four Hundred Forty-Three (443), which was presented to me on March 15, 2022.

Senate Bill No. Four Hundred Forty-Eight (448), which was presented to me on March 9, 2022.

Committee Substitute for Senate Bill No. Four Hundred Sixty-Six (466), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Four Hundred Seventy (470), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 23, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Jim Justice
Governor of West Virginia

March 23, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Four Hundred Seventy-Eight (478), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Eight (508), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Twenty (520), which was presented to me on March 9, 2022.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Two (522), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Three (523), which was presented to me on March 9, 2022.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Four (524), which was presented to me on March 9, 2022.

You will note that I have approved these bills on March 23, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Jim Justice
Governor of West Virginia
March 23, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Five Hundred Thirty-Five (535), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Thirty-Seven (537), which was presented to me on March 9, 2022.

Senate Bill No. Five Hundred Forty-Two (542), which was presented to me on March 9, 2022.

Senate Bill No. Five Hundred Forty-Six (546), which was presented to me on March 15, 2022.

Senate Bill No. Five Hundred Seventy (570), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Seventy-Five (575), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 23, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 23, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Five Hundred Eighty-Four (584), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Eighty-Five (585), which was presented to me on March 15, 2022.

Senate Bill No. Five Hundred Ninety-One (591), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Ninety-Three (593), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Five Hundred Ninety-Five (595), which was presented to me on March 15, 2022.

Senate Bill No. Five Hundred Ninety-Seven (597), which was presented to me on March 9, 2022.

You will note that I have approved these bills on March 23, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Jim Justice
Governor of West Virginia
March 23, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Five Hundred Ninety-Eight (598), which was presented to me on March 9, 2022.

Senate Bill No. Six Hundred Three (603), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Six Hundred Sixteen (616), which was presented to me on March 15, 2022.

Senate Bill No. Six Hundred Thirty-Eight (638), which was presented to me on March 9, 2022.

Committee Substitute for Senate Bill No. Six Hundred Forty-Three (643), which was presented to me on March 15, 2022.

Senate Bill No. Six Hundred Ninety-Three (693), which was presented to me on March 18, 2022.

Committee Substitute for Senate Bill No. Six Hundred Ninety-Eight (698), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 23, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 25, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Two Hundred Sixty-One (261), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred (4600), which was presented to me on March 18, 2022.

You will note that I have approved these bills on March 25, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. One (1), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. One Hundred Thirty-Eight (138), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Two Hundred Five (205), which was presented to me on March 17, 2022.

Senate Bill No. Two Hundred Twenty-Eight (228), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Two Hundred Thirty-One (231), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Six (6), which was presented to me on March 23, 2022.

Senate Bill No. Two Hundred Fifty-Three (253), which was presented to me on March 23, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. Two Hundred Sixty-Four (264), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Four Hundred Twenty-Four (424), which was presented to me on March 23, 2022.

Committee Substitute for Senate Bill No. Four Hundred Forty-One (441), which was presented to me on March 23, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Two Hundred Thirty-Two (232), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Two Hundred Forty-Two (242), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Two Hundred Forty-Six (246), which was presented to me on March 17, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. Two Hundred Forty-Seven (247), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Two Hundred Seventy-Four (274), which was presented to me on March 15, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Five Hundred Eighteen (518), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Five Hundred Thirty-Six (536), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Six Hundred Six (606), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Six Hundred Sixty-Two (662), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Senate Bill No. Five Hundred Thirty-One (531), which was presented to me on March 15, 2022.

Senate Bill No. Five Hundred Forty-Eight (548), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Five Hundred Sixty-Eight (568), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Five Hundred Seventy-One (571), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Six Hundred Nine (609), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Two Thousand Ninety-Six (2096), which was presented to me on March 25, 2022.

House Bill No. Two Thousand Eight Hundred Seventeen (2817), which was presented to me on March 25, 2022.

House Bill No. Three Thousand Seventy-Three (3073), which was presented to me on March 24, 2022.

