

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2023
SIXTIETH DAY

Charleston, West Virginia, Saturday, March 11, 2023

The Senate met at 11:01 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 Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Friday, March 10, 2023,

At the request of Senator Stover, 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.

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

Senate Resolution 49, Memorializing life of John Edward Eckhart, Jr, husband, father, grandfather, Fiscal Officer for WV Senate and dedicated public servant.

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

At the request of Senator Trump, unanimous consent being granted, reference of the resolution to a committee was dispensed with and it was taken up for immediate consideration.

(Senator Grady in the Chair.)

Following discussion,

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

The question being on the adoption of the resolution, and on this question, Senator Tarr demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Jeffries, Maroney, Plymale, and Woelfel—4.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 49) adopted.

Thereafter, at the request of Senator Trump, and by unanimous consent, the remarks by Senators Tarr, Blair (Mr. President), Roberts, and Smith regarding the adoption of Senate Resolution 49 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:22 a.m., the Senate recessed to present Senate Resolution 49.

The Senate reconvened at 11:41 a.m. and resumed business under the seventh order.

Senate Concurrent Resolution 25, Requesting study on effects of Uniform Common Interest Ownership Act on investment opportunities and projects in WV.

On unfinished business, coming up out of regular order, was reported by the Clerk and referred to the Committee on Rules.

At the request of Senator Takubo, unanimous consent being granted, 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 passage of

Eng. Com. Sub. for Com. Sub. for Senate Bill 47, Creating Charter Schools Stimulus Fund.

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 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students.

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 8B. SEXUAL OFFENSES.

§61-8B-11b. Imposition of sexual acts on students at least 18 years of age but less than 20 years of age enrolled in secondary schools; penalties.

(a) Any person who is not married to the student and is a teacher, professor, assistant professor, adjunct faculty, teacher's assistant, principal, counselor, coach, other school employee, contracted service worker, or volunteer of any private or public secondary school or any college, university, vocational school, or community and technical college who has supervisory or disciplinary power of any nature or in any capacity over the student and engages in sexual intercourse, sexual intrusion, or sexual contact, as those terms are defined in §61-8B-1 of this code, with the student enrolled in the school who is at least 18 years of age but less than 20 years of age is guilty of a felony and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years or fined not more than \$5,000 or both imprisoned and fined. The fact that the student may have consented to such an act or that the act did not occur on school property or during a school function is not a defense.

(b) This is a separate and distinct criminal offense from any other applicable offense under this code. The penalties set forth, in this section, are in addition to any other penalties for any other applicable offense.

(c) A final conviction under this section shall cause the permanent forfeiture of any teaching or other certificate issued pursuant to §18A-3-2a 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 187—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8B-11b, relating to making it a felony offense for any school employee or volunteer to engage in sexual intercourse, sexual intrusion, or sexual contact with any student 18 years of age but less than 20 years of age enrolled in the school where the person has supervisory or disciplinary power over the student; specifying the application of the section; creating a marital exception; declaring that neither consent nor location where an offense occurs is a defense to prosecution; specifying the criminal penalties for this offense; and declaring that a final conviction under this section causes the permanent revocation of any education related certificate the school employee may hold.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 187) 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 concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 247, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures 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 258, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit.

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 271, Modifying approval process requirements for First Responders Honor Board.

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

Eng. Com. Sub. for Senate Bill 298, Relating to non-federally declared emergencies and non-states of emergency.

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 302, Relating to Law Enforcement Safety Act.

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

Eng. Com. Sub. for Senate Bill 409, Authorizing Department of Commerce to promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2023, of

Eng. Senate Bill 443, Directing payment of estate administration fee to State Auditor.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2023, of

Eng. Senate Bill 444, Transferring moneys in WV Future Fund to General Revenue Fund.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2023, of

Eng. Com. Sub. for Senate Bill 469, Providing funding for CPR instruction to high school students.

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

Eng. Senate Bill 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures.

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 516, Relating to requirements for disclosure of donor contributions.

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 523, Clarifying purpose and use of Economic Development Project Fund.

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 527, Allowing family members of military personnel access to discharge records.

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 546, Adding and removing certain compounds from controlled substance list.

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

Eng. Com. Sub. for Senate Bill 568, Relating to Dangerousness Assessment Advisory Board.

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

Eng. Com. Sub. for Senate Bill 579, Providing payment to vendors who provided services to state.

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 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs.

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 1a, line 27, after the word "program" by striking out the words "Hope Scholarship kindergarten program,";

On page 2, section 1a, line 38, after the words "homeschool program" by inserting the word "or";

On page 2, section 1a, line 39, after the word "program" by striking out the comma and the words "or HOPE scholarship program";

And,

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

Eng. Senate Bill 625—A Bill to amend and reenact §18-8-1a of the Code of West Virginia, 1931, as amended, all relating to compulsory school attendance; removing references to Hope Scholarship kindergarten program and Hope Scholarship program transcripts or credentials; and providing that transcripts or credentials of microschoool programs to be accepted as record of student's previous performance for placement and credit assignment.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 625) 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 concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 631, Updating administration, funding, and requirements for federal elections held 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 665, Amending licensure requirements for massage therapist.

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 674, Providing statutory recognition and appointment of board members for WV First Foundation.

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 678, Adding appropriations to DHHR, Division of Human Services.

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

Eng. Senate Bill 734, Requiring adoption of cloud computing services by state agencies.

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 361, Authorizing miscellaneous boards and agencies 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 9. AUTHORIZATION FOR DEPARTMENT OF MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Accountancy.

The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-9-5 of this code, relating to the Board of Accountancy (board rules of professional conduct, 1 CSR 01), is authorized.

§64-9-2. Board of Acupuncture.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-14(f) of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (advertising by licensed acupuncturists, 32 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (standards of practice of acupuncture by licensed acupuncturists, 32 CSR 06), is authorized with the amendment set forth below:

On page 2, by striking out section 6.1 and inserting in lieu thereof a new section 6.1 to read as follows:

Injection therapy- A practitioner shall be limited to perform pointpuncture injections using sterile disposable needles and sterile solutions. Injection therapy shall be the injection of sterile herbs, vitamins, minerals, homeopathic substance, or other similar substances specifically manufactured for injection into acupuncture points by means of sterile needles used primarily for this purpose. Permissible substances include saline, glucose, lidocaine, procaine, oriental herbs, vitamin B-12, traumeel, sarapin, and homeopathic substances. Practitioners trained in injection therapy must comply with the ability to perform resuscitative procedures, including access to epinephrine injections and nasal oxygen if their patient exhibits symptoms of anaphylaxis;

On page 3, by inserting a new section, designated section 6.3. to read as follows:

6.3. Hand washing – The acupuncturist shall vigorously scrub his or her hands with soap and warm water immediately before examining patients or handling acupuncture needles and other instruments and between patients.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September

28, 2022, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 09), is authorized.

§64-9-3. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 18, 2022, authorized under the authority of §19-13-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2022, relating to the Department of Agriculture (West Virginia apiary rule, 61 CSR 02), is authorized with the amendment set forth below:

On page 2, by striking out all of section 3.1. and inserting in lieu thereof a new section 3.1. to read as follows:

3.1. The Commissioner shall furnish an application for registration of bees to all person known to keep bees. The Commissioner shall mail the applications during the month of June to all persons who have registered their bees during the previous year. Upon receipt of a properly executed bee registration application, the Commissioner shall issue a certificate of registration which will be based upon the information provided on the application.

(b) The legislative rule filed in the State Register on May 12, 2022, authorized under the authority of §19-2-10 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (schedule of charges for inspection services: fruit, 61 CSR 08B), is authorized.

(c) The legislative rule filed in the State Register on June 14, 2022, authorized under the authority of §19-12D-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (noxious weeds rule, 61 CSR 14A), is authorized.

(d) The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §19-11E-8(1) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (Grade "A" pasteurized milk, 61 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on November 15, 2021, authorized under the authority of §19-29-4 of this code, modified by the Agriculture Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 26, 2022, relating to the Agriculture Commissioner (inspection of nontraditional, domesticated animals, 61 CSR 23D), is authorized.

(f) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §19-12E-7 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (hemp products, 61 CSR 30), is authorized.

(g) The legislative rule filed in the State Register on June 2, 2022, authorized under the authority of §19-1C-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(h) The legislative rule filed in the State Register on May 18, 2022, authorized under the authority of §11-13DD-5(b) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farm to food bank tax credit, 61 CSR 36), is authorized with the amendments set forth below:

On page 3, after "5.2.c." by inserting the following: "No more than \$200,000 of tax credits may be allocated to the Department of Agriculture in any fiscal year."

And,

On page 4, by striking out section 5.3 and inserting in lieu thereof a new section 5.3. to read as follows:

5.3. After review of the receipt form and any supporting documentation, and after ensuring that the limit of \$200,000 of tax credits per fiscal year has not been exceeded, the Department of Agricultural shall determine the amount, if any, of the tax credit due to the farming taxpayer. The amount of the credit is equal to 30 percent of the value of the donated edible agricultural products, but not to exceed \$5,000 during a taxable year.

(i) The legislative rule filed in the State Register on June 24, 2022, authorized under the authority of §19-35-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farmers markets, 61 CSR 38), is authorized with the amendment set forth below:

On page 6, by striking out subdivision 6.2.h. and inserting in lieu thereof a new subdivision 6.2.h. to read as follows:

6.2.h. Any potentially hazardous freeze-dried foods.

§64-9-4. Athletic Commission.

(a) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §29-5A-3a of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-5. State Auditor.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §12-3-13b of this code, relating to the State Auditor (standards for voluntary payroll deductions, 155 CSR 03), is authorized.

§64-9-6. Conservation Agency.

(a) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4a of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (operation of West Virginia State Conservation Committee and conservation districts, 63 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4 of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (conservation district accounting and auditing standards, 63 CSR 04), is authorized.

§64-9-7. Board of Dentistry.

The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Dentistry (dental recovery networks, 5 CSR 15), is authorized.

§64-9-8. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements, 6 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (crematory requirements, 6 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07), is authorized.

§64-9-9. Board of Landscape Architects.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Board of Landscape Architects (registration of landscape architects, 9 CSR 01), is authorized.

§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3-7(a) of this code, relating to the Board of Medicine (licensing of physicians and podiatric physicians and disciplinary procedures for applicants, licensees, credential holders, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3E-3 of this code, relating to the 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 29, 2022, authorized under the authority of §30-5-7(c) of this code, relating to the Board of Medicine (collaborative pharmacy practice, 11 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §30-3-14 of this code, relating to the Board of Medicine (prohibiting sexual misconduct by health care practitioners, 11 CSR 16), is authorized with the amendment set forth below:

On page 5, subdivision 9.1.2., after the period, by striking proviso in its entirety.

§64-9-11. Board of Optometry.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-1-26 of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Optometry (optometric telehealth practice, 14 CSR 12), is authorized with amendment set forth below:

On page 4, by striking out all of section 5.1. and inserting in lieu thereof a new section 5.1. to read as follows:

5.1. Nothing in this section shall be construed to invalidate §30-8A-3 or to permit use of any automated refractor or other automated or remote testing device to generate refractive data.

§64-9-12. Board of Osteopathic Medicine.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-13. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized with the amendments set forth below:

On page 10, subsection 4.3, after the word "to" by inserting the words "six";

And,

On page 40, by striking out the entirety of subdivision 24.1.b. and inserting in lieu there of a new subdivision 24.1.b. to read as follows:

24.1.b. for drug regimen review of prescription orders for a patient in an institutional facility, for the pharmacist to authorize the dispensing and administration, provided the pharmacist is licensed to practice pharmacist care in West Virginia.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Uniform Controlled Substance Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (registration of pharmacy technicians, 15 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (pharmacy permits, 15 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on April 4, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (inspections, 15 CSR 19), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60B-1-8 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Donated Drug Repository Program, 15 CSR 20), is authorized.

§64-9-14. Psychologists.

The legislative rule filed in the State Register on September 7, 2022, authorized under the authority of §30-21-6 of this code, relating to the Board of Examiners of Psychologists (code of conduct, 17 CSR 06), is authorized.

§64-9-15. Board of Registered Professional Nurses.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (advanced practice registered nurse licensure requirements, 19 CSR 07), is authorized with the amendment set forth below:

On page 7, by inserting a new subsection 10.2., to read as follows:

10.2. In case of national recertification, any licensure suspension shall immediately be removed, and no further discipline may occur, if information is provided indicating that recertification has not lapsed.

(c) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-15a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (continuing education and competence, 19 CSR 11), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (fees for services rendered by the board, 19 CSR 12), is authorized with the amendments set forth below:

On page 1, subsection 2.4., by striking out the number "30.00" and inserting in lieu thereof the number "20.00";

On page 2, subsection 2.8., by striking out the number "35.00" and inserting in lieu thereof the number "25.00";

And,

On page 2, by striking out subsection 2.20. and renumbering the remaining subsections.

(f) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §60A-9-5a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State

Register on November 10, 2022, relating to the Board of Registered Professional Nurses (practitioner requirements for accessing the West Virginia Controlled Substance Monitoring Program database, 19 CSR 14), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-1-26 of this code, relating to the Board of Registered Professional Nurses (telehealth practice; requirements; definitions, 19 CSR 16), is authorized.

§64-9-16. Secretary of State.

(a) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-3-2a 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 November 10, 2022, relating to the Secretary of State (early voting in-person satellite precincts, 153 CSR 13), is authorized.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §3-1A-6 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 November 10, 2022, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(c) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-1A-9 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 November 10, 2022, relating to the Secretary of State (administrative procedures for the Nonpublic Funding for Election Administration Fund, 153 CSR 54), is authorized.

§64-9-17. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §36-8-28 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (enforcement of the Uniform Unclaimed Property Act, 112 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on April 21, 2022, authorized under the authority of §18-31-9 of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2023, relating to the Treasurer's Office (Hope Scholarship Program, 112 CSR 18), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §18-30A-16 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (Jumpstart Savings Program, 112 CSR 20), is authorized.;

And,

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

Eng. Com. Sub. for Senate Bill 361—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 and as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; relating to authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules of professional conduct; relating to authorizing the Board of Acupuncture to promulgate a legislative rule relating to advertising by licensed acupuncturists; relating to authorizing the Board of Acupuncture to promulgate a legislative rule relating to standards of practice of acupuncture by licensed acupuncturists; relating to authorizing the Board of Acupuncture to promulgate a legislative rule relating to continuing education requirements; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to the West Virginia apiary rule; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to schedule of charges for inspection services: fruit; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to noxious weeds; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to Grade "A" pasteurized milk; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to inspection of nontraditional, domesticated animals; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to hemp products; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to farm-to-food bank tax credit; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to farmers markets; relating to authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules; relating to authorizing the Athletic Commission to promulgate a legislative rule relating to regulation of mixed martial arts; relating to authorizing the State Auditor to promulgate a legislative rule relating to standards for voluntary payroll deductions; relating to authorizing the Conservation Agency to promulgate a legislative rule relating to operation of West Virginia State Conservation Committee and conservation districts; relating to authorizing the Conservation Agency to promulgate a legislative rule relating to conservation district accounting and auditing standards; relating to authorizing the Board of Dentistry to promulgate a legislative rule relating to dental recovery networks; relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holders, and funeral establishment requirements; relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to crematory requirements; relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to a fee schedule; relating to authorizing the Board of Landscape Architects to promulgate a legislative rule relating to registration of landscape architects; relating to authorizing the Board of Medicine to promulgate a legislative rule relating to licensing of physicians and podiatric physicians and disciplinary procedures for applicants, licensees, and credential holders; relating to authorizing the Board of Medicine to promulgate a legislative rule relating to relating to licensure, practice requirements, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to collaborative pharmacy practice; relating to authorizing the Board of Medicine to promulgate a legislative rule relating to prohibiting sexual misconduct by health care practitioners; relating to authorizing the Board of Optometry to promulgate a legislative rule relating to optometric telehealth practice; relating to authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substance Act; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; relating to authorizing the Board of Pharmacy to

promulgate a legislative rule relating to regulations governing pharmacy permit; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to inspections; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Donated Drug Repository Program; relating to authorizing the Psychologists to promulgate a legislative rule relating to code of conduct; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to advanced practice registered nurse licensure requirements; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to continuing education and competence; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to fees for services rendered by the board; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to practitioner requirements for accessing the West Virginia Controlled Substance Monitoring Program database; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to telehealth practice; requirements; definitions; relating to authorizing the Secretary of State to promulgate a legislative rule relating to early voting in-person satellite precincts; relating to authorizing the Secretary of State to promulgate a legislative rule relating to the Combined Voter Registration and Driver Licensing Fund; relating to authorizing the Secretary of State to promulgate a legislative rule relating to administrative procedures for the Nonpublic Funding for Election Administration Fund; relating to authorizing the State Treasurer to promulgate a legislative rule relating to enforcement of the Uniform Unclaimed Property Act; relating to authorizing the State Treasurer to promulgate a legislative rule relating to the Hope Scholarship Program; and relating to authorizing the State Treasurer to promulgate a legislative rule relating to Jumpstart Savings Program.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 361) was reported by the Clerk and adopted:

On page 7, section 10, subsection (d), line 14 through 16, after "is authorized" by inserting a period, and striking out the remainder of the subsection.

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

Engrossed Committee Substitute for Senate Bill 361, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Maroney—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. 361) 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Maroney—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 S. B. 361) 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 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 Com. Sub. for Senate Bill 273, Relating to allocation of child protective workers in counties based upon population of county.

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:

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-101. Authorization and responsibility; Bureau for Social Services.

~~(a) The Department of Health and Human Resources is authorized to provide care, support and protective services for children who are handicapped by dependency, neglect, single parent status, mental or physical disability, or who for other reasons are in need of public service. The department is also authorized to accept children for care from their parent or parents, guardian, custodian or relatives and to accept the custody of children committed to its care by courts. The Department of Health and Human Resources or any county office of the department is also authorized and to accept temporary custody of children for care from any law enforcement officer in an emergency situation. The Bureau for Social Services is continued within the department. The bureau is under the immediate supervision of a commissioner.~~

~~(b) The Department of Health and Human Resources is responsible for the care of the infant child of an unmarried mother who has been committed to the custody of the department while the infant is placed in the same licensed child welfare agency as his or her mother. The department may provide care for those children in family homes meeting required standards, at board or~~

~~otherwise, through a licensed child welfare agency, or in a state institution providing care for dependent or neglected children. If practical, when placing any child in the care of a family or a child welfare agency the department shall select a family holding the same religious belief as the parents or relatives of the child or a child welfare agency conducted under religious auspices of the same belief as the parents or relatives. The Bureau for Social Services is authorized to provide care, support, and protective services for children who are handicapped by dependency, neglect, single parent status, mental or physical disability, or who for other reasons are in need of public service. The bureau is also authorized to accept children for care from their parent or parents, guardian, custodian, or relatives, and to accept the custody of children committed to its care by courts. The bureau or any county office of the department is also authorized to accept temporary custody of children for care from any law-enforcement officer in an emergency situation.~~

~~(c) The bureau is responsible for the care of the infant child of an unmarried mother who has been committed to the custody of the department while the infant is placed in the same licensed child welfare agency as his or her mother. The bureau provides care for those children in family homes meeting required standards, at board or otherwise, through a licensed child welfare agency, or in a state institution providing care for dependent or neglected children. If practical, when placing any child in the care of a family or a child welfare agency, the bureau shall select a family holding the same religious belief as the parents or relatives of the child, or a child welfare agency conducted under religious auspices of the same belief as the parents or relatives.~~

~~**§49-2-102. Minimum staffing complement for child protective services**~~ **Staffing Allocation for Child Protective Services Workers.**

~~[Repealed.] Notwithstanding any other provision of this code to the contrary, effective July 1, 2024, the commissioner shall allocate and station child protective services workers by county based on population, referrals, and average caseload. The allocation may not decrease below the bureau's allocation of January 1, 2023. The county population shall be based on the United States Census. The bureau shall report the allocation to the Legislative Oversight Commission on Health and Human Resources Accountability by July 1 each year.~~

§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~~ Bureau for Social Services: *Provided*, That if the method for reporting is web-based, the ~~Department of Health and Human Resources~~ Bureau for Social Services 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~~ Bureau for Social Services shall establish and maintain a 24-hour, seven-day-a-week telephone number to receive calls reporting suspected or known child abuse or neglect.

(b) ~~The department shall have a redundancy for its system in the event of an outage to receive reports. This redundancy system shall be transparent, meaning that it shall allow for reporting in the same means as if the outage had not occurred and no time delay shall occur from when the outage occurs to when the redundancy system begins to operate. This redundancy system shall be operational no later than July 1, 2023. If the department contends that it currently has a redundancy system, it shall describe the system, provide an operational date for the system, and explain why calls to centralized intake were unanswered to the Joint Committee on Government and Finance by July 1, 2023.~~

~~(b)~~ (c) 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.

(d) The department shall annually submit a report in an electronic format, via the legislative webpage, on July 1 to the Joint Committee on Government and Finance, which shall contain: How many calls were made to centralized intake on a per county basis, how many calls were referred to centralized intake on a per county basis, how many calls were screened out centralized intake on a per county basis, and the time from referral to investigation on a per county basis.

ARTICLE 10. EXEMPTION FROM WEST VIRGINIA DIVISION OF PERSONNEL.

§49-10-101. Legislative findings.

The Legislature finds the State of West Virginia is experiencing a child welfare crisis. From 2016 to 2020, the child protective service vacancy rate has increased from 9.7% to 33%. This significant lack of staffing has caused a delay in response times to begin investigations. During the same time period, the average hours to start a child protective service investigation after referral went from 119.1 hours in 2016 to now averaging 428.1 hours in 2020. This significant failure to begin the investigation can and has cost lives. The Legislature finds that the Bureau for Social Services is having extreme difficulty recruiting and retaining child protective service workers, youth service workers, adult protective service workers, and other related workers, including necessary casework support personnel and managers at the county level, who assist in the provision of services to vulnerable populations.

§49-10-101. Bureau for Social Service employees exempt from Division of Personnel.

(a) The Commissioner of the Bureau for Social Services shall develop a merit-based system policy for the bureau. The procedure shall include classification specifications, and may include compensation adjustments, retention incentives, and hiring approval by the commissioner. The commissioner shall have the full authority to evaluate applicants for employment or promotion or make classification determinations for positions within the merit-based system. The pay rates and employment requirements shall be put into effect on or before January 1, 2024. This merit-based system shall apply to new employees in the above referenced job classifications and for existing employees who elect, in writing to enter the merit-based system. The merit-based system is exempt from the Division of Personnel and all requirements of §29-6-1 *et seq.* of this code and any related rules. There is no requirement for uniformity regarding the pay scale for the same classification between regions of the state to account for market rates and demand for specific positions. The provisions of §6C-2-1 *et seq.* are not applicable.

(b) Funding for the pay rates and employment requirements shall be provided from the appropriation to the bureau.

(c) The commissioner may conduct periodic wage and compensation analysis of identified market rates for the above positions as determined by the commissioner.

(d) The commissioner shall report to Legislative Oversight Commission of Health and Human Resources accountability by January 1, 2024.

§49-10-103. Bureau for Social Service employees no requirement uniformity in pay scale.

The Legislature finds that the Bureau for Social Services is having extreme difficulty retaining child protective service workers, youth service workers, adult protective service workers, and other related workers, including necessary casework support personnel and managers at the county level, who assist in the provision of services to vulnerable populations. To retain qualified employees in these crucial positions, there is no requirement for uniformity regarding the pay scale for the same classification between regions of the state to account for market rates and demand for specific positions. The provisions of §6C-2-1 et seq. of this code shall be applicable to the employees of the merit-based system as set forth in §49-10-102 of this code, however, there is no right to a grievance for any such regional pay disparity for the same job classification.

ARTICLE 11. SYSTEM REPORTING.**§49-11-101. Systemic reporting transparency; rulemaking.**

The commissioner shall change the existing child welfare data dashboard by July 1, 2023, to report on system-wide issues, including, but not limited to, system-level performance indicators, intake hotline performance indicators, field investigation performance indicators, open case performance indicators, out-of-home placement performance indicators, and federally mandated performance indicators.;

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 273—A Bill to amend and reenact §49-2-101, §49-2-102, and §49-2-809 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §49-10-101, §49-10-102, and §49-10-103; to amend said code by adding thereto a new article, designated §49-11-101, all relating to child welfare; continuing the Bureau for Social Services; providing authority to the bureau; providing how the commissioner shall allocate child protective service workers; requiring reporting; requiring the department to have a redundancy centralized intake system; setting forth requirements for data submission in the event a system exists; providing that the Bureau for Social Services shall develop a merit-based system; providing legislative findings; providing the merit-based system shall be subject to the grievance process, except that there is no grievance available for the same classification description impacted by regional pay disparities; providing that for existing employees there is no grievance procedure for a regional pay disparity for the same job classification and establishing timeframes for implementation.