House Bill No. Three Thousand Eighty-Two (3082), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Twenty-One (4021), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Ninety-Eight (4098), which was presented to me on March 25, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Two Thousand One Hundred Seventy-Seven (2177), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Thirty-Eight (2838), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Fifty (4050), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Sixty-Five (4065), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Two Hundred Ninety-Five (4295), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Forty-Five (4345), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Eight (4408), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand One Hundred Forty-One (4141), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Two Hundred Fifty-Seven (4257), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Twenty-Four (4324), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Seventy-Three (4373), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Eighty (4380), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Eighteen (4418), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Four Hundred Twenty (4420), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Twenty-Six (4426), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Four Hundred Thirty-Eight (4438), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Four Hundred Sixty-Two (4462), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Four Hundred Sixty-Three (4463), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Eighty-Four (4484), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Four Hundred Ninety-Six (4496), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Four Hundred Thirty (4430), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Four Hundred Thirty-Three (4433), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Sixty-One (4461), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Sixty-Six (4466), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Seventy-Nine (4479), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Ninety-Seven (4497), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Four Hundred Ninety-Nine (4499), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Eleven (4511), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Sixty-Three (4563), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Sixty-Five (4565), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Five Hundred Sixty-Six (4566), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Seventy (4570), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

House Bill No. Four Thousand Five Hundred Seventy-One (4571), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Twenty-Nine (4629), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Six Hundred Forty-Two (4642), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Six Hundred Forty-Seven (4647), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Seven Hundred Forty-Three (4743), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Seven Hundred Seventy-Eight (4778), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia
March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Six Hundred Thirty-One (4631), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Six Hundred Forty-Nine (4649), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Seventy-Five (4675), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Seven Hundred Fifty-Eight (4758), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Seven Hundred Sixty-Nine (4769), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Seven Hundred Eighty-Five (4785), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Seven Hundred Ninety-Seven (4797), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Jim Justice
Governor of West Virginia

March 28, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Seven Hundred Seventy-Nine (4779), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Eight Hundred Twenty-Seven (4827), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Eight Hundred Twenty-Nine (4829), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Eight Hundred Forty-Seven (4847), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 28, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Two Hundred Sixty-Eight (268), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Three Hundred Twelve (312), which was presented to me on March 23, 2022.

Committee Substitute for Senate Bill No. Three Hundred Thirty-Four (334), which was presented to me on March 17, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. Four Hundred Thirty-Four (434), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Four Hundred Thirty-Eight (438), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Four Hundred Sixty-Three (463), which was presented to me on March 23, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Four Hundred Nineteen (419), which was presented to me on March 9, 2022.

Senate Bill No. Four Hundred Ninety-Two (492), which was presented to me on March 15, 2022.

Senate Bill No. Four Hundred Ninety-Nine (499), which was presented to me on March 8, 2022.

Committee Substitute for Committee Substitute for Senate Bill No. Five Hundred Thirty (530), which was presented to me on March 18, 2022.

Committee Substitute for Senate Bill No. Five Hundred Fifty-Two (552), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Five Hundred Eighty-Two (582), which was presented to me on March 18, 2022.

Committee Substitute for Senate Bill No. Six Hundred Eleven (611), which was presented to me on March 18, 2022.

Senate Bill No. Seven Hundred Thirteen (713), which was presented to me on March 8, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Four Hundred Eighty-Seven (487), which was presented to me on March 23, 2022.

Committee Substitute for Senate Bill No. Five Hundred Five (505), which was presented to me on March 15, 2022.

Senate Bill No. Five Hundred Twenty-Nine (529), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Five Hundred Thirty-Three (533), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Five Hundred Fifty-Three (553), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Six Hundred Ten (610), which was presented to me on March 18, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Six Hundred Forty-One (641), which was presented to me on March 15, 2022.

Committee Substitute for Senate Bill No. Six Hundred Fifty (650), which was presented to me on March 9, 2022.

Committee Substitute for Senate Bill No. Six Hundred Fifty-Six (656), which was presented to me on March 18, 2022.

Senate Bill No. Six Hundred Eighty-Six (686), which was presented to me on March 17, 2022.

Committee Substitute for Senate Bill No. Seven Hundred Four (704), which was presented to me on March 17, 2022.

Senate Bill No. Seven Hundred Twenty-Six (726), which was presented to me on March 18, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for Senate Bill No. Six Hundred Ninety-Four (694), which was presented to me on March 15, 2022.

Committee Substitute for House Bill No. Four Thousand Fifty-Nine (4059), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Forty (4340), which was presented to me on March 25, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

House Bill No. Two Thousand Six Hundred Thirty-One (2631), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Three Thousand Two Hundred Twenty-Three (3223), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Two (4002), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Eight (4008), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Twelve (4012), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Nineteen (4019), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Two Thousand Seven Hundred Thirty-Three (2733), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Three Thousand Two Hundred Thirty-One (3231), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand One Hundred Twelve (4112), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand One Hundred Thirteen (4113), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Two Hundred Forty-Two (4242), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Two Hundred Eighty-Two (4282), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Two Thousand Nine Hundred Ten (2910), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Two Hundred Ninety-Six (4296), which was presented to me on March 25, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Eighty-Four (4084), which was presented to me on March 9, 2022.

House Bill No. Four Thousand Ninety-Seven (4097), which was presented to me on March 25, 2022.

House Bill No. Four Thousand One Hundred Ten (4110), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand One Hundred Twenty-Six (4126), which was presented to me on March 9, 2022.

House Bill No. Four Thousand Two Hundred Eighty-Eight (4288), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Four Hundred Nineteen (4419), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Two Hundred Eighty-Five (4285), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Two Hundred Ninety-One (4291), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Two Hundred Ninety-Seven (4297), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Three Hundred Seven (4307), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Eleven (4311), which was presented to me on March 17, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

House Bill No. Four Thousand Two Hundred Eighty-Six (4286), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Ninety-One (4491), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Fifty-Nine (4559), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Three Hundred Twenty-Nine (4329), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Three Hundred Thirty-One (4331), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Thirty-Three (4333), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Thirty-Six (4336), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Fifty-Three (4353), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Three Hundred Fifty-Five (4355), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Three Hundred Seventy-Seven (4377), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Three Hundred Ninety-Three (4393), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Three Hundred Ninety-Six (4396), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Six (4406), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Four Hundred Ten (4410), which was presented to me on March 17, 2022.

House Bill No. Four Thousand Four Hundred Fifty (4450), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Four Hundred Fifty-One (4451), which was presented to me on March 17, 2022

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Four Hundred Eighty-Nine (4489), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Two (4502), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Five Hundred Seventeen (4517), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Forty (4540), which was presented to me on March 25, 2020.

Committee Substitute for House Bill No. Four Thousand Five Hundred Sixty (4560), which was presented to me on March 25, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Four Hundred Ninety-Two (4492), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Five Hundred Thirty-Five (4535), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Thirty-Six (4636), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Eighty-Eight (4688), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Seven Hundred Seventy-Three (4773), which was presented to me on March 9, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Five Hundred Sixty-Two (4562), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Sixty-Seven (4567), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Five Hundred Sixty-Eight (4568), which was presented to me on March 24, 2022.

House Bill No. Four Thousand Five Hundred Seventy-Eight (4578), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Eighty-Three (4583), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Five Hundred Ninety-Six (4596), which was presented to me on March 25, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

House Bill No. Four Thousand Six Hundred Four (4604), which was presented to me on March 17, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Eight (4608), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Thirty-Four (4634), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Forty-Four (4644), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Sixty-Two (4662), which was presented to me on March 24, 2022.