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. 273) 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. Com. Sub. for Senate Bill 273—A Bill to amend and reenact §49-2-101, §49-2-102, and §49-2-809 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §49-10-101, §49-10-102, and §49-10-103; to amend said code by adding thereto a new article, designated §49-11-101, all relating to child welfare; continuing the Bureau for Social Services; providing authority to the bureau; providing how the

commissioner shall allocate child protective service workers; requiring reporting; requiring the department to have a redundancy centralized intake system; setting forth requirements for data submission in the event a system exists; providing that the Bureau for Social Services shall develop a merit-based system; providing legislative findings; providing that the merit-based system is not subject to the grievance process; providing that for existing employees there is no grievance procedure for a regional pay disparity for the same job classification and establishing timeframes for implementation; and updating the child welfare dashboard.

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 273, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Maroney—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. 273) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Maroney—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 Com. Sub. for S. B. 273) takes effect from passage.

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

At the request of Senator Takubo, unanimous consent being granted, the Senate reconsidered the vote by which on yesterday, Friday, March 10, 2023, it refused to concur in the House of Delegates amendments (*shown in the Senate Journal of that day, pages 11 and 12*), as to

Eng. Senate Bill 559, Relating to spousal privilege.

The bill still being in the possession of the Senate,

The vote thereon having been reconsidered,

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill 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 3. COMPETENCY OF WITNESSES.

§57-3-3. Testimony of husband and wife in criminal cases.

In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify ~~in~~ on behalf of each other, but neither shall be compelled, nor, without the consent of the other, allowed to be called as a witness against the other except in the case of a prosecution for an offense committed by one against the other, or against the child, father, mother, sister or brother of either of them or any minor. The failure of either husband or wife to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by anyone.;

And,

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

Eng. Senate Bill 559—A Bill to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to spousal privilege; and expanding the exceptions to spousal privilege to exclude therefrom cases in which the offense at issue was committed against any minor.

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

Engrossed Senate Bill 559, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 559) 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription.

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, after the enacting clause 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.

§5-16-2. Definitions.

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) "Agency" means the Public Employees Insurance Agency created by this article.

(2) "Director" means the Director of the Public Employees Insurance Agency created by this article.

(3) "Employee" means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term "employee" also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; 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; 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; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided

in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an "employee" during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an "employee" during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an "employee" if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the "employee" for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) "Employer" means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; 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; 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; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an "employer" within the meaning of this article shall be decided by the director. The term "employer" does not include within its meaning the National Guard.

(5) "Finance board" means the Public Employees Insurance Agency finance board created by this article.

(6) "Person" means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) "Plan", unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option, or the group life insurance plan offered by the agency.

(8) "Retired employee" means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

(9) "Device" means a blood glucose test strip, glucometer, continuous glucose monitor (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include insulin pumps.

(10) "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.

§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~~, January 1, 2023 shall provide coverage for prescription insulin drugs and equipment pursuant to this section.

(b) ~~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) Cost sharing for a 30-day supply of a covered prescription insulin drug shall may not exceed \$100 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. \$35 in aggregate, including situations where the covered person is prescribed more than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription. Cost sharing for a 30-day supply of covered device(s) may not exceed \$100 in aggregate, including situations where the covered person is prescribed more than one device, per 30-day supply. Each cost-share maximum is covered regardless of the person's deductible, copayment, coinsurance or any other cost-sharing requirement.~~

(d) 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) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent ~~shall may~~ 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) of this section.

(f) 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 glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(g) 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) of this code.

(h) 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) 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.;

And,

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

Eng. Com. Sub. for Senate Bill 577—A Bill to amend and reenact §5-16-2 and §5-16-7g of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-59-1 of said code; all relating to diabetes; defining terms; reducing copayments; adding coverage for devices; and permitting testing equipment to be purchased without a prescription.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 577) were reported by the Clerk, considered simultaneously, and adopted:

On pages 1-5, by striking out all of section 2 and inserting in lieu thereof a new section 2, to read as follows:

§5-16-2. Definitions.

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(4) "Agency" or "PEIA" means the Public Employees Insurance Agency created by this article.

"Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Autism spectrum disorder" means any pervasive developmental disorder, including autistic disorder, Asperger's syndrome, Rett syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

"Certified behavior analyst" means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

"Dependent" includes an eligible employee's child under the age of 26 as defined in the Patient Protection and Affordable Care Act.

"Device" means a blood glucose test strip, glucometer, continuous glucose monitor (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include insulin pumps.

(2) "Director" means the Director of the Public Employees Insurance Agency created by this article.

"Distant site" means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient's health care practitioner.

(3) "Employee" means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia; and, for the purpose of this article only, the term "employee" also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; a county, city, or town in the ~~State~~ 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; 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; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an "employee" during the term of office of the elected member. Upon election by the ~~state~~ State Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the ~~state~~ State Board of Education is considered an "employee" during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the ~~state~~ State Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an "employee" if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 *et seq.* of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the "employee" for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) "Employer" means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; 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; 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; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to §27-2A-1 *et seq.* of this code and which is supported in part by state, county, or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an "employer" within the meaning of this article shall be decided by the director. The term "employer" does not include within its meaning the National Guard.

"Established patient" means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

(5) "Finance board" means the Public Employees Insurance Agency finance board created by this article.

"Health care practitioner" means a person licensed under §30-1-1 *et seq.* of this code who provides health care services.

"Originating site" means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Objective evidence" means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify

progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

~~(6) "Person" means any individual, company, association, organization, corporation, or other legal entity. including but not limited to, hospital, medical or dental service corporation; health maintenance organization or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.~~

~~(7) "Plan" unless the context indicates otherwise, means the medical indemnity plan. The managed care plan option, or the group life insurance plan offered by the agency. a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans.~~

"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.

"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.

"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

~~(8) "Retired employee" means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education, or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system, and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in~~

the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System, and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

"Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

"Virtual telehealth" means a new patient or follow-up patient for acute care that does not require chronic management or scheduled medications.;

On pages 5-7, by striking out all of section 7g and inserting in lieu thereof a new section 7g, to read as follows:

§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, shall provide coverage for prescription insulin drugs pursuant to this section. A policy, plan, or contract that is issued or renewed on or after January 1, 2024, shall provide coverage for prescription insulin drugs and equipment to this section.

(b) 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~~

~~(e) (b) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 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. Cost sharing for a 30-day supply of a covered prescription insulin drug may not exceed \$35 in aggregate, including situations where the covered person is prescribed more than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription. Cost sharing for a 30-day supply of covered device(s) may not exceed \$100 in aggregate, including situations where the covered person is prescribed more than one device, per 30-day supply. Each cost-share maximum is covered regardless of the person's deductible, copayment, coinsurance, or any other cost-sharing requirement.~~

~~(d) (c) 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) (d) 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 (b) of this section.~~

~~(f) (e) 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 glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.~~

~~(g) (f) 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) of this code.~~

~~(h) (g) 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) (h) 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.;~~

And,

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

Eng. Com. Sub. for Senate Bill 577—A Bill to amend and reenact §5-16-2 and §5-16-7g of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-59-1 of said code; all relating to diabetes; defining terms; reducing copayments; adding coverage for devices; permitting testing equipment to be purchased without a prescription; and providing for effective date.

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

Engrossed Committee Substitute for Senate Bill 577, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Azinger and Karnes—2.

Absent: Jeffries—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. 577) passed with its Senate amended title.

Senator Takubo moved that the bill take effect January 1, 2024.

On this question, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Azinger and Karnes—2.

Absent: Jeffries—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. 577) takes effect January 1, 2024.

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 to, and the passage as amended with its Senate amended title, of

Eng. Com. Sub. for House Bill 2004, Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct.

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 2016, Relating to confidential childcare records.

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. for House Bill 2024, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

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 with its Senate amended title, of

Eng. Com. Sub. for House Bill 2621, Relating generally to bail bondsman.

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 2814, To create a Hydrogen power task force.

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 2875, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR.

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 3189, The PFAS Protection 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 3214, To create the Road Optimization & Assessment Data (ROAD) Pilot Project.

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 3265, Remove statutory mandates that the sheriff of a county shall serve process or is responsible for cost of service or arrest by another law enforcement agency.

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 3499, To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship.

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 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office.

On motion of Senator Takubo, at 12 Noon, the Senate recessed until 1:15 p.m. today.

The Senate reconvened at 1:45 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.

A message from the Clerk of the House of Delegates announced the rejection by that body of

Eng. Senate Bill 147, Creating pilot program for recovery residences in Cabell County.

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 191, Relating to liability for payment of court costs as condition of pretrial diversion agreement.

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 2218, Distracted Driving 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 2865, To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility.

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 2890, Modifying student discipline.

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. Rev. Com. Sub. for House Bill 3110, Relating to funding the Office of Oil and Gas in the Department of Environmental Protection.

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 3147, To create the Upper Ohio Valley Trail Network.

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 3156, Raising the compensation rates of panel attorneys.

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 3166, To permit a hospital to hold a patient experiencing a psychiatric emergency for up to 72 hours.

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 3302, To recognize unborn child as distinct victim in a DUI causing death.

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 Deeds, Hamilton, and Woelfel.

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 to, and the passage as amended with its Senate amended title, of

Eng. Com. Sub. for House Bill 3370, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts.

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 3398, Relating to the establishment of the West Virginia Memorial to Fallen Heroes of the Global War on Terrorism.

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 3432, Relating to statutory construction.

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 3555, Relating to student purchase and refunds of course material.

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 3559, Relating to defining a newborn safety device.

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 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

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 5W. REGULATION OF BEHAVIORAL HEALTH.

§16-5W-1. Definitions.

The following terms are defined for this article:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial wellbeing. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain, or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse, including abuse facilitated or enabled through the use of technology. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.

"Addiction" means a disease characterized by the individual's pursuing reward, relief, or both, by substance use or other behaviors. Addiction is characterized by impairment in behavioral control, craving, inability to consistently abstain, and diminished recognition of significant problems with one's behaviors and interpersonal relationships; likely to involve cycles of relapse and remission.

"Advocate" means a person or entity who has the authority via contract with the department or authority via state or federal statutory authority or court ruling to monitor and redress the care

and treatment of persons with developmental, behavioral, and/or intellectual disabilities at behavioral health centers.

"Behavioral Health Center" means a provider, entity, or facility that provides behavioral health services, supports, or both.

"Behavioral disability" means a disability of a person which: (1) Is attributable to severe or persistent mental illness, emotional disorder or chemical dependency; and (2) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency.

"Behavioral Health Services" means a direct service provided as an inpatient, residential or outpatient service to an individual with mental health, addictive, behavioral, or adaptive challenges that is intended to improve or maintain functioning in the community. The service is designed to provide treatment, habilitation, or rehabilitation.

"Developmental disability" means a chronic disability of a person which: (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (2) is likely to continue indefinitely; (3) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency; and (4) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

"Group residential facility" means a facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the department; and (4) complies with the state Fire Commission for residential facilities.

"Group residential home" means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in this article.

"Intermediate care facility" means a setting for individuals with intellectual disabilities or distinct part of that:

(1) Is primarily for the diagnosis, treatment, or rehabilitation of the intellectually disabled or persons with related conditions; and

(2) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his greatest ability.

"Neglect" means the failure of the facility, its employees, or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.

"Office of Health Facility Licensure and Certification" or "OHFLAC" means the West Virginia Office of Health Facility Licensure & Certification.

"Protection and advocacy system" or "P&A" means the agency designated to serve as the protection and advocacy system for the State of West Virginia as provided in 29 U.S.C. § 794e, 42 U.S.C. § 15041 et seq., and 42 U.S.C. § 10801 et seq., that has the express federal statutory authority to receive information regarding and to investigate complaints involving suspected abuse and neglect.

"Specialized intermediate care facility" means a Centers for Medicare and Medicaid Services approved transitional setting that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility. A facility may not be located within one mile of a residential area, a public or private licensed day care center, or a public or private K-12 school.

"Supportive Service" means a service provided exclusively to individuals with intellectual disabilities, developmental disabilities, ongoing mental health or addictive challenged, or traumatic brain injury. This service is designed to assist the individual to live in the community in a manner that is socially inclusive, optimally independent, and self-directed while preserving his or her health, safety, and quality of life. These services are not designed to change behavior or emotional functioning to support the individual in his or her community-based settings. Supportive services may include coaching or prompting of age appropriate living skills.

§16-5W-2. Regulation of Behavioral Health Centers – Residential Settings.

A behavioral health center, may not provide residential behavioral health services unless a license is first obtained from the Office of Health Facility Licensure and Certification. The Inspector General shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq., in regard to the operation of behavioral health centers – residential settings. The Inspector General, or any person authorized by the Inspector General, has authority to investigate and inspect any licensed behavioral health center – residential setting. The Inspector General may impose a civil money penalty, or limit, deny, suspend, or revoke the license of any center for good cause after reasonable notice, including due process rights as provided in legislative rule. The Inspector General shall promulgate a rule to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities including, but not limited to, the process to be followed by applicants seeking a license; provision of treatment; development of treatment plans and discharge plans; management, operation, staffing and equipping of these facilities; clinical, medical, patient, and business records kept by these facilities; procedures for inspections and for review of utilization and quality of patient care; standards and procedures for the general operation of these facilities including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance; and such other standards or requirements as the Inspector General determines are appropriate.

§16-5W-3. Regulation of Behavioral Health Centers – NonResidential Settings.

A behavioral health center, may not provide community based, nonresidential behavioral health services unless a license is first obtained from the Office of Health Facility Licensure and Certification. The director shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq., in regard to the operation of behavioral health centers – nonresidential settings. The Inspector General, or a person authorized by the Inspector General, has authority to investigate and inspect any licensed behavioral health center – nonresidential

setting. The Inspector General may impose a civil money penalty, or limit, deny, suspend, or revoke the license of any center for good cause after reasonable notice, including due process rights as provided in legislative rule. The Inspector General shall a rule to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities including, but not limited to, the process to be followed by applicants seeking a license and licensure fees and types; provision of treatment; development of treatment plans and discharge plans; management, operation, staffing and equipping of these facilities; clinical, medical, patient, and business records kept by these facilities; procedures for inspections and for review of utilization and quality of patient care; standards and procedures for the general operation of these facilities including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance; and such other standards or requirements as the Inspector General determines are appropriate.

§16-5W-4. Inspection; inspection warrant; penalty.

(a) The Office of Health Facility Licensure and Certification shall inspect each behavioral health center – residential setting annually, and as necessary, including a review of patient records, to ensure that the facility complies with this article and the applicable rules.

(b) The Office of Health Facility Licensure and Certification shall inspect each behavioral health center – nonresidential setting every two years, and as necessary, including a review of the patient records, to ensure that the facility complies with this article and applicable rules.

(c) The Office of Health Facility Licensure and Certification shall perform unannounced complaint and verification inspections at behavioral health centers – residential settings and behavioral health centers – nonresidential settings.

(d) The Office of Health Facility Licensure and Certification may assess a fine on residential or nonresidential settings up to \$100,000 and/or reduce bed capacity, as that term is defined in §16-2D-2. The provisions of the subsection shall be included in legislative rule by the director, in accordance with §29A-3-1, including when such fines or bed capacity reduction would be issued.

(e) Notwithstanding the existence or pursuit of any other remedy, the Inspector General may, in the manner provided by law, maintain an action in the name of the state for an inspection warrant against any person, partnership, association, or corporation to allow any inspection or seizure of records in order to complete any inspection allowed by this article or the rules promulgated pursuant to this article.

§16-5W-5. Access to Consumers.

(a) An individual for whom the state is the guardian shall receive a visit by his or her assigned caseworker by the agency at least once a month. Case workers and advocates shall have unlimited access to consumers. The P&A shall have access to consumers, case workers, records, and complaints in accordance with federal law.

(b) The mental health, long-term care and foster care ombudsman may investigate and resolve complaints filed on behalf of individuals with IDD in any setting.

§16-5W-6. Reporting.

(a) The Office of the Inspector General shall send to county prosecutors any findings that may be subject to criminal prosecution in cases of abuse and neglect with IDD. The Office of the Inspector General shall send to the P&A the findings of any cases involving instances of substantiated abuse or neglect involving a person with a developmental disability.

(b) An annual report shall be submitted to the Legislative Oversight Commission on Health and Human Resources Accountability including:

(1) All instances where abuse and neglect cases involving IDD at any location has been substantiated by the Office of the Inspector General.

(2) The county or region where the substantiated abuse or neglect occurred;

(2) The descriptive category of the abuse and neglect;

(3) The type of setting where the abuse and neglect occurred;

(4) Whether the abuse and neglect information was turned over to the county prosecutor and law enforcement;

(5) The name of the provider, if the provider is involved, who is charged with the care of the individual; and

(6) The age range and gender of the individual.

(c) In instances where abuse and/or neglect leads to the death of an individual, the department shall send a letter, within 30 days after the findings where substantiated, to the Senate President, the Speaker of the House, and the chairs of LOCHHRA outlining the information above about the case.

§16-5W-7. Independent Mental Health Ombudsman.

(a) (1) The Office of the Inspector General shall continue an independent mental health ombudsman;

(2) The duties of the mental health ombudsman shall include, but are not limited to, the following:

(A) Advocating for the well-being, treatment, safety, and rights of consumers of mental health care facilities or psychiatric hospital;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a consumer of a mental health care facility or psychiatric hospital, relating to action, inaction, or decisions of providers of mental and behavioral health, of public agencies, or social service agencies, which may adversely affect the health, safety, welfare, and rights of a consumer of a mental health care facility or psychiatric hospital; and

(C) Monitoring the development and implementation of federal, state, and local legislation, regulations, and policies with respect to mental and behavioral health care and services;

(3) The mental health ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities;

(4)(A) Information relating to any investigation of a complaint that contains the identity of the complainant or consumer shall remain confidential except:

(i) Where imminent risk of serious harm is communicated directly to the mental health ombudsman or his or her staff; or

(ii) 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 mental health 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 mental health care ombudsman to carry out duties of the office or to support recommendations;

(C) All information, records, and reports received by or developed by the mental health ombudsman program which relate to a consumer of a mental health care facility or psychiatric hospital, including written material identifying a consumer are confidential, and are not subject to the provisions of §29-1-1, et seq. of this code, and may not be disclosed or released by the mental health ombudsman program, except under the circumstances enumerated in this section;

(D) Nothing in this section prohibits the preparation and submission by the mental health ombudsman of statistical data and reports, as required to implement the provisions of this section or any applicable federal law, exclusive of any material that identifies any consumer or complainant; and

(E) The Inspector General shall have access to the records and files of the mental health ombudsman program to verify its effectiveness and quality.

§16-5W-8. Intellectual and Developmental Disabilities Waiver Program workforce study.

(a) By July 1, 2023, the Legislative Oversight Commission on Health and Human Resources Accountability shall conduct a workforce study pertaining to the Intellectual and Developmental Disabilities Waiver Program (IDDW Program). The study shall use data and statistics generally relied upon by reasonably prudent individuals, and shall determine/address the following:

(1) The categories of personnel offering services as part of the IDDW Program;

(2) The mean hourly pay rate for each such category of personnel, broken down by West Virginia County where service is provided to patients;

(3) The mean hourly pay rate for each such category of personnel offering services as part of programs equivalent to the IDDW Program in surrounding states.

(4) A comparison of the hourly pay rates identified in subdivisions 2 and 3 of this section, broken down by category of personnel; and

(5) Any other factor the commission reasonably deems relevant to the issues.

(b) Within the report the commission shall make recommendations as to the appropriateness of the current mean hourly pay rate for each category of IDDW Program personnel, as well as

any potential pay rate increases necessary to ensure that the IDDW Programs can successfully recruit and retain qualified personnel.

(c) The commission shall issue the report by January 1, 2024.

§16-5W-9. Annual capitation rate review.

(a) The Bureau of Medicaid Services shall conduct an annual study reviewing the adequacy and appropriateness of the reimbursement rates to providers in the IDDW Program. The bureau shall also include a recommendation for any adjustment deemed appropriate, including, but not limited to, annual inflationary costs, costs arising from amendments to existing contracts, costs relating to recruiting and retaining personnel, and any other costs necessitating additional payments to IDDW providers. The bureau may require, and contracted providers shall provide financial data to the bureau to assist in the study. Without limiting the generality of the foregoing in conducting this study, the bureau shall review and compare equivalent programs both in and out of state in order to determine appropriate rates.

(b) Upon completion of the study, BMS shall provide the report to the Joint Committee of Finance beginning July 1, 2024, and annually thereafter, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 8. ~~MAINTENANCE OF MENTALLY ILL OR MENTALLY RETARDED PATIENTS.~~

§27-8-2b. Local mental health programs—Separate account for receiving and expending gifts, bequests, donations, fees and miscellaneous income.

[Repealed.]

§27-8-3. Care of patients in boarding homes.

[Repealed.]

ARTICLE 9. LICENSING OF HOSPITALS.

§27-9-1. License from Secretary of Health and Human Resources; regulations.

[Repealed.]

ARTICLE 13. ~~LAWS REPEALED; SEVERABILITY.~~

§27-13-1. Laws repealed.

[Repealed.]

§27-13-2. Severability.

[Repealed.]

ARTICLE 16. ~~STERILIZATION OF MENTAL DEFECTIVES.~~

ARTICLE 17. GROUP RESIDENTIAL FACILITIES.**§27-17-1. Definitions.**

[Repealed.]

§27-17-2. Permitted use of group residential facilities; restrictions.

[Repealed.]

§27-17-3. License from Secretary of Health and Human Resources; regulations; and penalties.

[Repealed]

§27-17-4. Exclusion by private agreement void.

[Repealed];

And,

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

Eng. Com. Sub. for Senate Bill 617—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated, §16-5W-1, §16-5W-2, §16-5W-3, §16-5W-4, §16-5W-5, §16-5W-6, §16-5W-7, §16-5W-8 and §16-5W-10; to repeal §27-8-2b and §27-8-3 of said code; to repeal §27-9-1 of said code; to repeal §27-13-1 and §27-13-2 of said code; and to repeal §27-17-1, §27-17-2, §27-17-3, and §27-17-4 of said code; all relating to regulation of behavioral health services; defining terms; requiring access to consumers; requiring access to records; regulating behavioral health centers; providing rulemaking authority; establishing a mental health ombudsman; providing authority to the ombudsman; providing an exemption of consumer information from the Freedom of Information Act; requiring reporting; permitting a civil penalty; requiring a workforce study; outlining program data required to be included in the study; requiring recommendations for hourly pay; and creating an annual capitation review.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 617) 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. Senate Bill 739, Relating to moratorium on carbon capture agreements.

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, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

CHAPTER 11. TAXATION.

ARTICLE 12. BUSINESS REGISTRATION TAX.

§11-12-4b. Parties to carbon offset agreements required to register.

(a) Definitions.—

(1) "Carbon offset agreement" means any agreement, whether designated as a carbon capture agreement, carbon sequestration agreement, or otherwise, entered into between an owner of an interest in real estate in West Virginia including any type of minerals or growing timber, and any other person, entity or company, with the intent of providing payment, compensation, or remuneration for nondevelopment of a real estate interest in West Virginia to prevent the release of carbon dioxide or other greenhouse gases into the atmosphere or to absorb, suppress, or contain carbon dioxide or other greenhouse gases. A carbon offset agreement may be in the form of a contract, lease, easement, covenant, option, or otherwise, with the form of the agreement not being determinative of its status as a carbon offset agreement; *Provided*, That such agreements or restrictions for the injection and containment of carbon dioxide or other greenhouse gases into underground pore or container spaces and methane capture and flaring operations are not carbon offset agreements.

(2) "Greenhouse gases" means any of various gaseous or vaporous compounds such as carbon dioxide or methane that absorb infrared radiation and may trap heat in Earth's atmosphere.

(b) Registration.— Any party or parties that enter into a carbon offset agreement, as that term is defined in this section, with a West Virginia landowner, and their assignees of rights, shall apply to the Tax Commissioner for an initial business registration certificate within 60 days of entering into such agreement or within 60 days of the effective date of this section, whichever is later, on forms created through rulemaking authority by the State Tax Department. This requirement applies to carbon offset agreements entered on or before the effective date of this section and currently in effect, and new carbon offset agreements entered after the effective date of this section. The application for the business registration certificate for carbon offset agreements shall provide the following information:

(1) Legal names, addresses, and other contact information of all parties to the carbon offset agreement;

(2) Location and description of the real estate in West Virginia covered by the carbon offset agreement, including the postal address of the property, if available, and tax parcel or other tax map identifier of the property;

(3) Term of the agreement in years;

(4) Identification of the carbon offset program or programs, if any, with which the agreement is intended to comply;

(5) Identification and description of any and all restrictions placed on the West Virginia real estate or other property by the carbon offset agreement;

(6) Estimated yearly consideration to be paid; and

(7) Any other information required by the Tax Commissioner.