Committee Substitute for House Bill No. Four Thousand Six Hundred Sixty-Seven (4667), which was presented to me on March 24, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

Jim Justice
Governor of West Virginia

March 30, 2022

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

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

Committee Substitute for House Bill No. Four Thousand Six Hundred Sixty-Eight (4668), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Seven Hundred Twelve (4712), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Seven Hundred Fifty-Six (4756), which was presented to me on March 25, 2022.

Committee Substitute for House Bill No. Four Thousand Seven Hundred Eighty-Seven (4787), which was presented to me on March 25, 2022.

House Bill No. Four Thousand Eight Hundred Forty-Eight (4848), which was presented to me on March 25, 2022.

You will note that I have approved these bills on March 30, 2022.

Sincerely,

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

[CLERK'S NOTE: **Enr. Committee Substitute for Committee Substitute for Senate Bill 262, Enr. Committee Substitute for Senate Bill 476, Enr. Senate Bill 714, Enr. Committee Substitute for House Bill 4003, Enr. Committee Substitute for House Bill 4488,** and **Enr. Committee Substitute for House Bill 4826** became law without the Governor's signature on March 30, 2022, under the provisions of Section 14, Article VII of the Constitution of West Virginia.]

Jim Justice
Governor of West Virginia

March 18, 2022

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill No. 250

Dear Secretary Warner:

Pursuant to the provisions of Section Fifty-One, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for Senate Bill No. 250, passed March 12, 2022, approved with the following objection:

My objection is to item 407, in its entirety, on page 190, which states:

"407 - Department of Revenue

(WV Code Chapter 11)

Fund 0465 FY 2023 Org 0701

General Revenue Fund - Transfer - Surplus..... XXXXX $265,000,000

The above appropriation for General Revenue Fund - Transfer - Surplus (fund 0465, appropriation ######) shall be credited to Fiscal Year 2023 General Revenue collections."

With the failure of the House Bill to eliminate the Personal Income Tax, HB 4007 and the passage of the Rainy Day Funds bill, SB 487, essentially eliminating the transfer of surpluses to the Rainy Day fund, there is absolutely no reason to set aside surplus revenues in a random agency without any general law purpose.

Further, it would set a bad precedent to set aside funds for a purpose that the Legislature rejected. It would also set bad precedent to appropriate funds to a fund for which there is no stated purpose, doing nothing to accomplish the intended goal but making the funds unavailable for an entire

OFFICE OF THE GOVERNOR

year. As a good steward of taxpayer dollars, I want to be as transparent as possible when it comes to how we are spending the taxpayers' money, let alone the surpluses we have been blessed with by making the right, thoughtful moves.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for Senate Bill No. 250.

Sincerely,

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Craig Blair
President of the Senate

Jim Justice
Governor of West Virginia

March 18, 2022

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill No. 625

Dear Secretary Warner:

Pursuant to the provisions of Section Fifty-One, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for Senate Bill No. 625, passed March 10, 2022, approved with the following objection:

My objection is on page 1, line 3, which states the appropriation code "01300" for the "Current Expenses" line item in the amount of $800,000. The appropriation code for Current Expenses is not "01300"; therefore, I am striking "01300" in line 3.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for Senate Bill No. 625.

Sincerely,

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Craig Blair
President of the Senate

Veto Messages

Jim Justice
Governor of West Virginia

March 29, 2022

VIA HAND DELIVERY
The Honorable Mac Warner
Secretary of State
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 729

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return Enrolled Senate Bill 729. I completely support the concepts embodied by this legislation, including the creation of two new funds in the State Treasury known as the "Infrastructure Investment Reimbursement Fund" and the "Economic Development Project Fund," and the various requirements placed on use of the funds so they will be held until they can be used when truly needed, for high impact projects. Unfortunately, however, the bill contains a fatal technical flaw that renders me unable to sign it into law.

The title of the bill states, among other things, that the bill permits the Economic Development Authority to invest the moneys in the Economic Development Project Fund. The language providing investment and reinvestment authority was removed from the bill after origination, perhaps inadvertently in the last days of the Regular Session, but the title retains the reference. With the amount of money intended to go into this Fund, we must be certain to be able to invest these dollars and earn a return. The original intent of this bill was to create a self-sustaining fund available for investment in economic development. Since 2005, the interest earned on economic development loans has served as the primary source for further lending capacity. The ability to invest these funds is absolutely key in accomplishing the intent of the legislation. We must not let this money sit idly and forego investment earnings that will allow us to reinvest in even more opportunities for economic growth around this State.

For this reason, I must disapprove and return Enrolled Senate Bill 729, but I will work with leadership in both the House of Delegates and the Senate to arrange for a Special Session

OFFICE OF THE GOVERNOR

within the next 30 days to revisit this important bill, addressing the concerns addressed in this letter. An unfortunate victim of this disapproval is the loss of the "Infrastructure Investment Reimbursement Fund," that will benefit our Department of Transportation and enable even more great work on the roads of this State. I will ask the Legislature to be sure to include this vital piece of the legislation to their work in the upcoming Special Session.

Finally, I will note that, because these are surplus dollars at issue, the subject transfer of monies will not occur until August at the earliest. In order to ensure the utmost confidence in this process, however, I am directing the Economic Development Authority to use any funds that may be transferred only in conformance with the intent of this legislation until the upcoming Special Session.

Sincerely,

Jim Justice
Governor

cc: The Honorable Craig Blair
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates

Jim Justice
Governor of West Virginia

March 30, 2022

VIA HAND DELIVERY
The Honorable Mac Warner
Secretary of State
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 573

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return Enrolled Senate Bill 573. This bill requests the Chief Justice of the Supreme Court of Appeals to develop a system to rotate magistrates temporarily. I support this concept as it would work to increase efficiency in the magistrate court system throughout the State. Unfortunately, there is a Code conflict between the provisions of this bill and the provisions of Enrolled House Bill 2910, which latter bill is needed to create a more balanced magistrate system and provide a more feasible caseload for magistrates throughout the State.

Because the provisions of Enrolled Senate Bill 573 conflict with the provisions of another necessary law meant to provide a more permanent solution to the problem of large caseloads for our magistrates, I must disapprove and return Enrolled Senate Bill 573. I look forward to working with the leadership in both the House of Delegates and the Senate to reintroduce this legislation in the future, incorporating the changes made by Enrolled House Bill 2910, to ensure that once magistrates' caseloads are addressed, we can continue to increase the efficiency of our State's court system.

Sincerely,

Jim Justice
Governor

cc: The Honorable Craig Blair
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates

Jim Justice
Governor of West Virginia

March 30, 2022

VIA HAND DELIVERY
The Honorable Mac Warner
Secretary of State
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled House Bill 2300

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return Enrolled House Bill 2300. I completely support the concept embodied by this legislation, to include Family Court Judges in the Judges' Retirement System; however, the bill materially conflicts with an important piece of legislation that is required to update the various retirement systems throughout the State to ensure those systems comply with federal law.

Because this bill would undermine the vital updates to all retirement systems in our state provided for in Enrolled House Bill 4540, I unfortunately must disapprove and return Enrolled House Bill 2300. I look forward to working with Legislative leadership to reintroduce this legislation with the inclusion of those necessary changes made by Enrolled House Bill 4540. I fully support providing Family Court Judges with the opportunity to participate in the Judges' Retirement System and believe that we can work swiftly to accomplish this goal.

Sincerely,

Jim Justice
Governor

cc: The Honorable Craig Blair
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

Jim Justice
Governor of West Virginia

March 30, 2022

VIA HAND DELIVERY
The Honorable Mac Warner
Secretary of State
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 4001

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 4001, which generally relates to broadband. Although I fully support the intent of this legislation and have worked tremendously to expand broadband access across the State, this bill contains fatal flaws and provisions which are prohibited by federal law.