(c) The party or parties that enter into a carbon offset agreement with a West Virginia landowner and their assignees of rights shall inform the Tax Commissioner of any changes to the agreement or assignments of rights under the agreement within 60 days of the change or assignment taking effect.

(d) Registration.— Notwithstanding any other provision of this code, the party or parties that enter into a carbon offset agreement with a West Virginia landowner and their assignees of rights to a carbon offset agreement shall apply to the Tax Commissioner for a new registration certificate within five years of the effective date of the agreement, and at five-year intervals thereafter, unless the agreement is terminated before that time.

(e) Reporting.— Beginning on July 1, 2024, and on or before July 1 of every year thereafter, the Tax Commissioner shall submit a report to the Governor and the Joint Committee on Government and Finance setting forth at a minimum the following information:

(1) The number and type of carbon offset agreements in effect burdening real estate in West Virginia during the preceding calendar year.

(2) The number of acres of real estate burdened by carbon offset agreements during the preceding calendar year and the counties in West Virginia in which they are found, and

(3) The amount of consideration paid to West Virginia landowners under carbon offset agreements during the preceding calendar year.

(f) The provisions of this article are subject to the West Virginia Tax Procedure and Administration Act, set forth in §11-10-1 *et seq.* of this code, and the West Virginia Tax Crimes and Penalties Act, set forth in §11-9-1 *et seq.* of this code, as if the provisions thereof were set forth *in extenso* in this article.

(g) Information disclosure.— Notwithstanding the provisions of §11-10-5d of this code and notwithstanding any other provision of this code, the Tax Commissioner is authorized to disclose such generalized registration information and other information as may be necessary to administer these provisions and compile the report required under this section.;

And,

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

Eng. Senate Bill 739—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-4b; relating to carbon offset agreements affecting real property interests; requiring parties to current and new carbon offset agreements to register with the West Virginia Tax Department; providing for registration requirements and identifying certain information to be submitted to the Tax Department; providing for business registration certificates; defining terms, including carbon offset agreements and greenhouse

gases; providing exceptions for underground sequestration and methane flaring; requiring reports of specified information by the Tax Department to the Legislature and Executive; authorizing generalized disclosure of information by the Tax Commissioner for said reports; specifying application of West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; and authorizing promulgation of rules by the Tax Department.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 739) 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 740, Relating to compensation and expense reimbursement for members of Legislature.

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 2, line 3, immediately following the words "equal to" by inserting "75% of";

On page 2, section 2, line 20, immediately following the words "six thousand" by striking "five hundred";

On page 2, section 2, line 27, immediately following the words "six thousand" by striking "five hundred";

On page four, section four, line twenty-five, by striking out the words "presiding officer" and inserting in lieu thereof the words "chairperson or additional person";

On page five, section six, line one, following the words "Each member", by striking out the words "and member-elect";

And,

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

Eng. Senate Bill 740—A Bill to amend and reenact §4-2A-2, §4-2A-3, §4-2A-4, §4-2A-5, §4-2A-6, and §4-2A-7 of the Code of West Virginia, 1931, as amended, all relating to compensation and expense reimbursement for members of the Legislature as recommended by the Citizens Legislative Compensation Commission; modifying the basic compensation to an amount equal to 75% of the per capita income in West Virginia; modifying the per diem expense allowance for members of the Legislature when in regular, extended, or extraordinary session; modifying the compensation, per diem expense allowance, and travel reimbursement paid to designated members of the Legislature when not receiving compensation for being in attendance during a regular, extended, or extraordinary session; modifying interim compensation paid to members of

the Legislature; and modifying the per diem expense allowance for members of the Legislature who both commute and do not commute.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 740) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section two, line three, immediately following the words "equal to" by striking out "75% of the per capita income" and inserting in lieu thereof "50% of the median household income";

And,

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

Eng. Senate Bill 740—A Bill to amend and reenact §4-2A-2, §4-2A-3, §4-2A-4, §4-2A-5, §4-2A-6, and §4-2A-7 of the Code of West Virginia, 1931, as amended, all relating to compensation and expense reimbursement for members of the Legislature as recommended by the Citizens Legislative Compensation Commission; establishing a new basic compensation amount for members of the Legislature; modifying the per diem expense allowance for members of the Legislature when in regular, extended, or extraordinary session; modifying the compensation, per diem expense allowance, and travel reimbursement paid to designated members of the Legislature when not receiving compensation for being in attendance during a regular, extended, or extraordinary session; modifying interim compensation paid to members of the Legislature; and modifying the per diem expense allowance for members of the Legislature who both commute and do not commute.

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

Engrossed Senate Bill 740, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Stover, Swope, Takubo, Tarr, Taylor, Trump, Woodrum, and Blair (Mr. President)—25.

The nays were: Chapman, Martin, Maynard, Phillips, Smith, Stuart, Weld, and Woelfel—8.

Absent: Jeffries—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. 740) 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 121, Creating Student Journalist Press Freedom Protection 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 2, section 4, line 11, by striking subdivision (3) of subsection (b) in its entirety and inserting in lieu thereof the following:

"(3) Is obscene, vulgar, pornographic, or of sensual or illicit sexual content;"

And,

On page 4, section 4, line 39, by inserting after the word "students" the words "in conformity with this section".

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

Engrossed Committee Substitute for Senate Bill 121, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 121) 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 200, Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting.

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 2. WILDLIFE RESOURCES.

§20-2-5j. Leashed dogs for tracking mortally wounded deer, elk, turkey, wild boar, or bear.

(a) Notwithstanding any provision of this chapter to the contrary, a person who is legally hunting and reasonably believes he or she has mortally wounded a deer, elk, turkey, wild boar, or bear may use leashed dogs to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter is also permitted to use a dog handler of leashed dogs to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter or the dog handler shall always maintain physical control of the leashed dogs.

(b) The act of tracking a mortally wounded deer, elk, turkey, wild boar, or bear with a dog is hunting and the hunter and handler are subject to all applicable laws and rules. It is unlawful for a hunter or dog handler to track deer, elk, turkey, wild boar, or bear with leashed dogs under the provisions of this section unless he or she is in possession of a valid hunting license issued pursuant to this article or is a person excepted from licensing requirements pursuant to this article, and all other lawful authorizations as prescribed in this article. The hunter shall accompany the dog handler and only the hunter may kill a mortally wounded deer, elk, turkey, wild boar, or bear. However, any hunter who is physically unable to accompany the handler in the tracking and locating of the mortally wounded deer, elk, wild turkey, boar, or bear may designate the handler to kill the deer, elk, wild turkey, boar, or bear when located by the handler. The deer, elk, turkey, wild boar, or bear shall count toward the bag limit of the hunter who fired the initial shot.

(c) Any dog handler providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 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 200—A Bill to amend and reenact §20-2-5j of the Code of West Virginia, 1931, as amended, relating to adding mortally wounded elk, turkey, and wild boar to list of wounded animals that may be tracked and located using a leashed dog; allowing certain physically disabled hunters to allow dog handler to kill mortally wounded animal; and providing that mortally wounded animal shall count toward bag limit of hunter who fired initial shot.

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

Engrossed Committee Substitute for Senate Bill 200, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 200) 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 220, Industrial Hemp Development 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:

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

CHAPTER 19. AGRICULTURE.

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

§19-12E-12. Regulation of Select Plant-Based Derivatives: Industrial Hemp.

(a) This section shall be known as the Select Plant-Based Derivatives Regulation Act: Industrial Hemp.

(b) The Legislature finds that certain plant-based derivatives can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of the act is to allow limited, regulated access to certain plant-based derivatives which are naturally occurring and as authorized by the provisions of this article for adults 21 years of age and older: *Provided*, That, the provisions of this section shall not apply to naturally occurring plant-based derivative products not containing tetrahydrocannabinol content.

(c) As used in this section:

(1) "Alcohol Beverage Control Commissioner" means the Alcohol Beverage Control Commissioner or his or her designees.

(2) "Commissioner" means the Commissioner of Agriculture or his or her designees.

(3) "Contaminated" means made impure and unsafe by biological, chemical, or physical additives.

(4) "Department" means the West Virginia Department of Agriculture.

(5) "Final product" means a product approved by the Department in accordance with the provisions of this article, and any other applicable rules and requirements set forth by the Department, as specified for the product.

(6) "Hemp-derived cannabinoid" means a naturally occurring non-synthetic substance as follows:

(A) Delta-9 tetrahydrocannabinol with a concentration level consistent with 7 U.S.C. §5940;

(B) Delta-8 tetrahydrocannabinol;

(C) Delta-10 tetrahydrocannabinol;

(D) Hexahydrocannabinol;

(E) Tetrahydrocannabiphorol (THCp); and

(F) Tetrahydrocannabivarin (THCv).

(7) "Manufacturer" means a person or entity which grows industrial hemp.

(8) "Non-naturally occurring derivative" means a product that is contaminated as defined by this article, or a product that, upon result of Department laboratory testing, is found to be in violation of this article or rules promulgated therewith, or a product that is unlawful pursuant to 7 U.S.C. §5940 or otherwise violates applicable federal regulations.

(9) "Processor" means a person or entity that processes compounds or converts hemp-derived cannabinoids into a hemp-derived cannabinoid product and distributes, sells, or offers for sale, hemp-derived cannabinoid products in this state on a wholesale basis to a retailer.

(10) "Seller" means a person or entity that distributes, offers for sale, or sells hemp-derived products to persons for personal consumption.

(11) "Retail sales" means the sale of hemp-derived products in a commercial setting as determined and set forth in rules promulgated by the commissioner.

(d) Any person manufacturing, processing, distributing, offering for sale, or selling any hemp-derived cannabinoid products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this state. The commissioner may issue manufacturer, processor and retailer permits.

(e) The Commissioner of Agriculture shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code that include, but are not limited to:

(1) Issuance of permits to persons who wish to manufacture, handle, process, distribute, offer for sale, or sell hemp-derived cannabinoid products;

(2) Regular sampling and testing of hemp-derived cannabinoid products to determine purity levels;

(3) Supervision of the hemp-derived cannabinoid products during their cultivation, processing, and sale;

(4) Assessment of fees as commensurate with the need of the commissioner's activities in issuing permits, laboratory testing, and in overseeing the regulation of hemp-derived products;

(5) Approving the manufacture, production, sale, processing, distributing, and transport of hemp-derived cannabinoid products;

(6) Developing guidelines for the labeling of hemp-derived cannabinoid products, including but not limited to, a statement which says "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY MEDICATION" and "USE OF THIS PRODUCT MAY IMPACT DRUG TESTING RESULTS";

(7) Developing guidelines or standards related to the display or staging of hemp-derived cannabinoid products to increase the safety of underage patrons in retail environments;

(8) Developing guidelines or standards to restrict the advertising or marketing of unapproved or unlawful products;

(9) Developing prohibitions on child targeted packaging and shapes and forms of products;

(10) Developing administrative rules, procedures, and sanctions for violations of this section.

(11) Any other rules and procedures necessary to carry out the purposes of this article.

(f) The Commissioner of Agriculture and the Alcohol Beverage Control Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules as are necessary to effectuate the purposes of this article.

(g) Any website owned, managed, or operated by a person who manufactures, processes, distributes, offers for sale, or sells hemp-derived cannabinoid products to persons in this state shall employ a neutral age-screening mechanism to verify legal age. The mechanism may include an age-gate, age-screen, or any other age-verification mechanism approved by the commissioner.

(h) Any person or entity distributing, offering to distribute, or selling hemp-derived cannabinoid products to persons in this state by means other than a direct in-person transaction may employ an age verification mechanism approved by the commissioner.

(i) In addition to all other applicable taxes, there is hereby levied an additional tax equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids for the privilege of engaging in the business of selling hemp-derived cannabinoid products.

(1) For the privilege of engaging or continuing within this state in the business of the retail sale of hemp-derived cannabinoid products, as defined in subdivision (6), subsection (a) of this section, there is hereby levied upon and collected from every person exercising the privilege a privilege tax.

(2) The rate of tax imposed by this subsection is 11 percent of the retail sales price of hemp-derived cannabinoid products sold during the reporting period, depending upon the person's method of accounting for federal income tax purposes. The tax imposed by this subsection shall not be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer.

(3) The tax shall be due and payable on a quarterly basis as follows: on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and

remittance requirements that are necessary or convenient for the efficient administration of taxes imposed by this subsection.

(4) The taxes imposed by this subsection shall be paid to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.

(5) If any retailer does not renew its permit, relinquishes its permit, has said permit to operate suspended or revoked, or otherwise ceases selling hemp-derived cannabinoid products then any tax, additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq.* of this code, shall become due and the retailer shall make a final return or returns and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit, having its permit to operate suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a lien.

(6) All money received from the tax imposed under this subsection, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

(7) Persons or entities subject to the tax imposed by this subsection shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the tax imposed by this subsection.

(8) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this section to the contrary, the Tax Commissioner, and the commissioner shall enter into written agreements pursuant to which the Tax Commissioner shall disclose to designated employees of the department, whether a particular retailer is in good standing with the Tax Commissioner, and the commissioner shall disclose to designated employees of the Tax Commissioner information a retailer provides to the commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information should be shared or exchanged electronically to ensure safe destruction, or as necessary, proper file retention practices.

(9) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 *et seq.* of this code, any necessary legislative rules, including emergency rules, as the Tax Commissioner considers necessary for the efficient administration of taxes imposed by this subsection.

(A) Funds from the tax imposed by the provisions of subdivision (1) of this subsection and deposited in the Agricultural Fees Fund, shall be divided and deposited as follows:

(i) Sixty-five percent shall remain in the Agriculture Fees Fund;

(ii) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-9-8 of this code;

(iii) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund established by the provisions of §60-7-13 of this code.

(B) Notwithstanding any provision in §11-9-1 et seq. of this code to the contrary, and as relevant to the tax imposed by §16A-9-1 of this code, the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 et seq. of this code shall apply with like effect as if the said West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

(C) Notwithstanding any provision of §11-10-1 et seq. of this code, or any other provision of this code to the contrary, each and every provision of the West Virginia Tax Procedure and Administration Act as set forth in §11-10-1 et seq. of this code applies to the tax imposed by §16A-9-1 et seq. with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

(j) All fees collected pursuant to the provisions of this subsection shall be deposited with the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-1-4c of this code for the use of the commissioner for administering and enforcing the provisions of this article.

(k)(1) The provisions of this section related to retail sales shall be enforced by the commissioner with the assistance of the Alcohol Beverage Control Commissioner.

(2) The commissioner and the Alcohol Beverage Control Commissioner shall enter into a memorandum or memoranda of understanding to facilitate the enforcement of this section.

(l)(1) Any hemp-derived product found in this state in violation of this article is hereby declared contraband and any property interest in the hemp-derived product is vested in the State of West Virginia and is subject to seizure, forfeiture, and destruction.

(2) Any certified law-enforcement officer in this state is authorized to enforce the criminal provisions of this section, and enforcement agents of the Alcohol Beverage Control Commissioner are authorized to enforce the administrative retailer provisions of this section as relating to retail sales.

(3) The commissioner shall provide the requisite training necessary to enforce the criminal and administrative provisions of this section.

(4) The provisions of this subsection are effective from passage.

(m) Any person who manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product in this state without a permit to do so is guilty of a crime.

(1) A first violation of this subsection is a misdemeanor, and upon conviction thereof, a person shall be fined not more than \$1,000, confined in jail for not more than one year, or both fined and confined.

(2) A second or subsequent violation of this subsection is a felony and, upon conviction thereof, a person shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(n) Any person who processes, distributes, manufactures, sells, or offers to sell any hemp-derived product knowing or having reason to know that the product has been contaminated with

a toxic or illegal substance 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 less than two nor more than 10 years, or both fined and imprisoned.

(o)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product which has not been approved by the commissioner 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 jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or subsequent violation of subdivision (1) of this subsection constitutes a felony and any person convicted thereof shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(p) Any person who knowingly distributes, offers for sale, or sells a contaminated hemp-derived cannabinoid product is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$25,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(q) Any person who knowingly distributes or sells hemp-derived cannabinoid product to a person under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(r)(1) Any person under the age of 21 who possesses hemp-derived cannabinoid product is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, second and subsequent violations of subdivision (1) of this subsection, constitute a felony and any person convicted thereof, shall be fined not more than \$5,000 and imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

ARTICLE 12F. SELECT PLANT-BASED PRODUCT REGULATION ACT: KRATOM.

§19-12F-1. Short title.

This article shall be known as the Select Plant-Based Product Regulation Act: Kratom.

§19-12F-2. Findings; purpose.

The legislature finds that select plant-based derivatives, including kratom, can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of this article is to allow limited regulated assess to kratom for adults 21 years of age and older.

§19-12F-3. Definitions.

(1) "Alcohol Beverage Control Commissioner" means the Alcohol Beverage Control Commissioner or his or her designee.

(2) "Commissioner" means the Commissioner of Agriculture or his or her designee.

(3) "Contaminated" means made impure and unsafe by biological, chemical, or physical additives.

(4) "Department" means the West Virginia Department of Agriculture.

(5) "Kratom" means a psychoactive preparation that is composed of the crushed or powdered dried leaves of the mitragyna speciosa, a yellow-flowered tropical tree which contains the alkaloids mitragynine and 7-hydroxymitragynine.

(6) "Kratom product" means a food product, food ingredient, dietary agreement, dietary supplement, or beverage intended or marketed for human consumption containing any part of the leaf of the plant mitragyna speciosa.

(7) "Manufacture" means a person or entity which grows kratom for commercial purposes.

(8) "Processor" means a person or entity that processes, distributes, sells, or offers for sale, kratom or kratom products in this state on a wholesale basis to a retailer.

(9) "Retailer" means a person or entity that distributes, offers for sale, or sells kratom or kratom products to persons for personal consumption.

§19-12F-4. Processor and retailer permits; regulation.

Any person manufacturing, processing, distributing, offering for sale, or selling kratom or kratom products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this state. The commissioner may issue permits for manufacturers, processors, and retailers.

§19-12F-5. Rule-making authority.

(a) The commissioner shall propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code that include, but are not limited to:

(1) Issuance of permits to persons who wish to manufacture, process, distribute, offer for sale, or sell kratom;

(2) Sampling and testing of kratom to determine purity levels;

(3) Supervision of the kratom during its manufacture, processing, and sale;

(4) Assessment of fees that are commensurate with the costs of the Commissioner of Agriculture's activities in permitting, testing, and supervising the regulation of kratom and the sale of kratom products;

(5) The production, processing, sale, possession, distribution, or transport of kratom products;

(6) Developing standards for the labeling of kratom products to include, at a minimum, a statement which says "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY MEDICATION";

(7) Developing guidelines or standards related to the display or staging of kratom products to increase the safety of underage patrons in retail environments;

(8) Developing prohibitive standards as to child targeted packaging and shapes and forms of products;

(9) Developing administrative rules, procedures, and sanctions for violations of this section;

(10) Any other rules and procedures necessary to carry out the provisions of this article.

(b) The Commissioner of Agriculture and the Alcohol Beverage Control Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules as are necessary to effectuate the purposes of this article.

§19-12F-6. Age verification requirements.

(a) Any website owned, managed, or operated by a person who manufactures, processes, distributes, offers for sale, or sells a product containing kratom or kratom products to persons in this state shall employ a neutral age-screening mechanism that verifies that the user is at least 21 years old, including by using an age-gate, age-screen, or other age-verification mechanism approved by the commissioner.

(b) Any person or entity distributing, offering to distribute or sell, or selling kratom or kratom products to persons in this state by means other than a direct in-person transaction shall employ an age-verification mechanism approved by the commissioner.

§19-12-F-7. Taxation; disposition of funds.

(a) For the privilege of engaging or continuing within this state in the business of the retail sale of kratom or kratom products, there is hereby levied upon and collected from every person exercising the privilege a privilege tax.

(b) The rate of tax imposed by this subsection is 11 percent of the retail sales price of kratom or kratom products sold during the reporting period.

(c) The tax shall be due and payable on a quarterly basis as follows: on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements that are necessary or convenient for the efficient administration of taxes imposed by this subsection.

(d) The taxes imposed by this subsection shall be paid to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.

(e) If any retailer does not renew its permit, relinquishes its permit, has said permit suspended or revoked, or otherwise ceases selling kratom and kratom products then any tax, additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq.* of this code, shall become due and the retailer shall make a final return or returns and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit, having its permit suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a lien.

(f) All money received from the tax imposed under this subsection, including any interest and additions to tax paid under §11-10-1 et seq. of this code, less the amount of any refunds, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

(g) Persons or entities subject to the tax imposed by this subsection shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the tax imposed by this subsection.

(h) Notwithstanding any provision of §11-10-1 et seq. of this code or of this section to the contrary, the Tax Commissioner, and the commissioner shall enter into written agreements pursuant to which the Tax Commissioner shall disclose to designated employees of the department, whether a particular retailer is in good standing with the Tax Commissioner, and the commissioner shall disclose to designated employees of the Tax Commissioner information a retailer provides to the commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 et seq. of this code. To the extent feasible, this information should be shared or exchanged electronically to ensure safe destruction, or as necessary, proper file retention practices.

(i) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 et seq. of this code, any necessary legislative rules as the Tax Commissioner necessary to the efficient administration of taxes imposed by this subsection.

(1) Funds from the tax imposed by the provisions of this subsection and deposited into the Agricultural Fees Fund shall be divided and deposited as follows:

(2) Sixty-five percent shall remain in the Agriculture Fees Fund;

(3) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-9-8 of this code; and

(4) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund established by the provisions of §60-7-13 of this code.

(j) Notwithstanding any provision in §11-9-1 et seq. of this code to the contrary, and as relevant to the tax imposed by §16A-9-1, the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 et seq. of this code shall apply with like effect as if the said the West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code..

(k) Notwithstanding any provision of §11-10-1 et seq. of this code, or any other provision of this code to the contrary, the West Virginia Tax Procedure and Administration Act, as set forth in §11-10-1 et seq. of this code applies to the tax imposed by §16A-9-1 et seq. with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

(l) All fees collected pursuant to the provisions of subsection shall be deposited with the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-1-4c of this code for the use of the commissioner in administering and enforcing the provisions of this article.

§19-12F-8 Application and registration fees.

(a) Applicants for kratom and kratom manufacturer, processor, or retailer permits shall pay a non-refundable application fee of \$1,500 which shall be deposited with the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-1-4c of this code for the use of the commissioner for administering and enforcing the provisions of this article.

(b) Processor and retailer permit holders shall pay an annual fee of \$300 which shall be deposited with the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-1-4c of this code for the use of the commissioner in administering and enforcing the provisions of this article.

§19-12F-9. Cooperative enforcement agreements.

(a) The provisions of article related to retail sales shall be enforced by the commissioner with the assistance of the Alcohol Beverage Control Commissioner.

(b) The commissioner and the Alcohol Beverage Control Commissioner shall enter into a memorandum or memoranda of understanding to facilitate enforcement of this article.

§19-12F-10. Contraband; seizures; forfeitures; and destruction.

(a) Any kratom or kratom product found in this state in violation of this article is hereby declared contraband and any property interest in the kratom or kratom product is vested in the State of West Virginia and is subject to seizure and forfeiture and destruction.

(b) Any certified law enforcement officer in this state may enforce the criminal provisions of this article, and any enforcement agent of the Alcohol Beverage Control Commissioner is authorized to enforce the administrative provisions of this article as it relates to retailers.

§19-12F-11. Criminal violations; penalties.

(a) Any person who manufactures, processes, distributes, sells, or offers for sale any kratom or kratom product in this state without a permit is guilty of a crime.

(1) A first violation of this subsection is a misdemeanor, and, upon conviction thereof, a person shall be fined not more than \$1,000, confined in jail for not more than one year, or both fined and confined.

(2) A second or subsequent violation of this subsection is a felony and, upon conviction thereof, a person shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Any person who manufactures, processes, distributes, sells or offers to sell any kratom or kratom product knowing or having reason to know that the product has been contaminated with a toxic or illegal substance 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 less than two nor more than 10 years, or both fined and imprisoned.

(c)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any kratom or kratom product which has not been approved by the commissioner 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 jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or subsequent violation of subdivision (1) of this subsection constitutes a felony and any person convicted thereof, shall be fined not more than \$5,000 or imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(d) Any person who knowingly manufactures, distributes, offers for sale, or sells contaminated kratom or kratom product is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$25,000 or imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(e) Any person who knowingly distributes or sells a kratom or kratom product to a person under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(f) (1) Any person under the age of 21 who possesses kratom or a kratom product is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, second and subsequent violations of subdivision (1) of this subsection constitute a felony and any person convicted thereof, shall be fined not more than \$5,000 and imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 10. ENFORCEMENT AUTHORITY RELATING TO RETAIL SALE OF SELECT PLANT-BASED DERIVATIVES.

§60-10-1. Enforcement authority; jurisdiction.

The commissioner is hereby authorized to enforce the provisions of §19-12E-1 et seq. of this code and §19-12F-1 et seq. of this code, as relating to retail sales.

§60-10-2. General provisions.

For the purposes of enforcing §19-12E-1 et seq. and §19-12F-1 et seq. of this code, the Alcohol Beverage Control Commission and the Commissioner of Agriculture may request information from any state agency, Constitutional officer, or local agency and, notwithstanding the provisions of §11-10-5d of this code or any other provision of this code, may share information with, and request information from, any federal agency and any agency or Constitutional officer of this or of any other state or any local agency thereof.;

And,

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

Eng. Com. Sub. for Senate Bill 220—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-12E-12; to amend said code by adding thereto a new article, designated §19-12F-1, §19-12F-2, §19-12F-3, §19-12F-4, §19-12F-5, §19-12F-6, §19-12F-7, §19-12F-8, §19-12F-9, §19-12F-10, and §19-12F-11; to amend and reenact §60-7-12 and §60-7-13 of said code; and to amend said code by adding thereto a new article, designated §60-10-1 and §60-10-2, all relating to further regulation of hemp-derived cannabinoid products and regulation of kratom; creating the Select Plant-Based Derivatives Regulation Act: Industrial Hemp; creating the Select Plant-Derived Regulation Act: Kratom; making legislative findings and declaring the purpose of the acts; providing applicability; defining terms; requiring permits to manufacture, process, distribute, offer to sell, and sell regulated products; vesting regulatory authority in the Commissioner of Agriculture and the Alcohol Beverage Control Commission; granting legislative and emergency rule-making authority to the Commissioner of Agriculture and the Alcohol Beverage Control Commissioner; establishing an internal effective date from passage for purposes of declaring illegal products contraband and authorizing seizure, forfeiture, and destruction; limiting lawful sale of certain regulated products to persons 21 years of age or older; requiring age verification for internet sales and sales not made face-to-face; creating a eleven percent tax on retail sales to be collected by the Tax Commissioner quarterly for certain hemp products and kratom products; establishing distribution of tax revenue; authorizing the Alcohol Beverage Control Commissioner to enforce regulation of the product at the retail level; clarifying Alcohol Beverage Control Commissioners authority over alcohol licensees selling kratom and hemp-derived cannabinoid products; and creating criminal offenses related to regulated products and establishing criminal penalties therefor.

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

Engrossed Committee Substitute for Senate Bill 220, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 220) 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 461, Relating to WV public employees grievance procedure.

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 2, lines 52-53 by striking the entirety of lines 52 and 53 and renumbering thereafter;

On page 5, section 3, line 2 by striking “notarize”; and, on page 5, section 3, line 4 by striking “and notarized”; and, on page 5, section 3, line 7 by striking “and notarize”;

On page 15, section 6, line 7 by inserting,

Provided, That the provisions of this subsection shall only allow the discretionary recovery of court costs and reasonable attorney’s fees from a grievant if he or she has not substantially prevailed at any level of the grievance process or in any appeal to the Intermediate Court of Appeals or the Supreme Court of Appeals of West Virginia.;

And,

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

Eng. Com. Sub. for Senate Bill 461—A Bill to amend and reenact §6C-2-1, §6C-2-2, §6C-2-3, §6C-2-4, and §6C-2-6 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Public Employees Grievance Procedure; defining terms; clarifying actions or any matter relating to protected classes are not subject to grievances; providing that Division of Personnel may not be a party in certain circumstances; providing for multiple grievant parties; providing a grievance must be filed within the time limits specified or it may be dismissed; extending certain time limits; providing for grievance dismissal for untimeliness, lack of jurisdiction, or failure to state a claim and appeals of such dismissal; updating default process to include employer; providing the grievance evaluator and the administrative law judge may not hold a motion to dismiss in abeyance while other proceedings take place; clarifying that grievances may be consolidated as long as the initial grievance has not been dismissed; providing that proceedings may be rescheduled for good cause shown; requiring grievant representatives provide the names and work location of employees being represented; requiring that employees provide the name and contact information of his or her representative; directing Grievance Board to make available certain forms; providing that employee annual leave will be charged for work hours used in preparing for and attending the grievance hearing in excess of certain limits; providing for the chief administrator’s resolution of certain disputes and further providing for discretionary recording of conference; limiting annual number of grievances an employee may serve as a representative; providing for conference recordings; requiring grievance to be held in abeyance under certain circumstances; clarifying employee representation is limited by work requirements; requiring grievant to provide copies of grievance in certain cases; updating appellate procedure from level three decision; and providing for award of costs and attorney fees.

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

Engrossed Committee Substitute for Senate Bill 461, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen,

Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Caputo, Chapman, and Woelfel—3.

Absent: Jeffries—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. 461) 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 Com. Sub. for Senate Bill 522, Allocating percentage of county excise taxes for funding improvements to election administration.

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, following the enacting clause, by striking the remainder of the bill and inserting in lieu thereof the following:

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax; county clerk funding for election administration, infrastructure, and security, and other county clerk purposes.

(a) Every person who delivers, accepts, or presents for recording any document, or in whose behalf any document is delivered, accepted, or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, ~~a state an~~ excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code: *Provided*, That beginning July 1, 2021, ten percent of each ~~state~~ excise tax collected pursuant to the provisions of this subsection shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, however*, That beginning July 1, ~~in every year thereafter, an additional 10 percent of each state excise tax collected pursuant to this subsection shall be retained by the county wherein the tax was collected to be used for county purposes~~ 2022, twenty percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, further*, That beginning July 1, 2023, thirty percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: *And provided further*, That beginning July 1, 2024, sixty-five percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: ~~*Provided*~~ *And provided, further*, That beginning July 1, ~~2030~~ 2025, the excise tax collected pursuant to this subsection

shall be a county excise tax retained by the county wherein the tax was collected and to be used by the county wherein it is collected as provided in subsection (c) of this section for county purposes. The state excise tax collected pursuant to this subsection is payable at the time of delivery, acceptance, or presenting for recording of the document. In addition to the state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from other funds of the West Virginia Housing Development Fund and shall be accounted for separately. None of these moneys may be expended by the West Virginia Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the West Virginia Housing Development Fund. The West Virginia Housing Development Fund shall publish monthly on the its Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including ~~the group~~ any person or entity receiving funds, ~~their~~ its location, and any contractor awarded ~~the~~ a construction contract.

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value or fraction thereof as represented by such document as defined in §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document, as defined in §11-22-1 of this code: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than 30 days nor more than 60 days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

(c)(1) Beginning July 1, 2023, and ending June 30, 2024, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Twenty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

(2) Beginning July 1, 2024, and ending June 30, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Thirty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Seventeen and one-half percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Seventeen and one-half percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

(3) Beginning July 1, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Ninety percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

(4) The Secretary of State propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish minimum standards for election administration, infrastructure, and security, which rules shall include, but not be limited to, standards regarding cyber and physical security, and a minimum reserve funding requirement for each county from funds transferred to the separate fund required by this subsection for election administration, infrastructure, and security: *Provided*, That the minimum reserve funding requirement may not exceed the cost of upgrading voting equipment at the statewide average price to upgrade a voting system by precinct. Upon a determination by the Secretary of State that a county has satisfied the minimum reserve funding requirement and standards, the moneys in excess of the minimum reserve funding requirement may be transferred to the county's general fund at the county commission's direction.

(5) Any moneys that are deposited into two separate funds for use in improving election administration, infrastructure, and security, and other purposes relating to the office of the clerk of the county commission, shall be in addition to and separate from typical county budget allocations and shall not be supplanted by a budget reduction to the clerk of the county commission's office: *Provided*, That reasonable budget reductions are permitted if made in the ordinary course for reasons other than offsetting the additional funding as provided in this section.;

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 522—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to excise taxes on transfers of title to real estate; requiring a certain percentage of certain excise taxes be allocated to the county in which it was collected; providing for distribution of funds from certain excise taxes allocated to the county in which it was received; authorizing the Secretary of State to propose legislative rules establishing standards for election administration, infrastructure, and security; and providing for allocation of funds when certain minimum standards or reserve amounts are met.

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 522, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 522) 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 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations.

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, section 1, line 17, after the words "recycling cooperative association" by inserting the following: "and shall be limited to recyclable goods not collected by a certified waste 'motor carrier' as defined pursuant to §24A-1-2 of this code in the same area the recycling cooperative is located. If a motor carrier receives a certificate of need to serve the same area with the same services as the cooperative, then the cooperative shall cease providing those services."

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 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 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements.

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 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-26. Authorizing municipalities to create private outdoor designated areas.

(a) In addition to all other powers and duties conferred by law upon municipalities, municipalities are empowered and authorized pass an ordinance establishing private outdoor designated areas as described in §60-7-8g of this code.

(b) The municipality shall include in the ordinance, at a minimum, all of the following:

(1) Requirements for the purpose of ensuring compliance with all state and municipal laws, and public health and safety within a private outdoor designated area;

(2) The proposed outdoor designated area or proposed licensed premises shall be indicated on a submitted map or survey in sufficient detail to identify the boundaries of the area, subject to the limitations in subsection (b) of this section;

(3) A general statement of the nature and types of qualified permit holders that may operate within the proposed outdoor designated area;

(4) That certain public property that is legally demarcated by the ordinance is within the proposed private outdoor designated area and such area is in compliance with the comprehensive plan or zoning ordinances of the municipality, if the municipality has so adopted, for the consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer;

(5) The specific boundaries of the private outdoor designated area, including street addresses;

(6) The number, spacing, and type of signage designating the private outdoor designated area;

(7) The days and hours of operation for the private outdoor designated area which may not be greater than, authorized by §11-16-1 *et seq.* and chapter 60 of this code, but may be less than;

(8) The estimated number of personnel needed to ensure public safety and efficient operations in the private outdoor designated area;

(9) A sanitation plan that will help maintain the appearance and public health of the private outdoor designated area, including the number of restrooms and trash receptacles.

(10) A requirement that liquor, wine, nonintoxicating beer, and nonintoxicating craft beer be served in non-glass containers, not greater than 18 fluid ounces, approved by the municipality and the commissioner as set forth in §60-7-8g of this code; and

(11) Public health and safety measures, and requirements to meet compliance with current health permitting and zoning requirements.

(c) The municipality shall provide to the commissioner notice of the approval of the private outdoor designated area and identify the qualified permit holders that will be applying for permits set forth in §60-7-8g of this code.

(d) The municipality shall be responsible for ensuring compliance with its ordinances and compliance with all criminal laws associated with the operation of a private outdoor designated area. The municipality shall provide the commissioner copies of all non-compliance and violations. The commissioner shall ensure all qualified permit holders operate in accordance with requirements set forth in §11-16-1 *et seq.* and chapter 60 of this code.

(e) The municipality shall have the authority to dissolve a private outdoor designated area by ordinance and further may suspend a private outdoor designated area immediately when in the interest of public safety.

§8-12-27. Prohibiting municipalities from imposing additional alcohol licensure fees.

Notwithstanding any provision of this Code to the contrary, any person licensed under §11-16-1, et. seq. of this Code, shall not be charged any additional alcohol licensure fee by a municipality.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-3. Definitions.

For the purpose of this article, except where the context clearly requires differently:

(1) "Brand" means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled, or otherwise produced, imported, or transshipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner, that is being offered for sale or sold in West Virginia by a distributor who has been appointed in a valid franchise agreement or a valid amendment thereto.

(2) "Brewer" or "manufacturer" means any person manufacturing, otherwise producing, importing, or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer's license for its nonintoxicating beer or nonintoxicating craft beer.

(3) "Brewpub" means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and ~~guidelines, rules,~~ a portion of which premises is designated for retail sales of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.

(4) "Class A retail license" means a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet, licensed pursuant to §60-1-1 *et seq.* of this code.

(5) "Class B retail license" means a retail license permitting the retail sale of liquor at a mixed retail liquor outlet licensed pursuant to §60-1-1 *et seq.* of this code.

(6) "Commissioner" means the West Virginia Alcohol Beverage Control Administration Commissioner.

(7) "Distributor" means and includes any person jobbing or distributing nonintoxicating beer or nonintoxicating craft beer to retailers at wholesale and whose warehouse and chief place of business ~~shall be~~ is within this state. For purposes of a distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of §11-16-1 *et seq.* of this code notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

(8) "Franchise agreement" means the written agreement between a brewer and a distributor that is identical as to terms and conditions between the brewer and all its distributors, which ~~agreement~~ has been approved by the commissioner. The franchise agreement binds the parties

so that a distributor, appointed by a brewer, may distribute all the brewer's nonintoxicating beer products, brands, or family of brands imported and offered for sale in West Virginia, including, but not limited to, existing brands, line extensions, and new brands all in the brewer's assigned territory for the distributor. All brands and line extensions being imported or offered for sale in West Virginia must be listed by the brewer in the franchise agreement or a written amendment to the franchise agreement. A franchise agreement may be amended by mutual written agreement of the parties as approved by the commissioner with identical terms and conditions for a brewer and all its distributors. Any approved amendment to the franchise agreement becomes a part of the franchise agreement. A brewer and a distributor may mutually agree in writing to cancel a franchise agreement. A distributor terminated by a brewer as provided in this article and the promulgated rules no longer has a valid franchise agreement. If a brewer has reached an agreement to cancel a distributor or has terminated a distributor, then a brewer may appoint a successor distributor who accedes to all the rights of the cancelled or terminated distributor.

(9) "Franchise distributor network" means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands, and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: *Provided*, That a brewer that has acquired the manufacturing, bottling, or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer, as specified in §11-16-21(a)(2) of this code, shall continue to maintain and be bound by the selling brewer's separate franchise distributor's network for any of its existing brands, line extensions, and new brands.

(10) "Freestanding liquor retail outlet" means a retail outlet that sells only liquor, wine, beer, nonintoxicating beer, and other alcohol-related products, as defined pursuant to §60-3A-4 of this code.

(11) "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 must be capable of being securely sealed. The growler is ~~utilized~~ used by an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. The nonintoxicating beer or nonintoxicating craft beer served and sold in a sealed growler may include ice or water mixed with the nonintoxicating beer or nonintoxicating craft beer to create a frozen nonintoxicating beer or nonintoxicating craft beer beverage. Any frozen nonintoxicating beer or nonintoxicating craft beer beverage machine used for filling growlers shall be sanitized daily, shall be under the control of the licensee in the secure area, and served to the patron by the licensee from the secure area. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state, and local law. A growler with a broken seal is an open container under federal, state, and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a ~~tamper-resistant~~ tamper-evident seal, security tape, or other material, as approved by the commissioner, placed on or over the growler's opening, which seal, security tape or other material is clearly marked with the date of the secure sealing by the authorized licensee who is selling the growler.

(12) "Line extension" means any nonintoxicating beer product that is an extension of a brand or family of brands that is labeled, branded, advertised, marketed, promoted, or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated, or otherwise related to a brewer's existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, or other related entities. In determining whether a

nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: Name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade design; product codes; advertising promotion; or pricing.

(13) "Manager" means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of §11-16-1 *et seq.* of this code and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. ~~Such~~ ~~Duties~~ include but are not limited to: Coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine, and liquor, as applicable; and managing security staff, security systems, video, and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

(14) "Nonintoxicating beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than 11.9 percent of alcohol by weight, or 15 percent alcohol by volume, whichever is greater. The word "liquor", as used in §60-1-1 *et seq.* of this code, does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures, or preparations included within this definition.

(15) "Nonintoxicating beer floor plan extension" means a temporary one-day extension of an existing Class A licensee's floor plan to a contiguous, adjoining, and bounded area, such as a parking lot or outdoor area, which shall for the temporary period encompass the licensee's licensed premises; further the license shall be endorsed or approved by the county or municipality where the license is located; the license shall be in good standing with the commissioner, and further ~~such~~ the temporary event shall cease on or before midnight of the approved temporary one-day event.

(16) "Nonintoxicating beer sampling event" means an event approved by the commissioner for a Class A retail licensee to hold a nonintoxicating beer sampling authorized pursuant to §11-16-11a of this code.

(17) "Nonintoxicating beer sampling day" means any days and hours of the week where Class A retail licensees may sell nonintoxicating beer, pursuant to §11-16-11a and §11-16-18(a)(1) of this code, and ~~is~~ who are approved, in writing, by the commissioner to conduct a nonintoxicating beer sampling event.

(18) "Nonintoxicating craft beer" means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent by volume and not more than 15 percent alcohol by volume or 11.9 percent alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect.

(19) "Original container" means the container used by a resident brewer or brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer or nonintoxicating craft beer for sale at wholesale.

(20) "Person" means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

(21) "Private club" means a license issued pursuant to §60-7-1 *et seq.* of this code.

(22) "Resident brewer" means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia; which may also have multiple manufacturing locations located in West Virginia as set forth in §11-16-9 of the code; and which does not brew or manufacture more than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer annually at all manufacturing locations in the aggregate and does not self-distribute more than 10,000 barrels thereof in the State of West Virginia annually from all manufacturing locations in the aggregate.

(23) "Retailer" means any person selling, serving, or otherwise dispensing nonintoxicating beer and all products regulated by this article, including, but not limited to, malt coolers at his or her established and licensed place of business.

(24) "Tax Commissioner" means the Tax Commissioner of the State of West Virginia or the commissioner's designee.

§11-16-6. License in one capacity only; no connection between different licensees; when brewer may act as distributor; credit and rebates proscribed; brewer, resident brewer, and brewpub requirements.

(a) A person shall not be licensed in more than one capacity under the terms of this article, and there shall be no connection whatsoever between any retailer, distributor, resident brewer, or brewer, and a person shall be interested, directly or indirectly, through the ownership of corporate stock, membership in a partnership, or in any other way in the business of a retailer, if the person is at the same time interested in the business of a brewer, resident brewer or distributor. A resident brewer may act as distributor in a limited capacity for his or her own product from the resident brewery or place of manufacture or bottling, but a resident brewer, is not permitted to act as a distributor as defined in §11-16-3 of this code: *Provided*, That nothing in this article may prevent a resident brewer from using the services of licensed distributors as specified in this article. A resident brewer or distributor may sell to a patron for personal use and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption. A resident brewer who also has a brewpub license may sell nonintoxicating beer or nonintoxicating craft beer produced by the resident brewer in cans, bottles, or sealed growlers, pursuant to §11-16-6b of this code, for personal consumption off of the brewpub's licensed premises and not for resale.

In order to promote the state's hospitality and tourism industry, as well as promoting economic development within the state by supporting the development of local breweries, including the application for licensure of brewery owners seeking licensure as a resident brewer in this state while licensed in other states, the commissioner may not consider licensure in such other states as a limiting factor or as the basis of licensure denial when evaluating applications for licensure as a resident brewer in this state. Any applicant seeking licensure as a resident brewer in this state (1) must meet all requirements for licensure as a resident brewer in this state, (2) must be in good standing in all other jurisdictions wherein the applicant is licensed as a brewer or resident brewer as such terms are defined in the licensing jurisdiction and, (3) must never have had a license revoked in any other state; *Provided*, that persons licensed as resident brewers in this state are limited to producing 25,000 barrels of non-intoxicating beer and limited to self-distribution

rights of 10,000 barrels of non-intoxicating beer, and such production and distribution limits shall apply, in the aggregate, whether produced in another state or West Virginia, as to all non-intoxicating beer produced by a person licensed as a resident brewer in West Virginia.

(b) It is unlawful for any brewer, resident brewer, manufacturer, or distributor to assist any retailer or for any retailer to accept assistance from any brewer, manufacturer, or distributor, accept any gifts, loans, forbearance of money or property of any kind, nature, or description, or other thing of value, or give any rebates or discounts of any kind whatsoever, except as permitted by rule, or order promulgated by the commissioner in accordance with this article.

(c) Notwithstanding subsections (a) and (b) of this section, a brewpub may offer for retail sale nonintoxicating beer or nonintoxicating craft beer so long as the sale of the nonintoxicating beer or nonintoxicating craft beer is limited to the brewpub's licensed premises, except as provided in §11-16-6b of this code.

(d) A brewer or resident brewer licensed under this section may also be licensed under §60-4-1 *et seq.* of this code: *Provided*, That the holder of the license meets all the requirements for the additional licenses required by the commissioner and pays all fees related to the license: *Provided, however*, That the licensee maintains all the rights and privileges associated with the license.

§11-16-6a. Brewer and resident brewer license to manufacture, sell, and provide complimentary samples.

(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 nonintoxicating beer and nonintoxicating craft beer and its industry in this state in order 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 brewer or resident brewer with its principal place of business and manufacture located in this state to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the state's growing brewing industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of nonintoxicating beer.*—A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may offer only nonintoxicating beer or nonintoxicating craft beer manufactured by the licensed brewer or resident brewer for retail sale to customers from the brewer's or resident brewer's licensed premises for consumption off of the licensed premises only in the form of kegs, bottles, cans, or growlers for personal consumption and not for resale. A licensed brewer or resident brewer may not sell, give, or furnish nonintoxicating beer 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.

(c) *Complimentary samples.*—A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may only offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer brewed at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. The complimentary samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed 10 complimentary two-ounce samples per patron per day. A licensed

brewer or resident brewer providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated.

(d) *Retail sales.*—Every licensed brewer or resident brewer under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable requirements and penalties in this article. In the interest of promoting tourism throughout the state, every licensed brewer or resident brewer manufacturing nonintoxicating beer or nonintoxicating craft beer in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the brewer or resident brewer's sealed nonintoxicating beer or nonintoxicating craft beer. At least five days prior to an approved private fair and festival, an authorized brewer or resident brewer shall provide a copy of a written agreement to sell only nonintoxicating beer or nonintoxicating craft beer manufactured by the brewer or resident brewer at the private fair and festival's licensed premises. If approved, an authorized brewer or resident brewer may conduct off-premises consumption sales of their nonintoxicating beer or nonintoxicating craft beer from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved brewers or resident brewers conducting the off-premises consumption sales shall comply with all retail requirements in §11-16-1 et seq. of this code, and specifically with respect to all markups, taxes, and fees. Additionally, an authorized brewer or resident brewer may provide complimentary samples to patrons who are 21 years of age or over and who are not intoxicated in the amounts set forth in subsection (c).

(e) *Payment of taxes and fees.*—A licensed brewer or resident brewer under this section shall pay all taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising.*—A licensed brewer or resident brewer under this section may advertise a particular brand or brands of nonintoxicating beer or nonintoxicating craft beer produced by the licensed brewer or resident brewer and the price of the nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

(g) *Growler requirements.*—A licensed brewer or resident brewer under this section ~~must~~ shall fill a growler and patrons are not permitted to access the secure area or fill a growler. A licensed brewer or resident brewer under this section ~~must~~ shall sanitize, fill, securely seal, and label any growler prior to its sale. A licensed brewer or resident brewer under this section may only offer for retail sale growlers no larger than 128 fluid ounces of nonintoxicating beer or nonintoxicating craft beer manufactured by the licensed brewer or resident brewer for personal consumption off of the licensed premises and not for resale. A licensed brewer or resident brewer under this section may refill a growler subject to the requirements of this section. A licensed brewer or resident brewer shall visually inspect any growler before filling or refilling it. A licensed brewer or resident brewer may not fill or refill any growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(h) *Growler labeling.*—A licensed brewer or resident brewer under this section selling growlers shall affix a conspicuous label on all sold and securely sealed growlers listing the name of the licensee selling the growler, the brand of the nonintoxicating beer or nonintoxicating craft beer in

the growler, the alcohol content by volume of the nonintoxicating beer or nonintoxicating craft beer in the growler, and the date the growler was filled or refilled, and, further, all labeling on the growler shall be consistent with all federal labeling and warning requirements.

(i) *Growler sanitation.*—A licensed brewer or resident brewer authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer 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 §11-16-23 of this code.

(j) *Fee.*—There is no additional fee for a licensed brewer or resident brewer authorized under this section to sell growlers.

(k) *Limitations on licensees.*—To be authorized under this section, a licensed brewer or resident brewer may not produce more than 25,000 barrels per calendar year at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. No more than one brewer or resident brewer license may be issued to a single person or entity and no person may hold both a brewer and a resident brewer license. A licensed brewer or resident brewer under this section may only conduct tours, give complimentary samples, and sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. A licensed brewer or resident brewer authorized under this section shall be subject to the applicable penalties under §11-16-23 of this code for violations of this section.

(l) (1) *Contract Brewing Services Agreements.* - A licensed brewer or resident brewer may enter into contract brewing services agreements with another licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia for purposes of sharing brewing equipment or facilities as part of the manufacture of nonintoxicating beer or nonintoxicating craft beer. Any such contract brewing services agreement shall be provided to the West Virginia Alcohol Beverage and Control Administration and set forth the following terms and conditions:

(A) The licensed brewer or resident brewer serving as the brewer of record and retaining ownership, rights, title, and interest in the nonintoxicating beer or nonintoxicating craft beer recipe and brand;

(B) The licensed brewer or resident brewer who will be responsible for executing any brew of nonintoxicating beer or nonintoxicating craft beer;

(C) The location of the facilities to be utilized for the manufacture of the nonintoxicating beer or nonintoxicating craft beer;

(D) Specifications regarding the packaging of all nonintoxicating beer or nonintoxicating craft beer manufactured under the contract brewing services agreement; and

(E) The manner of payment of any and all federal and state excise taxes associated with the manufactured nonintoxicating beer or nonintoxicating craft beer.

(2) The licensed brewer or resident brewer serving as the brewer of record is responsible for the transportation of the finished and packaged product to their licensed facility, where it must come to rest and be tax determined. Any nonintoxicating beer or nonintoxicating craft beer

manufactured pursuant to a contract brewing services agreement shall be credited to the specified brewer of record for purposes of the barrel limitations set forth in §11-16-6a(k) of this code, and not the licensed brewer or resident brewer responsible for executing any brew on behalf of the brewer of record.

(m) Rules.—The commissioner, in consultation with the Bureau for Public Health concerning sanitation, ~~is authorized to~~ may propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§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~~ may 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)~~ (4) 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 \$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 this code, or craft cocktail growler delivery as set forth in §60-7-8f of this code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler ~~shall~~ may not exceed \$5.

(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~~ may 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;

(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~~ shall 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 is 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~~ may 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; and

~~(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)~~ (4) A third-party delivery licensee ~~shall~~ may 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 \$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 \$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;

(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 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 shall include a manager on the applicant's license application, or a licensee's renewal application, who shall meet all other requirements of licensure. The applicant shall be a United States citizen or a naturalized citizen, pass a background investigation, be at least 21 years of age, be a suitable applicant, and meet other requirements, all as set forth in this article and the rules promulgated ~~thereunder~~, hereunder, 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 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 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 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 premises or building in which the applicant proposes to do business conforms to all applicable laws of health, fire, and zoning regulations; is a safe and proper place or building; and is not within 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 does not apply to a college, 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 200 feet of the college, 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; or (C) been convicted of a felony for violating alcohol-related distribution laws;

(7) That the applicant is the only person in any manner pecuniarily interested in the business 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. In addition to the information furnished in any application, the commissioner may make 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, shall be submitted with all true and correct information. For the purpose of conducting 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~~have not been convicted of a felony in the previous five years before application, ~~has~~have not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, ~~has~~have not been convicted of a felony for violating any alcohol-related distribution laws; ~~having made no~~ have not made any 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 state or federal alcohol-related distribution laws; and (D) that the applicant or the manager is not a suitable applicant;

(2) That the place to be occupied by the applicant is not a suitable place; or is within 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 does not apply to a college, university, or church that has notified the commissioner, in writing, that it has no objection to the location of any such place within 200 feet;

(3) That ~~the~~ any manager, owner, employee, or other 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.

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

(a) All retail dealers, distributors, brewpubs, brewers, and resident brewers of nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active license as required by this article. The license period begins on July 1 of each year and ends on June 30 of the following year. If the license is granted for a shorter period, then the license fee shall be computed semiannually in proportion to the remainder of the fiscal year: *Provided*, That if a licensee 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, then an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or refunded, prior to the processing of any renewal application and applicable full year annual license fee; and furthermore, a licensee who continues to operate after the expiration of its license is subject to all fines, penalties, and sanctions available in §11-16-23 of this code, all as determined by the commissioner.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes: Class A and Class B.

(A) For a Class A retail dealer, the license fee is \$150 for each place of business; the license fee for social, fraternal, or private clubs not operating for profit, and which have been in continuous operation for two years or more immediately preceding the date of application, is \$150: *Provided*,

That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of \$10 for each dining, club, or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club, or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer at retail, as licensed, for consumption on the licensed premises or off the licensed premises. Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer for consumption off the licensed premises when it is in a sealed original container and sold for personal use, and not for resale. Class A licensees shall provide prepared food or meals along with sealed nonintoxicating beer or nonintoxicating craft beer in the original container or in a sealed growler as set forth for sales and service in §11-16-6d of this code, to a purchasing person who is in-person or in-vehicle picking up prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders-to-go, 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.

(B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans, or other sealed containers only, and only for consumption off the licensed premises. A Class B retailer may sell to a purchasing person, for personal use, and not for resale, quantities of draught beer ~~in~~ original containers that are no larger in size than one-half barrel for off-premises consumption. The commissioner may only issue a Class B license to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises. Caterers or party supply stores shall purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(C) A Class A retail dealer may contract, purchase, or develop a mobile ordering application or web-based software program to permit the ordering and purchase of nonintoxicating beer or nonintoxicating craft beer, as authorized by the licensee's license. The nonintoxicating beer or nonintoxicating craft beer shall be in a sealed original container or a sealed growler and meet the requirements of §11-16-6d of this code.

(2) For a distributor, the license fee is \$1,000 for each place of business.

(3) For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is ~~\$500~~ \$250 for each place of manufacture, and no more than three places of manufacture are permitted for licensure;

(B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture, and no more than five places of manufacture are permitted for licensure;

(C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,500 for each place of manufacture.

(D) A brewer or resident brewer licensed under paragraph (A) or (B) of this subdivision shall receive one license for use at all places of manufacture; each place of manufacture shall meet all licensing requirements in this article and the rules; and all places of manufacture shall be noted on the one brewer or resident brewer license in compliance with §11-16-5 and §11-16-6a(k) of this code.

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections (c), (d), and (e) of this section: *Provided*, That a brewer whose principal place of business or manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be subject to the variable license fees of subdivision (3), subsection (b) of this section and the requirements set out in subsections (c), (d), and (e) of this section subject to investigation and approval by the commissioner as to brewer requirements.

(5) For a brewpub, the license fee is \$500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of nonintoxicating beer or nonintoxicating craft beer barrels and gallons it may produce during the year based upon the production capacity of the brewer's or resident brewer's manufacturing facilities and the prior year's production and sales volume of nonintoxicating beer or nonintoxicating craft beer.

(d) On or before July 15 of each year, every brewer, or resident brewer who is granted a license shall file a final report, on a form provided by the commissioner, that is dated as of June 30 of that year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in barrels and gallons produced at its principal place of business and other sites of manufacture during the prior year.

(e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with the application or renewal application for a brewer's or resident brewer's license for that period, then the brewer or resident brewer shall include a remittance for the balance of the license fee pursuant to this section that would be required for the final, higher level of production.

(f) Any brewer or resident brewer failing to file the reports required in subsections (c) and (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

(g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a nonintoxicating beer floor plan extension is \$50, and the fee may not be prorated or refunded. A licensee shall submit an application, certification that the event meets certain requirements in this code and rules, and any other information required by the commissioner, at least 15 days prior to the event, all as determined by the commissioner.

(h) Notwithstanding subsections (a) and (b) of this section, a Class A retail dealer, in good standing with the commissioner, may apply, on a form provided by the commissioner, to sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer for on-premises consumption in an outdoor dining area or outdoor street dining area, as authorized by any municipal

government or county commission in the which the licensee operates. The Class A retail dealer shall submit to the municipal government or county commission, for approval, a revised floorplan and a request to sell and serve nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved outdoor area. For private outdoor street dining, or private outdoor dining, the approved and bounded outdoor area need not be adjacent to the licensee's licensed premises, but in close proximity and under the licensee's control with right of ingress and egress. For purposes of this section, "close proximity" means an available area within 150 feet of the Class A retail dealer's licensed premises. A Class A retail dealer may operate a nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining in conjunction with a temporary private outdoor dining or temporary private outdoor street dining area set forth in §60-7-8d of this code and temporary private wine outdoor dining or temporary private wine outdoor street dining set forth in §60-8-32a of this code.

(i) For purposes of this article, "nonintoxicating beer or nonintoxicating craft beer outdoor dining and nonintoxicating beer or nonintoxicating craft beer outdoor street dining" includes dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls. Any area where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

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 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 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~~ Three separate and individual ~~sample~~ samples serving per customer verified to be 21 years of age or older; and

(2) ~~One ounce~~ One and one-half ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed one and one-half ounces.

(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.

(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 §60-3A-24, §60-3A-25a, §60-3A-26, and §60-3A-27 of this code;

§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~~ 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 applicant, and being of good moral 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. 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: (A) Been convicted in this state or any other state of any felony in the five years preceding the date of application; or (B) been convicted of any other crime involving 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 state or federal alcohol-related distribution laws; ~~and if~~ 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~~ an applicant shall not be issued or eligible to hold a retail license under this article, ~~if:~~ the applicant:

(1) ~~The applicant has~~ Has been, within the five years preceding the date of application: (A) Convicted in this state of any felony; or (B) convicted of a crime involving fraud, dishonesty, or deceit; or (C) convicted of any felony in this or any other state court or any federal court for a violation of state or federal alcohol-related distribution laws; 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 years preceding the date of application: (A) Convicted in this state of any felony; or (B) convicted of a crime involving fraud, dishonesty, or deceit; or (C) convicted of any felony in this or any other state court or any federal court for a violation of state or federal alcohol-related distribution laws.

(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.

ARTICLE 4. LICENSES.

§60-4-3a. Distillery, and mini-distillery, and micro-distillery license to manufacture and sell.

(a) *Sales of liquor.*—An operator of a distillery, mini-distillery, or micro-distillery may offer liquor for retail sale to customers from the distillery, mini-distillery, or micro-distillery for consumption off premises only. Except for complimentary samples offered pursuant to §60-6-1 of this code, customers may not consume any liquor on the premises of the distillery, mini-distillery, or micro-distillery and except for a distillery, mini-distillery, or micro-distillery that obtains a private manufacturer club license set forth in §60-7-1 *et seq.* of this code, and a Class A retail dealer license set forth in §11-16-1 *et seq.* of the code: *Provided*, That a licensed distillery, mini-distillery, or micro-distillery may offer complimentary samples of alcoholic liquors as authorized by this subsection when alcoholic liquors are manufactured by that licensed distillery, mini-distillery, or micro-distillery for consumption on the licensed premises. Notwithstanding any other provision of law to the contrary, a licensed distillery, mini-distillery, or micro-distillery may sell, furnish, and serve alcoholic liquors when licensed accordingly beginning at 6:00 a.m. unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) *Retail off-premises consumption sales.*—Every licensed distillery, mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq.* and §60-4-1 *et seq.* of this code, applicable to liquor retailers and distillers. In the interest of promoting tourism throughout the state, every licensed distillery, mini-distillery, or micro-distillery manufacturing liquor in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the licensed distillery, mini-distillery, or micro-distillery's sealed liquor. At least five days prior to an approved private fair and festival, an authorized distillery, mini-distillery, or micro-distillery shall provide a copy of a written agreement to sell only liquor manufactured by the licensed distillery, mini-distillery, or micro-distillery at the private fair and festival's licensed premises. If approved, an authorized distillery, mini-distillery, or micro-distillery may conduct off-premises consumption sales of their liquor from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved distilleries, mini-distilleries, and micro-distilleries' off-premises consumption sales shall comply with all retail requirements in §60-3A-1 *et seq.* of this code, and specifically §60-3A-17 of this code with respect to all markups, taxes, and fees. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide complimentary samples to patrons who are 21 years of age and older and who are not intoxicated.

The complimentary liquor samples of the licensed distillery, mini-distillery, or micro-distillery's product on any sampling day shall not exceed:

(1) Three separate and individual samples serving per customer verified to be 21 years of age or older; and

(2) One and one-half ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed one and one-half ounces.

(c) *Payment of taxes and fees.*—The distillery, mini-distillery, or micro-distillery shall pay all taxes and fees required of licensed retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner, except for payments of the wholesale markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises consumption is subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to the commissioner: *Provided, however*, That liquor sold by the distillery, mini-distillery, or micro-distillery shall not be priced less than the price set by the commissioner pursuant §60-3A-17 of this code.

(d) *Payments to market zone retailers.*—Each distillery, mini-distillery, or micro-distillery shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for the value of all sales at the distillery, mini-distillery, or micro-distillery each month. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone retailer's annual gross prior years pretax value sales. The maximum amount of market zone payments that a distillery, mini-distillery, or micro-distillery shall submit to the commissioner is \$15,000 per annum.

(e) *Limitations on licensees.*—A distillery, mini-distillery, or micro-distillery may not sell more than 3,000 gallons of product at the distillery, mini-distillery, or micro-distillery location during the initial 24 month period of licensure. The distillery, mini-distillery, or micro-distillery may increase sales at the distillery, mini-distillery, or micro-distillery location by 2,000 gallons following the initial 24 month period of licensure and may increase sales at the distillery, mini-distillery, or micro-distillery location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year of total sales at the distillery, mini-distillery, or micro-distillery location. No A licensed mini-distillery may produce more than 50,000 gallons per calendar year, at the mini-distillery location. A licensed micro-distillery may not produce more than 10,000 gallons per calendar year at the micro-distillery location. The commissioner may issue more than one distillery, or mini-distillery, or micro-distillery license to a single person or entity and a person may hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery, or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as otherwise specified in the code.

(f) *Building code and tax classification.*—Notwithstanding any provision of this code to the contrary, the mere addition of a distillery, mini-distillery, or micro-distillery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

§60-4-3b. Winery and farm winery license to manufacture and sell.

(a) An operator of a winery or farm winery may offer wine produced by the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, for retail sale to customers from the winery or farm winery for consumption off the premises only. Customers may consume wine on the premises when an operator of a winery or farm winery offers complimentary samples pursuant to §60-6-1 of this code, the winery or farm winery is licensed as a private wine restaurant, or the winery or farm winery is licensed as a private manufacturer club. Customers may not consume any wine on the licensed premises of the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, unless the winery, farm winery, or farm entity has obtained a multi-capacity winery or farm winery license: *Provided*, That under this subsection, a licensed winery or farm winery may offer complimentary samples of wine manufactured by that licensed winery or farm

winery for consumption on the premises only on Sundays beginning at 6:00 a.m. in any county in which the same has been approved as provided in §7-1-3ss of this code. Notwithstanding any other provision of law to the contrary, a licensed winery or farm winery may sell, serve, and furnish wine, for on-premises consumption when licensed accordingly, beginning at 6:00 a.m., and for off-premises consumption beginning at 6:00 a.m. on any day of the week, unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) Complimentary samples allowed by the provisions of this section may not exceed two fluid ounces and no more than three samples may be given to a patron in any one day.

(c) Complimentary samples may be provided only for on-premises consumption.

(d) A winery, farm winery, or farm entity, pursuant to §60-1-5c of this code, may offer for retail sale from their licensed premises sealed original container bottles of wine for off-premises consumption only.

(e) A winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code, holding a multi-capacity license and a private wine restaurant license may offer wine by the drink or glass in a private wine restaurant located on the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

(f) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers, wineries, and suppliers when properly licensed in such capacities.

(g) (1) The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rules promulgated by the commissioner.

(2) Each winery or farm winery acting as its own supplier shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in §60-8-1 *et seq.* of this code.

(3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code, or pursuant to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original sealed package for the purpose of resale in the original sealed package, if the final purchase of the wine is subject to the excise tax or if the purchase is delivered outside this state.

(4) ~~No~~ A liter tax shall not be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of the wine is subject to the liter tax.

(5) This section shall not be interpreted to authorize a purchase for resale exemption in contravention of §11-15-9a of this code.

(h) A winery or farm winery may advertise a particular brand or brands of wine produced by it. The price of the wine is subject to federal requirements or restrictions.

(i) A winery or farm winery shall maintain separate winery or farm winery supplier, retailer, and direct shipper licenses when acting in one or more of those capacities and shall pay all associated license fees, unless the winery or farm winery holds a license issued pursuant to the provisions

of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate licenses or a multi-capacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code; private wine restaurant; and direct shipper for wine produced by the winery or farm winery. A winery or farm winery that has applied, paid all fees, and met all requirements may obtain a private manufacturer club license subject to the requirements of §60-7-1 *et seq.* of this code, and a Class A retail dealer license subject to the requirements of §11-16-1 *et seq.* of ~~the~~this code. All wineries ~~must~~ shall use a distributor to distribute and sell their wine in the state, except for farm wineries. Wineries or farm wineries may enter into alternating wine proprietorship agreements, pursuant to §60-1-5c of this code.

(j) The owners of a licensed winery or farm winery may operate a distillery, mini-distillery, or micro-distillery, brewery, or as a resident brewer, as otherwise specified in the code.

(k) For purposes of this section, terms have the same meaning as provided in §8-13-7 of this code.

(l) *Building code and tax classification.*—Notwithstanding any provision of this code to the contrary, the mere addition of a winery or farm winery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

(m) In the interest of promoting tourism throughout the state, every licensed winery or farm winery manufacturing wine in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the winery or farm winery's sealed wine. At least five days prior to an approved private fair and festival, an authorized winery or farm winery shall provide a copy of a written agreement to sell only wine manufactured by the licensed winery or farm winery at the private fair and festival's licensed premises. If approved, an authorized licensed winery or farm winery may conduct off-premises consumption sales of their wine from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved wineries and farm wineries' off-premises consumption sales shall comply with all retail requirements in §60-8-1 *et seq.* of this code, and specifically with respect to all markups, taxes, and fees. Additionally, an authorized winery or farm winery may provide complimentary samples to patrons who are 21 years of age and older and who are not intoxicated in the amounts set forth in subsection (b).

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:

(1) "Applicant" means a private club applying for a license under the provisions of this article.

(2) "Code" means the official Code of West Virginia, 1931, as amended.

(3) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

(4) "Licensee" means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

(5) "Private club" means any corporation or unincorporated association which either:

(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;

(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;

(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

(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~~ where 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~~ The 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 Have at least 50 members;

(ii) ~~Operates~~ Operate 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,~~ Maintain, at any one time, a 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~~ Use 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~~ 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~~ 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~~ using 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~~ Have at least 50 members;

(B) ~~Operates~~ Operate 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,~~ Maintain, at any one time, ~~\$500~~ not less than a food inventory capable of being prepared in the private club bar's kitchen or ~~has~~ have 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~~ Use 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~~ Meet and is subject to all other private club requirements.

(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:

(A) Have at least 10 members and guests attending the catering event;

(B) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

(C) Operate a private club restaurant on a daily operating basis;

(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;

(E) Provide to the commissioner, at least seven days before the event is to take place:

(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;

(ii) The name of the owner or operator of the unlicensed private venue;

(iii) A copy of the contract or contracts between the private caterer, the person contracting with the caterer, and the unlicensed private venue;

(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 and 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) Be inside a building or structure; (II) have other facilities to prepare and serve food and alcohol; (III) have adequate restrooms and sufficient building facilities for the number of members and guests expected to attend the private catering event; and (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

(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;

(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;

(H) Meet and be subject to all other private club requirements; and

(l) Use an age verification system approved by the commissioner.

(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 and wine when licensed for those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subdivision which:

(A) Has at least 100 members;

(B) Operates a 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~~ a 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;

(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~~ 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

(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~~ licensee, or licensed private manufacturer's club ~~licensee~~ 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~~ using 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, hard cider, 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~~ Have at least 10 members;

(B) ~~Operates~~ Operate 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~~, Maintain, at any one time, ~~\$500~~ not less than \$200 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~~ Is 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 operated, ~~and further each~~ 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~~ Provide 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~~ Require 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~~ Require 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~~ Require 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~~ use 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~~ Use 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~~ Obtain all permits required by §60-6-12 of this code; and

(N) ~~Meets~~ Meet and is be subject to all other applicable private club requirements.

(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 shall be met by the restaurant area. The applicant for a private club restaurant license is an applicant which:

(A) Has at least 100 members;

(B) Operate a restaurant and full kitchen with at least: (i) Ovens and four-burner ranges; (ii) refrigerators or freezers, or some combination of refrigerators and freezers greater than 50 cubic feet, or a walk-in refrigerator or freezer; (iii) other kitchen utensils and apparatus as determined by the commissioner; and (iv) freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

(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;

(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:

(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;

(F) 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 may a private club restaurant have less than one restroom; and

(G) Meets and is subject to all other private club requirements.

(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:

(A) Has at least 100 members;

(B) Offers tours, may offer complimentary samples, and may offer space as a conference center or for meetings;

(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: Provided, That a licensee required by the provisions of this code to serve food on premises in order to lawfully serve alcoholic liquors, beer, wine, or hard cider may meet the requirement of having on-premises food preparation facilities by, during all hours alcoholic liquors, beer, wine, and hard cider are offered for sale or sampling, having on-site an operating food truck or other portable kitchen: Provided, however, That the approval of the commissioner and the appropriate health department is required to operate as allowed by subsection (a) of this section;

(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;

(E) Owns or leases, controls, operates, and uses ~~acreage amounting to at least one acre~~ space which is contiguous, bounded, or fenced real property sufficient to safely operate the licensed premises 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;

(F) Lists the entire property from paragraph (E) of this 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;

(G) Identifies a person, persons, an entity, or entities who or which ~~has~~ have the right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(H) Uses an age verification system approved by the commissioner; and

(I) Meets and is subject to all other private club requirements.

(13) "Private fair and festival" means an applicant for a private club or a licensed private club licensee meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this subdivision which:

(A) Has at least 100 members;

(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;

(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 to the commissioner prior to approval;

(D) Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer;

(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;

(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;

(G) Uses an age verification system approved by the commissioner; and

(H) Meets and is subject to all other private club requirements.

(14) "Private hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(A) Has at least 2,000 members;

(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;

(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;

(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~~ In calculating the food inventory, the commissioner may not include microwavable, frozen, or canned foods;

(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;

(F) Lists the entire property from paragraph (E) of this 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;

(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;

(H) Uses an age verification system approved by the commissioner;

(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, and hard cider. 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.

(15) "Private resort hotel" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 5,000 members;

(B) Offers short term, daily rate accommodations or lodging for members and their guests amounting to at least 50 separate bedrooms;

(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;

(D) Maintains, at any one time, ~~\$5,000~~ of fresh food inventory capable of being prepared in the private resort hotel's full kitchen. In calculating the food inventory, the commissioner may not include microwavable, frozen, or canned foods;

(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;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private resort hotel's floorplan 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;

(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;

(H) Uses an age verification system approved by the commissioner;

(I) Meets and is subject to all other private club requirements;

(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, hard cider, 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.

(16) "Private golf club" means an applicant for a private club or licensed private club licensee ~~meeting the criteria set forth in this subdivision~~ which:

(A) Has at least 100 members;

(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;

(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;

(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;

(E) Lists the entire property from paragraph (D) of this subsection and all adjoining buildings and structures on the private golf club's floorplan 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;

(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;

(G) Uses an age verification system approved by the commissioner; and

(H) Meets and is subject to all other private club requirements.

(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 subdivision~~ which:

(A) Has at least 50 members;

(B) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

(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;

(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;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private nine-hole golf course's floorplan 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;

(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;

(G) Uses an age verification system approved by the commissioner; and

(H) Meets and is subject to all other private club requirements.

(18) "Private tennis club" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 100 members;

(B) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

(C) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises ~~and~~ which is capable of serving freshly prepared food;

(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;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private tennis club's floorplan 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;

(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;

(G) Meets and is subject to all other private club requirements; and

(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 what 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 or university 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~~ enclosed 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 that is~~ capable of serving freshly prepared food or meals to 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.

(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 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:

(A) Have at least 1,000 members;

(B) Maintain an open-air or ~~closed-air~~ enclosed 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 reserve the stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises ~~and~~ which is 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;

(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;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private professional sports stadium's floorplan comprising the licensed premises, ~~and~~ 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 professional sports stadium's licensed premises;

(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.

(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~~ All businesses that are members of the association ~~have agreed~~ shall agree 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, wine, and hard cider occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(A) Have at least 100 members;

(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 ~~serve~~ serve freshly prepared food at least 15 hours per week;

(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~~ 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;

(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;

(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;

(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;

(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;

(H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

(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;

(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;

(L) Use an age verification system approved by the commissioner; and

(M) Meet and be subject to all other private club requirements.

(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:

(A) Has at least 25 members;

(B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food, or ~~may engage~~ engages 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;

(D) Owns or leases, controls, operates, and uses ~~acreage amounting to at least two contiguous acres of bounded or fenced real property~~ space sufficient to safely operate the licensed premises. 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;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises, ~~and~~ 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 wedding venue or barn's licensed premises;

(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;

(G) Meets and is subject to all other private club requirements; and

(H) Uses an age verification system approved by the commissioner.

(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:

(A) Has at least 100 members;

(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 reserve the parts of the sports complex in advance of the sporting or other event;

(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~~ which is 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 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;

(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;

(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;

(F) Lists the entire property from paragraph (E) of this 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, nonintoxicating beer, nonintoxicating craft beer, and hard cider 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;

(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;

(H) Meets and is subject to all other private club requirements; and

(I) Uses an age verification system approved by the commissioner.

(24) "Private coliseum or center" means an applicant for a private club or licensed private club licensee that is open for various events including, but not limited to, musical concerts, bands, sporting events, monster trucks, sports entertainment events, circuses, expos, hobby events, tradeshow, health events, reserved weddings, reunions, retreats, conventions, conferences, meetings, or other special events. The licensee may not sell alcoholic liquors, nonintoxicating

beer or wine when conducting or hosting events focused on patrons who are less than 21 years of age, and further the applicant shall:

(A) Have at least 5,000 members;

(B) Maintain an enclosed coliseum or center venue with at least 80,000 square feet of event space primarily used for events as noted above, where parties reserve the coliseum or center venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and be capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending events at the private coliseum or center;

(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 coliseum or center's floorplan and could be used for contracted-for events, as noted above, or a private fair and festival, as authorized by the commissioner per dual licensing requirements as set forth in §60-7-2a of this code;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private coliseum or center's floorplan 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 private coliseum or center's licensed premises;

(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.

(25) "Private food court" means an applicant who qualifies for a private club restaurant or licensed private club restaurant licensee that operates in a facility within a licensed premises with one licensed floorplan that includes an association of other inter-connected licensed private club restaurants or unlicensed restaurants that operate legally without alcohol sales, where all businesses that are licensed 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 food court, and further the applicant shall:

(A) Have at least 100 members;

(B) Have at least one member of its association who qualifies for a private club restaurant containing a 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 be capable of serving freshly prepared food at least 15 hours per week in the private food court;

(C) Have at least one member of its association who qualifies for a private club restaurant who maintains, at any one time, ~~\$1,000~~ of fresh food inventory capable of being prepared 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;

(D) Have an association that owns or leases, controls, operates, and uses a facility that meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its licensed premises;

(E) Have an association that lists in the application for licensure the entire facility and any inter-connected and adjoining structures on the private food court's floorplan which would compromise the licensed premises, and 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 while on the private food court's licensed premises and as noted on the private food court's licensed floorplan;

(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;

(G) Have at least one separate and unrelated business applying for the license and certifying that all licensed businesses in the association have agreed to the liability responsibility associated with a private food court license;

(H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private food court;

(J) Provide a copy of a written agreement between all the vendors of the association that is executed by all businesses stating that each licensed vendor is jointly and severally liable for any violations of this chapter committed on the licensed premises;

(K) Provide a security plan indicating all businesses who will be selling and serving alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated, and a plan to provide for the public health and safety of members, patrons, and guests;

(L) Use an age verification system approved by the commissioner; and

(M) Meet and be subject to all other private club requirements.

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 A private coliseum or center may permit a private fair and festival licensee to conduct the temporary special event, authorized by that license, within, or on the private coliseum or center licensee's licensed premises in order to and hold additional licenses for the purpose of holding events, such as fairs and festivals, and creating create tourism opportunities that will show case businesses promote brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries in this state.~~

~~(b) A private coliseum or center licensee may host an a special event for a private fair and festival licensee on the licensee's licensed premises if the licensee is both licensees are in good standing with the commissioner and the licensee submits submit to the commissioner its the temporary floorplan revisions of the licensed venue private coliseum or center in which the special event would be held to comprise the special event's lawful premises, which shall only include spaces in buildings or rooms of the private coliseum or center's licensed premises. By contractual agreement between the private coliseum or center licensee and the private fair and festival licensee, the parties shall agree where the licensee has control of the space that the private coliseum or center maintains control of its licensed premises, but for the a set contracted rental time period, where the space The private fair and festival licensee shall safely accounts account for the ingress and egress of the stated members and guests who will be attending the special event at the licensed premises. During the contracted rental time period, the private fair and festival licensee is wholly responsible and liable for the proper sale and serving of alcoholic liquors and nonintoxicating beer in the area designated as the private fair and festival's temporary floorplan, as set forth in this section. The venue's private fair and festival's temporary floorplan during the set time period as stated in the contract shall comprise the private fair and festival's licensed premises for the temporary special event, which is authorized for the lawful sale, service, and consumption of alcoholic liquors and nonintoxicating beer and nonintoxicating craft beer, and wine throughout the private fair and festival's licensed premises during this dually licensed temporary special event: Provided, That the venue private fair and festival's licensed premises dually shared and licensed with the private coliseum or center shall:~~

~~(1) Have facilities to prepare and serve food and alcohol;~~

~~(2) Have adequate restrooms and (3) sufficient building facilities for the expected number of members and guests expected to attend attending the event;~~

~~(3) Comply with all other requirements of its license in this article; and~~

~~(3)(4) otherwise be in compliance Comply 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 There is no limit on the number of private fair and festivals that may be held at a private coliseum or center.~~

§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; and ~~\$4,000~~ \$2,000 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, a private coliseum or center as defined in §60-7-2 of this code, or a private food court as defined in §60-7-2 of this code. ~~and further, if~~ 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, nonintoxicating beer and nonintoxicating craft beer 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~~ is \$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 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~~ created a special license designated Class S2 private fair and festival license for the retail sale of ~~liquor, wine~~ alcoholic liquors and 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~~ Make application with the ~~commission~~ commissioner at least 15 days ~~pursuant~~ prior to the private fair, festival, or other event;

(3) Pay a nonrefundable non-prorated license fee of \$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.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section ~~must~~ shall be purchased from ~~the licensed distributor~~ distributors 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 sSealed~~ containers of nonintoxicating beer or nonintoxicating craft beer may be sold for off-premises consumption if the nonintoxicating beer and nonintoxicating craft beer is being sold by an authorized brewer or resident brewer, as set forth in §11-16-6a(d) of this code, who manufactures the nonintoxicating beer or nonintoxicating craft beer in this state, 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 ~~The off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized brewer or resident brewer. Prior to the start of the private fair or festival, an authorized brewer or resident brewer who agrees to offer such off-premises consumption sales of their nonintoxicating beer or nonintoxicating craft beer from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair and festival must meet the requirements of §11-16-6a(d) of this code. s, or other event~~ The written agreement with each authorized brewer or resident brewer shall account for lawful sales of nonintoxicating beer and nonintoxicating craft beer sold for off-premises consumption as set forth in §11-16-1 et seq. of this code. The authorized and approved brewer, resident brewer, or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(e) Wine or hard cider sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from a licensed wine or hard cider distributor, ~~winery,~~ or farm winery in accordance with §60-8-1 *et seq.* of this code and §60-8A-1 *et seq.* of this code, as applicable. ~~Sales of sSealed~~ containers of wine or hard cider may be sold for off-premises consumption if the wine or hard cider is ~~purchased~~

~~from a licensed distributor is being sold by an authorized winery or farm winery, as set forth in §60-4-3b(m) and §60-8A-5(c) of this code, who manufactures that wine or hard cider in this state. The off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized winery or farm winery. and the licensed distributor, winery, or farm winery. An authorized winery or farm winery who agrees to offer their wine or hard cider for off-premises consumption sales from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair or festival or other event shall meet the requirements of §60-4-3b(m) and §60-8A-5(c) of this code, as applicable. The written agreement with each authorized winery or farm winery shall account for lawful sales of wine or hard cider sold for off-premises consumption as set forth in §60-8-1 et seq. of this code and §60-8A-1 et seq. of this code, as applicable. The authorized and approved winery, farm winery or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.~~

(f) ~~Liquor sold, furnished, tendered, or served for on-premises consumption by the private fair and festival 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 being sold by an authorized distillery, mini-distillery, or micro-distillery, as set forth in §60-4-3a of this code, who manufactures their liquor in this state. Off-premises consumption sales shall comply with §60-3A-17 of this code and §60-4-3a(c) of this code shall not apply to these sales. The off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized distillery, mini-distillery, or micro-distillery. 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. An authorized licensed distillery, mini-distillery, or micro-distillery who agrees to offer such off-premises consumption sales of their manufactured liquor from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair, festival, or other event must meet the requirements as set forth in §60-4-3a of this code. The written agreement with each authorized distillery, mini-distillery, or micro-distillery shall account for lawful sales of liquor sold for off-premises consumption as set forth in §60-3A-1 of this code. An authorized and approved distillery, mini-distillery, micro-distillery or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.~~

(g) A licensee authorized by this section may ~~utilize~~ use bona fide employees, ~~or~~ volunteers or in limited circumstances licensed representatives to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, ~~or~~ liquor, or hard cider.

(h) Licensed representatives of a ~~an~~ authorized and approved brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-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, hard cider, or liquor. However, licensed representatives of a brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery that has agreed in writing to conduct sampling and off-premises consumption sales of their respective licensee's products at the private fair and festival, may discuss their respective products and engage in the limited giving of complimentary samples in accordance with §11-16-6a (c) and (d), §60-4-3a (a) and (b), and §60-4-3b (b) and (m) of this code; and the selling of

sealed bottles or cans of their respective nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor products for off-premises consumption. All taxes and fees must be paid on lawful sales.

(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~~ Dual licensing is permitted for private fairs and festivals pursuant to §60-7-2a of this code.

(k) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or their licensed representatives is jointly liable and responsible for any violations of this article.

(l) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery to conduct limited off-premises consumption sales shall not have any pecuniary interest, share, or percentage in any sales of sealed nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor.

(m) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery to conduct limited off-premises consumption sales may charge them a flat booth rental fee.

(n) A private fair and festival licensee, licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or their licensed representatives who permits members or guests to consume, on the private fair and festival's licensed premises, any nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor, that was purchased as an off-premises consumption sale, shall have their respective license immediately suspended, and that conduct is grounds for revocation of their license.

§60-7-8g. Special permit for a qualified permit holders in a private outdoor designated area; license fee and application; license subject to provisions of article.

(a) There is hereby created a special permit designated Class S4 for a qualified permit holder operating in a private outdoor designated area approved by a municipality as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption at a certain public property designated as a private outdoor designated area where multiple private club license type licensees who apply and obtain a qualified permit holder permit shall share liability and responsibility. Each qualified permit holder may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) Definitions:

(1) "Private outdoor designated area" means public property that has become a legally demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

(2) "Qualified permit holder" means the holder of a Class A license issued under §60-7-1 et seq. of this code.

(c) To be eligible for the license authorized by subsection (a) of this section, the qualified permit holder shall:

(1) Operate in a private outdoor designated area created by municipal ordinance as set forth in §8-12-26 of this code, and provide the commissioner a copy of the certified ordinance from the municipality;

(2) Apply to the commissioner for the special permit prior to operating in an approved private outdoor designated area on an application provided by the commissioner;

(3) Pay a nonrefundable non-prorated annual license fee of \$100 to the commissioner;

(4) Be in compliance with all state and federal laws and be in good standing with the commissioner;

(5) Be approved by the municipality to operate in the private outdoor designated area;

(6) Provide the days and hours of operation in the private designated area which cannot exceed the stated private club hours of operation;

(7) Provide, in conjunction with the municipality, adequate restroom facilities, whether permanent or portable, to serve the members and guests who will be attending the private outdoor designated area;

(8) Provide an executed agreement between all qualified permit holders stating that each qualified permit holder is jointly and severally liable for any improper acts or conduct committed in the operation of the private outdoor designated area in conjunction with operation of their Class A license;

(9) Provide a security plan for the private outdoor designated area indicating: All qualified permit holders' licensed premises where alcohol will be served in approved non-glass containers; all entrances and exits in order to verify members', patrons', and guests' ages, and to assess whether a member, patron, or guest is under 21 years of age or intoxicated; and a plan to provide for the public health and safety of members, patrons, and guests;

(10) Provide a floorplan for the private outdoor designated area indicating a legally demarcated area that is bounded or utilizes signage to safely account for the ingress and egress of members, patrons, and guests who will be within the private outdoor designated area and also be permitted to carry liquor, wine, nonintoxicating beer, and nonintoxicating craft beer on and off of the qualified permit holders' licensed premises and within the private outdoor designated area when contained in an approved non-glass container. The private outdoor designated area's floorplan does comprise a separate licensed premises authorized only for the lawful consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises when lawfully purchased from a qualified permit holder;

(11) Meet and be subject to all other private club license type requirements;

(12) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or selling alcohol not in an approved non-glasscontainer in the private outdoor designated area; and

(13) Use an age verification system approved by the commissioner.

(c) As set forth in §8-12-26 of this code a municipality may, by ordinance, establish a private outdoor designated area where the municipality may zone, set requirements and establish conditions for safe operation of private outdoor designated area by qualified permit holders.

(d) A municipality shall be responsible for the enforcement of any criminal violations occurring in a private outdoor designated area and shall report such violations to commissioner for a determination of any violation of §11-16-1 et seq. and chapter 60 of this code.

(e) The commissioner shall enforce any violations of §11-16-1 et seq. and chapter 60 of this code committed by qualified permit holders against their permit and their Class A license.

(f) A qualified permit holder that is separately authorized for an outdoor dining area or sidewalk dining area may continue to operate those areas in conjunction with the private outdoor designated area subject to the commissioner's requirements.

(g) A licensee permitted under this section is 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 required by the circumstances of for the operation of qualified permit holders in each private outdoor designated area. The commissioner may revoke or suspend immediately any permit 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.

ARTICLE 8. SALE OF WINES.

§60-8-6g. Special privilege of Class A private wine restaurant licensee to operate separate, but connected, Class B wine specialty shop license.

A Class A private wine restaurant licensee may, in the commissioner's discretion, operate Class B wine specialty shop license for the off-premises sale of nonintoxicating beer and wine in a connected but separately operated area of the Class A private wine restaurant is licensed premises: *Provided*, That each business is licensed separately and operates separate cash registers and maintains separation barriers between the different licensed operations. A licensee who fails to license two inner-connected businesses subjects the licensee to the penalties under this article.

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.

§60-8A-5. Winery or farm winery licensee's authority to manufacture, sell, and provide complimentary samples; growler sales; advertisements; taxes; fees; rulemaking.

(a) *Sales of hard cider.*—A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer hard cider manufactured

by the licensed winery or farm winery for retail sale to customers from the winery's or farm winery's licensed premises for consumption off of the licensed premises only in approved and registered hard cider kegs, bottles, or cans, or also sealed wine growlers for personal consumption and not for resale. A licensed winery or farm winery may not sell, give, or furnish hard cider for consumption on the premises of the principal place of business or manufacturing facility located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (b) of this section. "Wine Growler" has the meaning set forth in §60-8-6c(g) of this code.

(b) *Complimentary samples.*—A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer complimentary samples of hard cider manufactured at the winery's or farm winery's principal place of business or manufacturing facility located in the State of West Virginia. The complimentary samples may be no greater than two fluid ounces per sample per patron, and a sampling shall not exceed six complimentary two-fluid ounce samples per patron per day. A licensed winery or farm winery providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or older and that the patron is not noticeably or visibly intoxicated.

(c) *Retail sales.*—Every licensed winery or farm winery under this section shall comply with all the provisions applicable to wine retailers when conducting sales of hard cider and is subject to all applicable requirements and penalties. In the interest of promoting tourism throughout the state, every licensed winery or farm winery manufacturing cider in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the winery or farm winery's sealed hard cider. At least five days prior to an approved private fair and festival, an authorized winery or farm winery shall provide a copy of a written agreement to sell only hard cider manufactured by the licensed winery or farm winery at the private fair and festival's licensed premises. If approved, an authorized winery or farm winery may conduct off-premises consumption sales of their hard cider from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved wineries and farm wineries' off-premises consumption sales of hard cider shall comply with all retail requirements in §60-8-1 et seq. of this code and §60-8A-1 et seq. of this code, and specifically with respect to all markups, taxes, and fees.

(d) *Payment of taxes and fees.*—A licensed winery or farm winery under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by law and by rule of the commissioner.

(e) *Advertising.*—A licensed winery or farm winery may advertise a particular brand or brands of hard cider produced by the licensed winery or farm winery and the price of the hard cider subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(f) *Growler requirements.*—A licensed winery or farm winery, if offering wine growler filling services, shall meet the filling, labeling, sanitation, and all other wine growler requirements in §60-8-6c of this code.

(g) *Fee.*—There is no additional fee for a licensed winery or farm winery authorized under §60-8-6c of this code, to sell wine growlers, if a winery or farm winery only desires to sell hard

cider in the wine growler, and no other wine, then the annual non-prorated and nonrefundable license fee is \$50.

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, 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(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), §60-7-2(24)(H), §60-7-2(25)(H), §60-7-8c(b)(14), §60-7-8d, §60-7-8g(c)(15), 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. Com. Sub. for Senate Bill 534—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §8-12-26 and §8-12-27; to amend and reenact §11-16-3, §11-16-6, §11-16-6a, §11-16-6d, §11-16-6f, §11-16-8, §11-16-9 of said code; to amend and reenact §60-3A-3a, and §60-3A-8 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-2, §60-7-2a, §60-7-6, and §60-7-8a of said code; to amend said code by adding thereto a new section designated §60-7-8g; to amend said code by adding thereto a new section, designated §60-8-6g; to amend and reenact §60-8A-5 of said code; and to amend and reenact §61-8-27 of said code; all relating to nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor license requirements; defining terms; authorizing municipalities to create private outdoor designated areas by ordinances; creating special permit for Class A licensees who apply to be qualified permit holders to operate in private outdoor designated areas, setting forth requirements, and setting fees; providing municipalities

may not impose additional license fees on any state licensee; promoting tourism in the state by permitting authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries a limited off-site retail privilege for off-premises consumption sales for nonintoxicating beer manufactured by them and permitting limited complimentary samples at private fair and festivals; providing requirements for the conduct of the sales at private fairs and festivals; requiring payment of taxes, fees and markups, and no license fee; clarifying the nonintoxicating beer growler requirements for contents and sealing; allowing brewer and resident brewer to have additional places of manufacture under one license and based on manufacturing volume capacity; reducing fees and limiting additional places of manufacture under one license; forbidding the commissioner from considering licenses in other state as a criterion when evaluating applications for licensure in this state; providing that any applicant for licensure in this state must meet all requirements, must be in good standing in all other states and must never had a license revoked in any other state in which it is licensed; providing, that persons licensed as resident brewers in this state are limited to producing 25,000 barrels of non-intoxicating beer and limited to self-distribution rights of 10,000 barrels of non-intoxicating beer; providing that such production and distribution limits shall apply, in the aggregate, whether produced in another state or West Virginia, as to all non-intoxicating beer produced by a person licensed as a resident brewer in West Virginia; providing a licensed brewer or resident brewer may enter into contract brewing services agreements with another licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia for purposes of sharing brewing equipment or facilities as part of the manufacture of nonintoxicating beer or nonintoxicating craft beer; requiring any such contract brewing services agreement shall be provided to the West Virginia Alcohol Beverage and Control Administration and contain enumerated terms and conditions: removing limit on nonintoxicating beer or nonintoxicating craft beer which may be included with an order, sale or delivery of multiple meals; allowing commissioner to refuse a license if applicant or manager is not a suitable applicant; increasing number and size of liquor samples that are permitted; requiring manager to be suitable applicant and of good moral character; reducing and modifying food inventory required for private cigar shop, private club bars, private food truck, private manufacturer club, private hotel, private resort hotel, private farmers market in a private club restaurant, private multi-sport complex, and private food court; allowing a private manufacturer club to have operating food truck or other portable kitchen in lieu of on-premises food preparation facilities; removing acreage requirement for private wedding venue or barn license; clarifying nonintoxicating beer license requirements for persons, fairs and festivals; clarifying retail liquor outlet license requirements for applicants; clarifying that the statute applying to distilleries and mini-distilleries also applies to micro-distilleries; clarifying manufacturing limitations on distilleries, mini-distilleries, and micro distilleries; permitting dually licensed events, and a license fee; creating a private coliseum or center license and specifying license requirements; authorizing private coliseum or center license to conduct a temporary event in conjunction with a private fair and festival licensee and setting forth requirements; setting fees; creating a private food court license and specifying license requirements; clarifying dual licensing requirements and authorization for private fair and festivals, requirements, and no license fee; permitting private fairs and festivals to conduct on-premises consumption sales with certain requirements; permitting private fairs and festivals to allow authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries to conduct limited off-premises consumption retail sales with certain requirements from the private fair and festival's licensed premises; permitting a private wine restaurant to operate a separately licensed but connected wine specialty shop; clarifying unlawful admission to dance hall; and exempting permit holder operating a private outdoor designated area, private coliseum or center licensee, or private food court from prohibition on admitting persons under the age of 18.

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

Engrossed Committee Substitute for Senate Bill 534, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Clements, Hamilton, Hunt, Maroney, Martin, Nelson, Oliverio, Phillips, Plymale, Queen, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—25.

The nays were: Azinger, Chapman, Deeds, Grady, Karnes, Maynard, Roberts, and Smith—8.

Absent: Jeffries—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. 534) 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 232, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system.

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 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.

§27-6A-12. Development of a strategic plan for a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, cognitive disabilities, and substance use disorders away from the criminal justice system into treatment and to promote continuity of care and interventions; directing submission of a report to the Legislature.

(a) The Legislature finds that the state's adult and juvenile forensic patient populations continue to increase and that the placement of forensic patients at state health care facilities, diversion facilities, group homes, transitional living facilities, in the community, and other settings continues to rapidly escalate. The Legislature further finds that persons with mental illness, developmental disabilities, cognitive disabilities, and/or substance use disorder may be overrepresented in the criminal justice system, and many of these people might not present a danger to the public if they could participate in a functioning community behavioral health continuum of care. The Legislature further finds that the increasing adult and juvenile forensic

patient populations, the placement and treatment of adult and juvenile forensic patients, and the release of persons with mental illness, developmental disabilities, and other disabilities creates significant clinical, public safety, staffing, and fiscal needs and burdens for the judiciary, law enforcement, state health care facilities, correctional facilities, behavioral health professionals, hospitals, and the public. The Legislature further finds that there is a need for improved coordination among the Department of Health and Human Resources, the Division of Corrections and Rehabilitation, and the Division of Rehabilitation Services to promote the identification, safe discharge, and effective community intervention and placement of persons who suffer from mental illness, a developmental disability, a cognitive disability, and/or substance use disorder. The Legislature further finds that there is a need to develop functional standards and protocols for the identification, management, qualified assessment, and treatment of adult and juvenile forensic patients.

(b) The Chairman of the Dangerousness Assessment Advisory Board (DAAB) shall convene a multi-disciplinary study group of the following persons:

(1) The Statewide Forensic Clinical Director;

(2) The Statewide Forensic Coordinator;

(3) The two forensic psychiatrists who are members of the board;

(4) The two psychologists who are members of the board;

(5) The Director of the Office of Drug Control Policy;

(6) A designee of the Supreme Court of Appeals;

(7) A designee of the Bureau of Children and Families with experience in juvenile forensic matters;

(8) A designee of the Division of Corrections and Rehabilitation;

(9) A designee of the Division of Rehabilitation Services;

(10) A designee of the Prosecuting Attorneys Institute;

(11) A designee of the Public Defender Services;

(12) A designee of the West Virginia Behavioral Healthcare Providers Association who is a licensed clinician with forensic patient experience;

(13) A designee of the West Virginia Hospital Association;

(14) A designee of the West Virginia Housing Development Fund;

(15) A designee of Disability Rights of West Virginia;

(16) A designee of the West Virginia Sheriff's Association;

(17) A designee of the Juvenile Justice Commission; and

(18) A designee of the West Virginia University Center for Excellence in Disabilities.

(c) The purpose of the multi-disciplinary study group is to provide opinion, guidance, and informed objective expertise to the Legislature regarding each of the following areas:

(1) The development and implementation of a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, cognitive disabilities, and/or substance use disorders away from the criminal justice system and into community-based treatment or other settings where appropriate;

(2) The review and recommendation of standards and protocols for the evaluation, treatment, management, and stabilization of adult and juvenile forensic patients;

(3) A recommendation regarding standards and protocols to promote continuity of care and interventions for adult and juvenile forensic patients and inmates released from correctional facilities;

(4) The recommendation of a model to coordinate services and interventions among the Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the court system to facilitate the appropriate diversion, identification, evaluation, assessment, management, and placement of adults and juveniles who suffer from mental illness, a development disability, a cognitive disability, and/or substance use disorder to ensure public safety and the effective clinical management of such persons;

(5) The identification of potential funding sources and the scope of resources needed for the implementation of the study group's recommendations; and

(6) Any other issues related to addressing the Legislature's findings.

(d) The provisions of §6-9A-1 et seq. and §29B-1-1 et seq. of this code are inapplicable to the operation of the study group.

(e) The written recommendations of the study group shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before November 30, 2023.

(f) Each member of the multi-disciplinary study group whose regular salary is not paid by the State of West Virginia shall be paid the same compensation and expense reimbursement that is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. Reimbursement for expenses shall not be made, except upon an itemized account, properly certified by the members of the study group. All reimbursement for expenses shall be paid out of the State Treasury upon a requisition upon the State Auditor.;

And,

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

Eng. Com. Sub. for Senate Bill 232—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-12, relating to creating a multi-

disciplinary study group to make recommendations regarding the diversion of persons with mental illness, developmental disabilities, cognitive disabilities, substance abuse problems, and other disabilities from the criminal justice system; setting forth findings; listing the membership makeup of the study group; promoting appropriate interventions and placements for inmates and persons with disabilities; developing a plan to coordinate care, treatment, and placement for persons with disabilities in the criminal justice system and in the community; directing a report be made to Legislature on or before November 30, 2023; and authorizing per diem expenses for nongovernmental members.

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

Engrossed Committee Substitute for Senate Bill 232, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 232) 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 232) 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 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 240, Requiring state board of examination or registration proceedings to be open to public inspection.

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 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-12. Record of proceedings; register of applicants; certified copies of records prima facie evidence; report to Governor and Legislature; public access.

(a) The secretary of every board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each the date of his or her application, his or her name, age, educational and other qualifications, ~~place of residence mailing address~~, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof. ~~The books and register of the board shall be open to public inspection at all reasonable times, and the~~ The books and register, or a copy of any part thereof, certified by the secretary and attested by the seal of the board, shall be prima facie evidence of all matters recorded therein.

(b) The record of the board's proceedings shall be open to public inspection at all reasonable times and copies provided upon oral or written request after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

(c) The register of applicants shall be made available upon written request on a form prescribed by the board. The form shall require the requester to provide at least the following information:

(1) Legal identity;

(2) Purpose for which the register is sought;

(3) A telephone number where the requester may be contacted by the board; and

(4) Whether copies of the register are requested.

If requested, copies of the register shall be provided after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

The board may deny a request that the register, or copies thereof, be made available or provided if it determines, in its discretion, that the request is made for an improper purpose.

~~(b)~~ (d) On or before January 1 of each year in which the Legislature meets in regular session, the board shall submit to the Governor and to the Legislature a report of its activities for the preceding two years, containing the following information for that period:

(1) The total receipts and disbursements for each year;

(2) A list of amounts received in each year for the following categories of receipts:

- (A) License applications, registrations, and renewals;
 - (B) Examination fees, if applicable;
 - (C) Other fees, including late fees, copying charges, and fees for printed certificates;
 - (D) Fines or penalties;
 - (E) Expense reimbursements from disciplinary actions; and
 - (F) Grants, special appropriations, or other sources of revenue not from fees;
- (3) A list of amounts spent in each year for the following categories of expenditures:
- (A) Personal services;
 - (B) Board member per diem compensation;
 - (C) Travel expenses and automobile mileage;
 - (D) Professional contracts;
 - (E) Rent;
 - (F) Office supplies;
 - (G) Postage;
 - (H) Entertainment and hosting;
 - (I) Insurance; and
 - (J) Bank costs;
- (4) A complete list of the names of all persons newly licensed or registered;
- (5) A table or list showing numbers of licensees or registrants by West Virginia county of practice or, for out-of-state licensees or registrants, by state of residence, and by specialty, if appropriate to the particular profession;
- (6) Complaints filed and investigations opened by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any;
- (7) In addition to complaints reported under the preceding ~~subsection~~ subdivision, complaints resolved and investigations closed by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any; and
- (8) Copies of the agendas for, and minutes of, board and committee or subcommittee meetings.

The report shall be certified by the president and the secretary of the board, and a copy of the report shall be filed with the Secretary of State and with the legislative librarian.

~~(e) (e)~~ To promote public access, the secretary of every board shall ensure that the address and telephone number of the board are included every year in the state government listings of the Charleston area telephone directory. Every board shall ~~regularly evaluate the feasibility of adopting additional methods of providing public access, including, but not limited to, listings in additional telephone directories, toll-free telephone numbers, facsimile and computer-based communications~~ maintain a website that provides at least the following information:

(1) Name of each board member;

(2) Names of all board staff;

(3) Contact information for each staff member, including office telephone number, office location, and office mailing address;

(4) A secure electronic means of contacting each staff member;

(5) The roster of licensed or registered practitioners;

(6) Copies of approved meeting minutes for meeting held during the preceding year;

(7) A schedule of regular meeting days for each calendar year; and

(8) Notice of each upcoming board meeting.

§30-1-12a. Prohibition against disclosure of personally identifiable information; exceptions.

(a) Definitions.—

"Personally identifiable information" or "PII" means any information that identifies, or can be used to identify, locate, contact, or impersonate a particular individual.

"Sensitive PII" means those elements of PII that must receive heightened protection due to legal or policy requirements, including, but not limited to:

(1) Social Security numbers;

(2) Credit card numbers;

(3) Health and medical data;

(4) Driver's License numbers; and

(5) Individual financial account numbers.

(b) A board may not disclose sensitive PII of applicants, licensees, registrants, or other individuals except as necessary to comply with West Virginia or federal law, court order, or subpoena.

(c) Nothing in this section or section 12 of this article shall prohibit a board from providing information related to the qualifications and practice of licensees and registrants on the board's website, including but not limited to educational and training qualifications, specialties, and practice addresses.

§30-1-13. Roster of licensed or registered practitioners.

The secretary of every board shall prepare and maintain a complete roster of the names ~~and office addresses~~ of all persons licensed, or registered, and practicing in this state the profession or occupation to which such board relates, arranged alphabetically by name. ~~and also by the cities or counties in which their offices are situated.~~ Each board shall make the roster available upon request to any member of the public and shall also place and maintain the roster on its website.

And,

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

Eng. Senate Bill 240—A Bill to amend and reenact §30-1-12 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated as §30-1-12a; and to amend and reenact §30-1-13 of said code, all relating to professional licensing boards' collection and dissemination of certain records and information; providing for public access to the record of each board's proceedings; providing for public access to each board's register of applicants; stating information that must be provided in order to access the register of applicants; giving each board discretion to deny requests for the register of applicants; requiring each board to maintain a website that provides certain information about the board; defining terms; prohibiting the disclosure of sensitive personally identifiable information; providing that boards shall not be prohibited from providing information related to the qualifications and practice of licensees and registrants; providing that certain personal information of licensed practitioners shall not be disclosed; requiring the roster of licensed practitioners to be posted on each board's website.

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

Engrossed Senate Bill 240, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 240) 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 422, Requiring public schools to publish curriculum online at beginning of each new school year.

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, after the enacting clause, by striking out the rest of the committee substitute and inserting, in lieu thereof, the following:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-27. Requirement to publish curriculum online; Parental parental right to inspect instructional materials; listing books on syllabus; right to file complaint.

(a) Each public school shall ensure that the adopted, up-to-date, county-adopted class curriculum is posted on the school's internet website at the beginning of each school year or no later than 30 business days after new or revised curriculum is adopted: *Provided*, That only students, parents, or guardians of the students shall be provided the login information to gain access to the online curriculum.

(1) For purposes of this section, class curriculum shall include curriculum created pursuant to §18-5A-6 of this code.

(2) The county board of education may provide access, or authorize access, to the county-adopted class curriculum.

(3) If the public school has no accessible website, the information shall be posted on the website of the appropriate county board of education, or website authorized by the state board of education.

~~(a)~~ (b) Each classroom teacher shall comply with the request of any parent, custodian, or guardian to inspect additional instructional materials adopted by the county board pursuant to §18-2A-10 of this code, supplementary instructional materials that were not adopted by the county board pursuant to §18-2A-10 of this code, and books in the classroom that are available for students to read, subject to the following:

(1) Only the parent, custodian, or guardian of a child enrolled in the class may make a request pursuant to this subsection;

(2) The classroom teacher may require that the parent, custodian, or guardian schedule an appointment in order to inspect the instructional materials. If the classroom teacher requires an appointment pursuant to this subdivision, the teacher shall schedule the appointment within 10 business days of the request of the parent, custodian, or guardian; and

(3) As part of the inspection and upon request of the parent, custodian, or guardian, the classroom teacher shall demonstrate how the instructional material relates to the content standards adopted by the state board.

~~(b)~~ (c) For any class in which reading a book or books will be required, the classroom teacher shall include the book or books on a class syllabus. The classroom teacher shall make the syllabus available to any parent, custodian, or guardian of a child enrolled in the class upon request.

~~(e)~~ (d) Any parent, custodian, or guardian may file a complaint with the county superintendent, on a form developed and provided by the county superintendent, if the classroom teacher fails to comply with any provision of this section. If the complaint is not resolved by the county superintendent within seven business days, the parent, custodian, or guardian may file a complaint with the State Superintendent or his or her designee. The State Superintendent shall make a form available for parents to file a complaint pursuant to this subsection.

~~(d)~~ (e) By September 1 of each year, each county superintendent shall report to the State Superintendent the number of complaints filed with him or her the previous school year. The State Superintendent, annually by October 1, shall report to the Legislative Oversight Commission on Education Accountability the number of complaints filed during the previous school year. The report shall include the number of complaints filed statewide and by county.

~~(e)~~ (f) For purposes of this section, "parent" means a parent who has some allocation of physical custody of the child or who has some share of joint decision-making authority for the child. For purposes of this section, "custodian" means a person who has some allocation of physical custody of the child or who has provided to the school written permission of a parent to have access to the information contemplated by this section. For purposes of this section, "guardian" means a person other than a parent or custodian who, pursuant to a court order, acts in loco parentis for the child.;

And,

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

Eng. Com. Sub. for Senate Bill 422—A Bill to amend and reenact §18-5-27 of the Code of West Virginia, 1931, as amended, all relating to publishing county board curriculum; requiring public schools to post county-adopted curriculum online and establishing deadlines therefore; providing that only students, parents, or guardians have access to online curriculum; defining term; allowing county board to provide access to county-adopted curriculum; and providing that if a public school does not have a website, the information shall be posted on county board website or website authorized by state board.

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

Engrossed Committee Substitute for Senate Bill 422, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips,

Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Grady—1.

Absent: Jeffries—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. 422) 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 to the title of the bill, passage as amended, to take effect July 1, 2023, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 446, Removing methanol and methanol fuel from definition of special fuel.

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Senate Bill 446—A Bill to amend and reenact §11-14C-2 of the Code of West Virginia, 1931, as amended, relating to removing methanol and methanol fuel from the definition of special fuel.

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

Engrossed Senate Bill 446, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 446) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 446) takes effect July 1, 2023.

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 468, Continuing Cabwaylingo State Forest Trail System.

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, section 3a, lines 15 through 19, by striking the new language in lines 15 through 19 and inserting in lieu thereof the following:

"The Parks and Recreation Section of the Division of Natural Resources is prohibited from establishing any additional ATV, ORV, or UTV trail systems within state parks and state forests: *Provided*, That the Director of the Division of Natural Resources shall have the authority to authorize the development and use of certain connector trails, roads, and parking areas from private systems, including, without limitation, the Hatfield-McCoy systems, solely for the purpose of providing access to state park and state forest recreational facilities and lodging by ATV, ORV, and UTV trail system users."

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

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 468, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Rucker—1.

Absent: Jeffries—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. 468) 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 to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 488, Aligning state and federal accreditation rules.

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Senate Bill 488—A Bill to amend and reenact §18B-4-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18B-4-7a, all relating to aligning state and federal accreditation rules; requiring the Higher Education Policy Commission, the Council for Community and Technical College Education and the institutional governing boards of the exempted schools to regularly update their rules regarding accreditation to conform to federal regulations; requiring the council, commission, and governing boards to promulgate rules, by December 31, 2023, to permit institutions to choose to pursue accreditation with a recognized accreditor; making findings; requiring the council, commission, and governing boards to amend their regulations regarding accreditation by December 31, 2023; and providing that any regulations that imply or state that certain accreditors must be used are incorrect and must be amended.

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

Engrossed Senate Bill 488, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 488) 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 to the title of the bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education.

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Com. Sub. for Senate Bill 543—A Bill to amend and reenact §29A-3A-1 and §29A-3A-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29A-3A-2a; to amend and reenact §29A-3A-3, §29A-3A-4, §29A-3A-5, §29A-3A-6, §29A-3A-7, §29A-3A-8, §29A-3A-9, §29A-3A-10, §29A-3A-11, §29A-3A-11a, §29A-3A-12, §29A-3A-13, §29A-3A-14, §29A-3A-15, §29A-3A-16, §29A-3A-16a, §29A-3A-17, §29A-3A-18, and §29A-3A-20, all relating to higher education and school building authority rule-making authority; revising definitions; requiring all sections of rule to be filed when proposing an amendment to an existing rule; requiring rule to be accompanied by note of explanation; requiring agency proposing to repeal a rule to file the rule in its entirety with the provisions of the rule struck through; making provisions applicable to procedural and interpretive rules applicable to legislative exempt rules; allowing an agency to hold a public hearing, schedule a public comment period, or both; requiring agency to respond to public comments and explain the reasoning for comments being incorporated or not incorporated into the rule; reducing time period for filing of notices of hearings for receiving public comment on a proposed rule; allowing repeal of a legislative exempt, procedural, or interpretive rule by filing notice of repeal with the Secretary of State; establishing timelimit for filing of notice of approval with the Secretary of State and the Legislative Oversight Commission on Education Accountability (LOCEA); requiring LOCEA make a continuing investigation, study, and review of the practices, policies, and procedures of the State Board of Education; requiring electronic submission of agency-approved rule to LOCEA; requiring electronic filing of notice of approval in the State Register; adding to information that electronic copies of the proposed legislative rule is to include; modifying topics LOCEA's review of a proposed legislative rule is to include; modifying LOCEA's options in making recommendations to the Legislature after reviewing a legislative rule; requiring bill authorizing legislative rule to incorporate the amendments recommended by LOCEA; modifying date after which proposed legislative rules submitted to LOCEA can be withheld from its report to the clerk of the respective houses; modifying provisions pertaining to bills of authorization; removing provisions pertaining to computation of dates; allowing disapproval of rules not approved or acted upon by the Legislature; requiring Secretary of State to publish an authorized and promulgated legislative rule in the Code of State Rules; adding to information that must be filed with emergency rules in the State Register; providing for effective date for emergency rule and amendment to emergency rule; requiring the agency to file a copy of the emergency rule and the required statement with the Secretary of State and LOCEA; reducing time periods the agency has for filing a notice of public hearing on a proposed emergency rule and for filing the proposed emergency rule with LOCEA; removing provision pertaining to emergency legislative rules currently in effect; making certain provisions pertaining to filing an emergency rule and disapproval of an emergency rule applicable to filing an amendment to an emergency rule and disapproval of an emergency rule; modifying provisions pertaining to LOCEA's review of procedural rules, interpretive rules, or existing legislative rules; providing for prior rules to remain in full force and effect; modifying required sunset date; specifying procedure for renewing legislative rule; and requiring Secretary of State to file a notice of sunset in the State Register within 30 days following expiration of a legislative rule.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 543, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 543) 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 Com. Sub. for S. B. 543) 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 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 544, Increasing power purchase agreement cap.

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 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1. Jurisdiction of commission; waiver of jurisdiction.

(a) The jurisdiction of the commission extends to all public utilities in this state and includes any utility engaged in any of the following public services:

(1) Common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air;

(2) Transportation of oil, gas, or water by pipeline;

(3) Transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline;

(4) Sleeping car or parlor car services;

(5) Transmission of messages by telephone, telegraph, or radio;

(6) Generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility;

(7) Supplying water, gas, or electricity by municipalities or others: *Provided*, That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of the residential service: *Provided, however*, That upon request of any of the customers of the natural gas producers, the commission may, upon good cause being shown, exercise authority as the commission may consider appropriate over the operation, rates, and charges of the producer and for the length of time determined proper by the commission: *Provided further*, That the provision of a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement (PPAs) with the retail electric customer, shall not constitute a public service, subject to the following conditions and limitations:

(i) PPAs must be 11 point font or larger.

(ii) The aggregate of all PPAs and net metering arrangements in the state for any utility shall not exceed three percent of the utility's aggregate customer peak demand in the state during the previous year;

(iii) There shall be individual customer on-site generator limits of designing the photovoltaic energy facility to meet only the electrical needs of the premises of the retail electric customer and which in no case shall exceed 25 50kW for residential customers, ~~500~~ 1,000 kW for commercial customers, and 2,000 kW for industrial customers;

(iv) Customers who enter into PPAs relating to photovoltaic facilities are to notify the utility of its intent to enter into a transaction. In response, the utility shall notify within 30 days if any of the caps have been reached. If the utility does not respond within 30 days, the generator may proceed and the caps will be presumed not to have been reached; and

(v) The Public Service Commission may promulgate rules to govern and implement the provisions of interconnections for PPAs, except the PSC does not have authority over the power rates for the arrangements between the on-site generator and the customer;

(8) Sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission, regardless of the number of customers served by the innovative, alternative method;

(9) Any public service district created under the provisions of §16-13A-1 *et seq.* of this code, except that the Public Service Commission has no jurisdiction over the provision of stormwater services by a public service district;

(10) Toll bridges located more than five miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries; solid waste facilities; and

(11) Any other public service.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

(2) Regulation of measurements, practices, acts, or services, as granted and described in §24-2-7 of this code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in §24-2-8 of this code;

(4) Submission of information to the commission regarding rates, tolls, charges, or practices, as granted and described in §24-2-9 of this code;

(5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in §24-2-10 of this code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees, and charges, service areas and contested utility combinations: *Provided*, That any request for an investigation related to a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve the dispute within 120 days of filing. The 120-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the rates, fees, and charges or other information required by the commission is filed: *Provided, however*, That the disputed rates, fees, and charges fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or, amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints: *Provided*, That any formal complaint filed under this section that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission complained of and the commission shall resolve the complaint within 180 days of filing. The 180-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the matter complained of is filed by the political subdivision: *Provided, however*, That whenever the commission finds any regulations, measurements, practices, acts, or service to be unjust,

unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of this chapter, or finds that any service is inadequate, or that any service which is demanded cannot be reasonably obtained, the commission shall determine and declare, and by order fix reasonable measurement, regulations, acts, practices or services, to be furnished, imposed, observed, and followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory, inadequate, or otherwise in violation of this chapter, and shall make an order that is just and reasonable: *Provided further*, That if the matter complained of would affect rates, fees, and charges fixed by the political subdivision providing separate or combined water and/or sewer services, the rates, fees, or charges shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future.

(8) If a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for any redress that will bring the accounts to current status or otherwise resolve the breached covenant. The commission has jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) The area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility may charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, for which the facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for the facility were a siting certificate issued under §24-2-11c of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be designated prior to commercial operation of the facility, for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to

commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility, regardless of whether the facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That the owner or operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or constructed.

(4) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code, in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code, to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the

application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection do not affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of the facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time, two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission does not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code, if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission does not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.;

And,

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

Eng. Senate Bill 544—A Bill to amend and reenact §24-2-1 of the Code of West Virginia, 1931 as amended, relating to increasing the power purchase agreement (PPA) cap from 25 kW to 50kW for residential customers and from 500 kW to 1,000 kW for commercial customers.

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

Engrossed Senate Bill 544, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Clements, Deeds, Grady, Hamilton, Hunt, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Caputo, Chapman, Karnes, and Maroney—4.

Absent: Jeffries—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. 544) 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 amendments, as to

Eng. Com. Sub. for Senate Bill 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid.

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 45, beginning on line 31, by striking subdivision 2 in its entirety and inserting a new subdivision 2 to read as follows:

"(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;" and renumbering the remaining subdivisions accordingly;

Beginning on page 7, section 45, after line 32, by inserting a new subdivision 3 to read as follows:

"(3) Has a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to §7-1-3ff and §8-12-16 of this code; and" and renumbering the remaining subdivisions accordingly;

On page 11, section 48, beginning on line 21, by striking subdivision 2 in its entirety and inserting a new subdivision 2 to read as follows:

"(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;" and renumbering the remaining subdivisions accordingly;

And,

Beginning on page 11, section 48, after line 22, by inserting a new subdivision 3 to read as follows:

"(3) Has a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to §7-1-3ff and §8-12-16 of this code; and;" and renumbering the remaining subdivisions accordingly;

On page 7, section 45, line 27, Striking the period after "office" and inserting in lieu thereof "or complete and execute a notarized affidavit affirming that they meet the requirements set forth in this Article on the day of the sale.";

And,

On page 8, section 45, lines 32, 33-34 by inserting "and" after "state;" and removing lines 33 and 34 in their entirety and renumbering accordingly;

And,

On page 11, section 48, lines 22, 23-24 by inserting "and" after "state;" and removing lines 23 and 24 in their entirety and renumbering appropriately;

And,

On page 11, line 16, by inserting following: "*Provided, However,* That instead of the Auditor, a purchaser may engage a licensed attorney to provide a title examination at his or her own cost.".

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

Engrossed Committee Substitute for 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, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Chapman and Maroney—2.

Absent: Jeffries—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. 548) 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, to take effect July 1, 2023, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 561, Relating to administration of WV Drinking Water Treatment Revolving Fund 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 7, by striking section 7 in its entirety and renumbering the following section accordingly;

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 561—A Bill to repeal §16-13C-1, §16-13C-2, §16-13C-3, §16-13C-4, §16-13C-5, and §16-13C-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §22-36-1, §22-36-2, §22-36-3, §22-36-4, §22-36-5, §22-36-6, and §22-36-7, all relating to the administration of the West Virginia Drinking Water Treatment Revolving Fund; transferring administration of Drinking Water Treatment Revolving Fund from Department of Health and Human Resources to Department of Environmental Protection; adding provisions relating to review by Department of Environmental Protection of funded projects and implementation of mitigation efforts if necessary to protect public health and the environment; and providing for Department of Environmental Protection to propose legislative rules.

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 561, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 561) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 Com. Sub. for S. B. 561) takes effect July 1, 2023.

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 608, Correcting list of items which are considered deadly weapons.

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 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Antique firearm" means:

(A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(2) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term "blackjack" includes, but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

(3) "Concealed" means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(4) "Controlled substance" has the same meaning as is ascribed to that term in §60A-1-101(e) of this code.

(5) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" includes, but is not limited to, the instruments defined in subdivisions (1) ~~through (8)~~, (2), (5), (7), (8), (9), (10), (11), (12), (13), (14), and (15), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of "knife" set forth in subdivision (9) of this subsection, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term "deadly weapon" includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term "deadly weapon" does not include pepper spray as defined in subdivision (12) of this subsection when used by any person ~~over the age of 16~~ solely for self-defense purposes.

(6) "Drug" has the same meaning as is ascribed to that term in §60A-1-101(m) of this code.

(7) "Firearm" means any weapon which will expel a projectile by action of an explosion: *Provided*, That it does not mean an antique firearm as defined in subdivision (1) of this subsection except for the purposes of §48-27-502 of this code.

(8) "Gravity knife" means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when released is locked in place by means of a button, spring, lever, or other locking or catching device.

(9) "Knife" means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term "knife" includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement is not included within the term "knife" as defined in this subdivision unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(10) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms "metallic or false knuckles" includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(11) "Nunchaku" means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in a manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(12) "Pepper spray" means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(13) "Pistol" means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(14) "Revolver" means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(15) "Switchblade knife" means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle.;

And,

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

Eng. Senate Bill 608—A Bill to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating to dangerous weapons; correcting the partial list of items which are considered deadly weapons; and removing certain age restrictions relating to pepper spray.

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

Following discussion,

Senator Smith requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Smith would be as a member of a class of persons and that he would be required to vote.

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

Engrossed Senate Bill 608, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 608) 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 633, Requiring prompt appearances for persons detained on capiases.

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 1. PRELIMINARY PROCEDURE.

§62-1-7. Offense arising in other county.

~~If the warrant issued, or if the offense is alleged to have been committed, in a county other than the county of arrest, all papers in the proceeding shall be promptly transmitted to a justice of the county having jurisdiction of the offense for preliminary examination or trial. If the defendant is unable to provide bail in the county of arrest, he or she shall be committed to the custody of an officer who shall take him or her without unnecessary delay before a justice of the county wherein the examination or trial is to be held, there to be dealt with as provided by law.~~

In all cases where a person is arrested in a county other than where the indictment or charge is pending, an arraignment shall be held pursuant to the Rules of Criminal Procedure for Magistrate Courts in West Virginia. If the person remains incarcerated after the arraignment, he or she shall be transported to the regional jail serving the charging county within five days of arrest.

ARTICLE 1C. BAIL

62-1C-17b. Procedures for failure to appear; ~~Failure to appear penalties.~~

(a) Any person, who, having been released upon his or her personal recognizance pursuant to §62-1-1a of this code or having been otherwise admitted to bail and released in accordance with this article, and who shall willfully and without just cause fail to appear as and when it may be required of him or her, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided.

(b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a felony and, shall thereafter be convicted for a violation of the provisions of subsection (a) of this section, such persons shall be guilty of a felony and, shall be fined not more than \$5,000 or imprisoned not less than one nor more than five years, or both such fine and imprisonment.

(c) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and, shall thereafter be convicted for a violation of the provision of subsection (a) of this section, such persons shall be guilty of a misdemeanor and, shall be fined

not more the \$1,000 or confined in the county jail for not more than one year, or both such fine and confinement.

(d) If any such person was admitted to bail or released pending appearance as a material witness and shall thereafter fail to appear when and where it shall have been required of him or her, such persons shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more the \$1,000 or confined in the county jail not more than one year, or both such fine and confinement.

(e) Any penalty authorized by this section shall be in addition to any forfeiture authorized or mandated by this article or by any other provision of law.

(f) If any defendant admitted to bail and released in accordance with this article fails to appear at a scheduled court appearance, the court may issue a capias or bench warrant for failure to appear if it determines that the defendant was provided effective notice of the court appearance by the court;

(g) For the purposes of this subsection, "effective notice of the court appearance" means a notice stating the date, time, location, and purpose of the hearing, transmitted to the defendant or defendant's counsel, no fewer than 10 days prior to the scheduled court appearance. The court may waive the 10 day requirement upon a finding of emergent circumstances.

(h) For purposes of capiases for failure to appear after indictment, newspaper publication alone does not constitute effective notice.

(i) Notwithstanding the provisions of subsections (a) through (d) of this section, where the record does not reflect that the person failing to appear received effective notice to appear from the court or where he or she has no documented history of failure to appear, a court, absent good cause shown, may not issue a capias until no fewer than 24 hours have elapsed since the failure to appear. If the defendant voluntarily appears within 24 hours, he or she is not subject to prosecution under this section.

(j) Nothing in subsection (f) of this section may be construed to limit a court's ability to issue a capias upon credible information of danger to a person or the community, new criminal conduct or a bail violation other than failure to appear.

(k) Upon the arrest of a defendant pursuant to a capias in the county in which the indictment or charge is pending, a hearing pursuant to §62-1C-1a of this code shall be scheduled and held within five days of the arrest.

(l) Upon the appearance in the county in which the indictment or charge is pending of a defendant against whom a capias has been issued the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies, that the warrant or capias is no longer active and order it to be immediately removed from all databases.

ARTICLE 2. PRESENTMENTS AND INDICTMENTS

§62-2-17. Delivery of prisoner to court, magistrate or jailer.

(a) An officer who, under a capias from a court, arrests a person accused of an offense other than murder in the first degree shall deliver the accused to such court, if sitting, and if such court

is not sitting, the officer shall deliver the accused to a magistrate who may admit the accused to bail: *Provided*, That any such bail granted by a magistrate shall be conditioned upon the appearance by the accused before the court on the date provided in the capias for such appearance, or, if no such date is provided in the capias, then such bail shall be conditioned upon the appearance of the accused on the next day on which such court is sitting.

(b) No magistrate shall admit to bail any person arrested under an alias capias.

(c) Bail set by a magistrate may be made and posted before the magistrate court clerk and the recognizance and record thereof, together with any money received therefor, shall be forthwith delivered to the clerk of the circuit court.

(d) An officer who, under a capias from a court, arrests a person accused of an offense not bailable, or for which bail is not given, shall deliver the accused to such court, if sitting, or to the jailer thereof, who shall receive and imprison him or her.

(e) In all cases where a defendant is arrested and held under a capias for failure to appear in the county wherein the charge or charges is pending, and he or she is entitled to admission to bail, an initial appearance shall be held as soon as practicable, or within five days whichever is sooner, and bail shall be considered pursuant to §62-1C-1a of this code.

(f) Upon the appearance of a defendant upon an indictment or complaint upon which a warrant or capias has been issued, the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies that the warrant or capias is no longer active and order that it be immediately removed from all databases.;

And,

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

Eng. Com. Sub. for Senate Bill 633—A Bill to amend and reenact §62-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-1C-17b of said code; and to amend and reenact §62-2-17 of said code, all relating to failure to appear; requiring compliance with the magistrate court criminal rules; requiring transport to the regional jail serving the charging county if an arrest occurs in a county other than the charging county and the defendant remains incarcerated after the arraignment; requiring prompt court appearances for persons detained on capiases or warrants for failure to appear; providing procedures for issuing bench warrants and capiases for nonappearance at scheduled court hearings or other proceeding; providing for purposes of capiases for failure to appear after indictment, that newspaper publication alone does not constitute effective notice; allowing a grace period after a failure to appear to allow certain defendants to appear except in defined circumstances; providing procedures following execution of bench warrants for nonappearance; providing that in all cases where a defendant is arrested and held under a capias for failure to appear in the county wherein the charge or charges is pending, and he or she is entitled to admission to bail, an initial appearance shall be held as soon as practicable, or within five days whichever is sooner, and bail shall be considered; and requiring courts to ensure that all inactive warrants and capiases for failure to appear are removed from law-enforcement databases.

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

Engrossed Committee Substitute for Senate Bill 633, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 633) 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 647, Relating to substantiation of abuse and neglect allegations.

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. COURT ACTIONS.

PART VI. PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE.

§49-4-601b. Substantiation by the department of abuse and neglect; file purging; expungement; exceptions.

(a) Notwithstanding any provision of this code to the contrary, when the department substantiates an allegation of abuse ~~or~~ and/or neglect against a person, but there is no judicial finding of abuse ~~or~~ and/or neglect as a result of the allegation, the department shall provide written notice of the substantiation to the person by certified mail, return receipt requested.

(b) The ~~individual~~ person against whom an abuse ~~or~~ and/or neglect allegation has been substantiated, as described in subsection (a) of this section, has the right to contest the substantiation by filing a grievance with the board of review of the department and has the right to appeal the decision of the board of review to the court, in accordance with the provisions of §29A-5-1 *et seq.* of this code regarding administrative appeals.

(c) The secretary of the department shall ~~promulgate~~ propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code, within the applicable time limit to

be considered by the Legislature during its regular session in the year 2021, which rules shall include, at a minimum:

(1) Provisions for ensuring that an individual against whom the department has substantiated an allegation of abuse ~~and/or~~ neglect, but against whom there is no judicial finding of abuse ~~or~~ and/or neglect, receives written notice of the substantiation in a timely manner. The written notice ~~must~~, shall at a minimum, state the following:

(A) The name of the child the person is alleged to have abused ~~or~~ and/or neglected, the place or places where the abuse ~~or~~ and/or neglect allegedly occurred, and the date or dates on which the abuse ~~or~~ and/or neglect is alleged to have occurred;

(B) That the person has a right to file a grievance protesting the substantiation of abuse ~~and/or~~ neglect with the board of review of the department and clear instructions regarding how to file a grievance with the board of review, including a description of any applicable time limits;

(C) That the person has a right to appeal an adverse decision of the board of review of the department to the courts and notice of any applicable time limits; and

(D) A description of any public or nonpublic registry on which the person's name will be included as a result of a substantiated allegation of abuse ~~and/or~~ neglect and a statement that the inclusion of the person's name on the registry may prevent the person from holding jobs from which child abusers are disqualified, or from providing foster or kinship care to a child in the future;

(2) Provisions for ensuring that a person against whom an allegation of abuse ~~and/or~~ neglect has been substantiated, but against whom there is no judicial finding of abuse ~~and/or~~ neglect, may file a grievance with the department and provisions guaranteeing that ~~any such person~~ he or she will have a full and fair opportunity to be heard; and

(3) Provisions requiring the department to remove a person's name from an abuse ~~and/or~~ neglect registry maintained by the department if a ~~substantiation~~ substantiated allegation is successfully challenged in the board of review or in a court.

(d) Notwithstanding any provision of this code to the contrary:

(1) Where any allegation of abuse and/or neglect is substantiated and a petition for abuse and/or neglect could be filed and the department does not file a petition, all department records related to the allegation shall be sealed one year after the substantiation determination, unless during the one-year period another allegation of child abuse and/or neglect against the person is substantiated: *Provided*, That the provisions of this subdivision do not apply to a person against whom an allegation is substantiated but the circumstances do not allow for the filing of a petition for abuse and/or neglect;

(2) Where an allegation of child abuse and/or neglect is substantiated and a petition is filed with the circuit court which does not end in an adjudication that abuse and/or neglect occurred, the allegation shall be considered to have been unsubstantiated.

(3)(A) Where an allegation of child abuse and/or neglect is substantiated and a judicial determination of child abuse and/or neglect is found, a person may petition the circuit court which found the person to be an abusing parent to have his or her department record sealed after no less than five years have elapsed since the finding of abuse and/or neglect is rendered: *Provided*,

That a petition may not be filed if the person had been the subject of a substantiated allegation of abuse and/or neglect during the period of time after the finding and prior to the filing of the petition; and

(B) In its consideration of a petition filed under this subdivision, the court, in its discretion, may look at all relevant factors related to the petition, including, but not limited to, efforts at rehabilitation and family reunification.

(e) The sealing of a record pursuant to subsection (d) of this section means that any inquiry of the department about a person having a record of child abuse and/or neglect for purposes of possible employment shall be answered in the negative.

(f) The secretary is directed to propose legislative rules pursuant to §29A-1-1 et seq. of this code to effectuate the amendments to this section enacted during the regular session of the Legislature, 2023.;

And,

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

Eng. Com. Sub. for Senate Bill 647—A Bill to amend and reenact §49-4-601b of the Code of West Virginia, 1931, as amended, relating to substantiation of abuse and neglect allegations; requiring that when an abuse and/or neglect allegation is substantiated and a child abuse petition could be filed and the department does not do so, records related to the allegation are sealed after one year, absent a new allegation within that year; excluding persons from having records sealed who have a substantiated case but no court case can be filed; requiring that substantiated cases where the court does not adjudicate abuse and/or neglect be deemed unsubstantiated; allowing a petition to seal a file after five years for persons found to be creating an abusing parent; exceptions; criteria; directing the department to propose legislative rules to effectuate the statutory directive; clarifying terms relating to abuse and/or neglect; 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 647, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 647) 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 661, Clarifying preferential recall rights for employees sustaining compensable injury.

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 5A. DISCRIMINATORY PRACTICES.

§23-5A-3. Termination of injured employees prohibited; reemployment of injured employees.

(a) It shall be a discriminatory practice within the meaning of section one of this article to terminate an injured employee while the injured employee is off work due to a compensable injury within the meaning of §23-4-1 *et seq.* of this code and is receiving or is eligible to receive temporary total disability benefits, unless the injured employee has committed a separate dischargeable offense. A separate dischargeable offense shall mean misconduct by the injured employee wholly unrelated to the injury or the absence from work resulting from the injury. A separate dischargeable offense shall not include absence resulting from the injury or from the inclusion or aggregation of absence due to the injury with any other absence from work.

(b) It shall be a discriminatory practice within the meaning of section one of this article for an employer to fail to reinstate an employee who has sustained a compensable injury to the employee's former position of employment upon demand made in writing and transmitted by the United States Postal Service, return receipt requested, to the employer's principal office for such reinstatement provided that the position in which the employee sustained the compensable injury is still available and the employee is not disabled from performing the duties of such position. If the former position is not available, the employee shall be reinstated to another comparable position which is available and which the employee is capable of performing. A comparable position for the purposes of this section shall mean a position which is comparable as to wages, working conditions and, to the extent reasonably practicable, duties to the position held at the time of injury. A written statement from a duly licensed physician that the physician approves the injured employee's return to his or her regular employment shall be prima facie evidence that the worker is able to perform such duties. In the event that neither the former position nor a comparable position is available, the employee shall have a right to preferential recall to any job which the injured employee is capable of performing which becomes open after the injured employee notifies the employer that he or she desired reinstatement. Said right of preferential recall shall be in effect for one year from the day the injured employee notifies the employer that he or she desires reinstatement: *Provided*, That the employee provides to the employer a current mailing address during this one-year period.

(c) For the preferential recall rights authorized by this section when an employee is employed by an employer defined by §30-42-3(d) of this code, the employee's right to preferential recall shall be no greater than 120 days from the date the employee is released by a duly licensed

physician to return to his or her regular employment. It is the employee's obligation to continually seek the possibility of employment during the employee's preferential recall period under this subsection. The employee's right to preferential recall authorized by this subsection terminates once the employer offers the employee his or her former position or a comparable position.

~~(e)~~(d) Any civil action brought under this section shall be subject to the seniority provisions of a valid and applicable collective bargaining agreement, or arbitrator's decision thereunder, or to any court or administrative order applying specifically to the injured employee's employer, and shall further be subject to any applicable federal statute or regulation.

~~(d)~~(e) Nothing in this section shall affect the eligibility of the injured employee to workers' compensation benefits under this chapter.;

And,

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

Eng. Com. Sub. for Senate Bill 661—A Bill to amend and reenact §23-5A-3 of the Code of West Virginia, 1931, as amended, relating to the preferential recall rights of an employee who is off work due to a compensable injury; providing that any demand for reinstatement made by an injured employee must be made in writing; providing for how and where the demand for reinstatement must be mailed; providing requirements for an injured employee's reinstatement to his or her former position; providing for a preferential recall time period of 120 days when the injured employee is employed by contractors as defined by §30-42-3 of said code; stating that it is the employee's obligation to continually seek the possibility of employment during the preferential recall period; and providing that the employee's right to preferential recall terminates once the employer offers the employee his or her former position or a comparable position.

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

Engrossed Committee Substitute for Senate Bill 661, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Jeffries—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. 661) 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 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission.

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, after the enacting clause, by striking out the remainder of the bill and inserting, in lieu thereof, the following:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25e. Requiring the Legislative Auditor conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission.

(a) The Legislative Auditor may, at reasonable and prudent intervals, conduct performance audits of the commission.

(b) The Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the commission, which shall allow the Legislative Auditor to inspect all records and accounts of the commission and to examine the personnel of the commission. *Provided:* That for any legally protected information provided or disclosed to the Legislative Auditor pursuant to this section, the Legislative Auditor shall protect the confidentiality, privacy, or security of the protected information in like manner and with the same duty as is required of the commission.

(c) The Legislative Auditor shall complete an initial performance audit of the commission by December 1, 2023, and, on that date, deliver a report thereof to the Joint Committee on Government and Finance and to the Legislative Oversight Commission on Education Accountability.;

And,

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

Eng. Com. Sub. for Senate Bill 667—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e; all relating to requiring the legislative auditor to conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission; granting the legislative auditor the power and authority to conduct examinations and inspections; requiring the legislative auditor to protect the confidentiality, privacy, and security of protected information; and establishing deadline for initial performance audit and reporting requirements.

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

Engrossed Committee Substitute for Senate Bill 667, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Chapman, Deeds, Grady, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—28.

The nays were: Caputo, Clements, Hamilton, Plymale, and Woelfel—5.

Absent: Jeffries—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. 667) 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 677, Clarifying role and responsibilities of State Resiliency Officer.

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:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

~~"Board" means the West Virginia Disaster Recovery Board created by this article~~

"Code" means the Code of West Virginia, 1931, as amended;

"Community facilities" means a specific work, or improvement within this state, or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

"Critical infrastructure" includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a debilitating

impact on security, state economic security, state public health or safety, or any combination of those matters.

"Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, or terrorist, or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation, or other public calamity requiring emergency action;

"Disaster ~~recovery~~ response activities" means activities undertaken prior to, during or immediately following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

"Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and ~~recover~~, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other events caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

"Essential business activities" means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

"Essential workers" means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness.

"Local organization for emergency services" means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

"Mobile support unit" means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

"Person" means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

"Political subdivision" means any county or municipal corporation in this state;

~~"Recovery fund" means the West Virginia Disaster Recovery Trust Fund created by this article~~

"Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

"Secretary" means the Secretary of the West Virginia Department of ~~Military Affairs and Public Safety~~ Homeland Security; and

"Temporary housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster, and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-4b. West Virginia Disaster Recovery Trust Fund disbursement.

[Repealed.]

§15-5-4c. Powers and duties related to the West Virginia Disaster Recovery Trust Fund.

[Repealed.]

§15-5-24. Disaster Recovery Trust Fund; disbursement of funds.

[Repealed.]

§15-5-25. Prohibition on funds inuring to the benefit of or being distributable to members, officers or private persons.

[Repealed.]

§15-5-26. Tax exemption.

[Repealed.]

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 31. STATE RESILIENCY AND FLOOD PROTECTION ~~PLAN~~ PLANNING ACT.

§29-31-1. Short title; legislative findings; purpose.

(a) This article may be known and cited as the "Resiliency and Flood Protection Planning Act".

(b) The West Virginia Legislature finds that:

(1) Flooding has affected each of the 55 counties and 32 major watersheds within the state;

(2) Over the past 52 years, more than 282 West Virginians have died in floods;

(3) Between January 1996 and January 2017, there ~~have been~~ were 27 federal disaster declarations in West Virginia involving flooding;

(4) Between January 2010 and December 2021, West Virginia was impacted by more than 1,600 separate flood events;

~~(4)~~ (5) In June 2016, much of West Virginia suffered devastating flooding-; and

~~(5)~~ (6) Despite the many state and federal flood protection programs and projects, flooding continues to be West Virginia's most common and widespread natural disaster.

(c) It is the purpose of this article to:

(1) Provide ~~provide~~ a comprehensive and coordinated statewide resiliency and flood protection planning program to save lives, and develop community and economic resiliency plans including, but not limited to, reducing or mitigating flood damage while supporting economic growth and protecting the environment; and

(2) Provide for funding mechanisms to implement such state and community plans developed through the program.

§29-31-2. State resiliency office, officer, deputy and board.

(a) It is determined that a state authority is required to provide a coordinated effort and planning for ~~emergency and disaster response, recovery,~~ and resiliency between government agencies, first responders, and all other entities to reduce the loss of life and property, lessen the impact of future disasters, ~~respond quickly to save lives,~~ protect property and the environment, meet basic human needs, and provide economic growth and resilience prior to and in the aftermath of an incident. Therefore, the State Resiliency Office is hereby created. The office shall be organized within the Office of the Governor. The office will serve as the recipient of disaster recovery and resiliency funds, excluding federal Stafford Act funds, and the coordinating agency of recovery and resiliency efforts, including matching funds for other disaster recovery programs, excluding those funds and efforts under the direct control of the State Resiliency Officer pursuant to ~~§15-5-4 and §15-5-24~~ §29-31-3, §29-31-6, §29-31-7 and §29-31-8 of this code. ~~for a particular event~~

(b)(1) The State Resiliency Office Board is also established and shall consist of the following members: The State Resiliency Officer; the Secretary of the Department of Commerce or his or her designee; the Director of the Division of Natural Resources or his or her designee; the Secretary of the Department of Environmental Protection or his or her designee; the Executive Director of the State Conservation Agency or his or her designee; the President of the West Virginia Emergency Management Council or his or her designee; the Secretary of the Department of Health and Human Resources or his or her designee; the Secretary of the Department of Homeland Security or his or her designee; the Secretary of Transportation or his or her designee; the Adjutant General of the West Virginia National Guard or his or her designee; the Director of the Division of Emergency Management within the Department of Homeland Security or his or her designee; two nonvoting members of the West Virginia Senate, one from each party, to be appointed by the President of the Senate; and two nonvoting members of the West Virginia House of Delegates, one from each party, to be appointed by the Speaker of the House of Delegates.

(2) A member of the board holds office so long as he or she retains the office or position by virtue of which he or she is serving on the board. A majority of the voting members of the board is a quorum and the concurrence of a board in any matter within their duties is required for its determination. The members of the board may not receive compensation for their services on the committee, but are entitled to reimbursement of expenses, including traveling expenses necessarily incurred in the discharge of their duties on the board.

(3) The board shall:

(A) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, rules, and orders issued or adopted, and of its other official actions;

(B) Shall adopt a seal, which shall be judicially noticed;

(C) Provide for an annual audit of the accounts of receipts and disbursements of the State Resiliency Office; and

(D) Perform those acts necessary for the execution of its functions under this article.

(1) The State Resiliency Officer shall be the chair of the State Resiliency Office Board and shall be appointed by the Governor with the advice and consent of the Senate. The State Resiliency Officer may cast a vote only in the event of a tie vote. The board shall elect from its voting membership a vice chair. The vice chair shall preside over the meetings of the board in the absence of the chair. In the absence of both the chair and the vice chair any member designated by the members present may act as chair.

(2) The State Resiliency Officer shall be vested with the authority and duties prescribed to the office within this article.

(3) The State Resiliency Officer shall be a person who has:

(A) At least five years' managerial or strategic planning experience in matters relating to flood control ~~and~~, hazard mitigation, and disaster resiliency, or alternatively, in disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field; ~~emergency management, or emergency response~~

(B) At least a level IS-800 NIMS certification: *Provided*, That if the State Resiliency Officer does not have a level IS-800 NIMS certification when appointed, he or she shall become so certified within one year following appointment; and

(C) Be thoroughly knowledgeable in matters relating to flood control ~~and~~, hazard mitigation, and disaster resiliency, or alternatively, in matters relating to disaster recovery, emergency management, ~~and emergency response~~ community and economic development, regional planning, economics, or related public policy field.

(4) The State Resiliency Officer shall employ a deputy who shall assist the State Resiliency Officer in carrying out the duties of the office. The State Resiliency Office Board shall meet and submit a list of no more than five nor less than two of the most qualified persons to the Governor within 90 days of the occurrence of a vacancy in this deputy position. This deputy shall be appointed by the Governor with the advice and consent of the Senate. Applicants for the deputy position shall at a minimum:

(A) Have at least three years' managerial or strategic planning experience in matters relating to flood control, hazard mitigation, and disaster resiliency, or alternatively, in disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field; ~~in matters relating to flood control and hazard mitigation or, alternatively, in disaster recovery, emergency management, or emergency response;~~

(B) Have at least a level ~~E/L-950~~ IS 800 NIMS certification: *Provided*, That if the deputy State Resiliency Officer does not have a level ~~E/L-950~~ IS 800 NIMS certification when appointed, he or she shall become so certified within one year following appointment; and

(C) Be thoroughly knowledgeable in matters relating to flood control, hazard mitigation, and disaster resiliency, or alternatively, in matters relating to disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field. ~~in matters relating to flood control and hazard mitigation, or alternatively, in matters relating to disaster recovery, emergency management, and emergency response; and~~

~~(D) If the State Resiliency Officer has his or her primary experience in flood control and hazard mitigation then his or her deputy must have experience in disaster recovery, emergency management, or emergency response; alternatively, if the State Resiliency Officer has his or her primary experience in disaster recovery, emergency management, or emergency response then his or her deputy must have experience in flood control and hazard mitigation~~

(5) The State Resiliency Officer shall employ additional staff as necessary to assist the State Resiliency Officer in carrying out the duties of the office.

(d) The board shall meet no less than once each calendar quarter at the time and place designated by the chair and the board shall work together with the State Resiliency Officer to fulfill the mission given to the State Resiliency Office to coordinate efforts for ~~emergency and~~ disaster planning, ~~response~~, recovery, and resiliency between government agencies, first responders and others.

The board will assist and advise the State Resiliency Officer in developing policies to accomplish, at a minimum, the following specific tasks in order to achieve these goals, and will assist the State Resiliency Officer in devising plans and developing procedures which will ensure that agencies and political subdivisions of the state carry out these following specific tasks:

(1) Establish mechanisms to coordinate disaster recovery and resiliency-related programs and activities among state agencies and to encourage intergovernmental as well as cross-sector coordination and collaboration;

(2) Evaluate the state's role in construction permitting process and identify opportunities to expedite the permitting process post-disaster and for selected types of mitigation and adaptation actions;

(3) Conduct a review of laws and regulations to identify those that create or add to risk, or interfere with the ability to reduce risk or to improve disaster recovery and resiliency;

(4) Conduct an inventory of relevant critical planned activity by state agencies to determine their proposed impact upon disaster recovery and resiliency;

(5) Make recommendations regarding practical steps that can be taken to improve efficiencies, and to pool and leverage resources to improve disaster recovery and resiliency;

(6) Identify, prioritize, and evaluate issues affecting implementation of mitigation and adaptation actions, including, but not limited to, the effect of ~~loss of land~~ increasing flood risk in context of zoning and other land use regulations, possible conflicts between public hazard mitigation/adaptation planning and private property interests (e.g. buy-out programs, projects to increase flood storage), develop guidance for cities and towns, real estate professionals, property owners under existing law and regulations; and develop proposals for changes in laws, policies, and regulations, as needed;

(7) Ensure all counties and municipalities ~~have~~ are covered by up-to-date Hazard Mitigation Plans and Local Comprehensive Disaster Plans that are consistent with, and coordinated to, the state's Hazard Mitigation Plans ~~and~~, Comprehensive Disaster Plans, and the state's Flood Resiliency Plan; including, but not limited to, assisting them in developing planning guidance for cities and towns to complete and/or update Hazard Mitigation Plans; providing technical assistance to help counties and municipalities meet these standards; and provide notice to counties and municipalities of funding opportunities to implement projects outlined in their Hazard Mitigation Plans;

(8) Conduct risk assessments, including, but not limited to, examining state highway corridors and associated drainage systems for stormwater inundation, impacts of downed trees, effects on utilities, ~~etc.~~ and comparable facilities; assessment of known stormwater impacts between state highways and municipal drainage systems, options to eliminate or mitigate such impact; a housing vulnerability assessment for structures in riparian zones; a vulnerability assessment of critical infrastructure at the state and municipal levels including hospitals, schools, fire