For example, Enrolled Committee Substitute for House Bill 4001 establishes, within §31G-7-2, rate and billing regulations that are prohibited by the Federal Communications Act of 1934, 47 U.S.C. 151 *et seq.*, 47 U.S.C. § 542, and 47 C.F.R. § 54.712. If this law were to become effective, the bill would be subject to a federal court injunction, potentially delaying the deployment of vital broadband throughout this State.

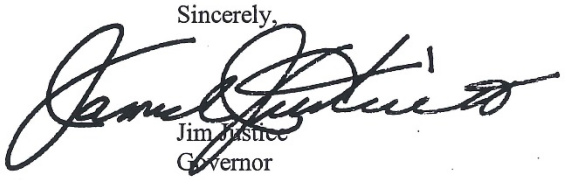
Additional concerns have been expressed by many broadband providers of all sizes that do business in the State, from the West Virginia Office of Broadband, from members of the Broadband Enhancement Council, and from local government officials, all of whom have significant experience in broadband expansion projects around the State.

For these reasons, I must disapprove and return Enrolled Committee Substitute for House Bill 4001 as it was presented to me. I have directed the Department of Economic Development to work with Legislative leadership, the sponsors of this bill, and all interested and knowledgeable parties to revisit and perfect this important legislation. This group includes, but is not limited to,

OFFICE OF THE GOVERNOR

consumer advocates, the Public Service Commission, and the Broadband Enhancement Council. I will request the Legislature take up this important matter, with input from all interested parties, in the upcoming Special Session to make sure the deployment of broadband all over this State is as efficient and is as successful as possible.

Sincerely,



Jim Justice
Governor

cc: The Honorable Craig P. Blair
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates

Jim Justice
Governor of West Virginia

March 30, 2022

VIA HAND DELIVERY
The Honorable Mac Warner
Secretary of State
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled House Bill 4020

Dear Secretary Warner:

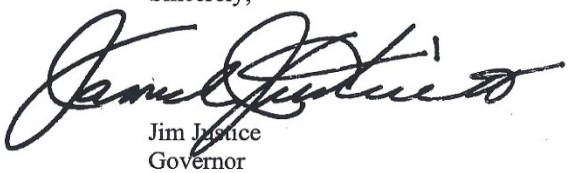
Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return Enrolled House Bill 4020. The Department of Health and Human Resources (the "DHHR") works diligently every day to support the health and safety of all West Virginians across our State. There have been issues, however, within the DHHR for decades, and some of those issues are likely the result of the sheer size and diverse scope of the agency. While I certainly understand the motivation of this legislation, Enrolled House Bill 4020 as presented to me does not fully accomplish the expressed intent.

First, the bill was introduced to address the expansive size and scope of the DHHR. The statutory provisions relevant to the DHHR span many sections across various chapters and articles of the West Virginia Code. The bill intends in just eight pages and by amending just two sections of Code, however, to divide this complex organization that manages over $7 billion dollars of State and Federal funds and employs thousands of individuals across the State. The bill as presented does not provide adequate direction on the many questions that must be addressed in this massive endeavor, including important questions regarding how the federal funds will flow to ensure we don't jeopardize significant federal funding. This bill also purports to divide the DHHR into two new agencies, effective January 1, 2023. Budgetary changes, however, may not be made effective until July 1, 2023, under the bill. It is unclear how the different effective dates could work in concert.

OFFICE OF THE GOVERNOR

For the above reasons, I must disapprove and return Enrolled House Bill 4020. I am committed, however, to address and correct the very real issues within DHHR. I am engaging national experts and industry leaders to coordinate and complete a top-to-bottom review of DHHR so that we may clearly identify the issues, bottlenecks, and inefficiencies in the agency in its current form. We will work to develop a plan to address any and all problems identified in an efficient and effective way—which may very well require a full reorganization of the agency—that will best serve the people of the State of West Virginia without any lapse in vital support or services. I look forward to working with the Legislature and interested parties in developing and implementing that plan.

Sincerely,



Jim Justice
Governor

cc: The Honorable Craig Blair
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates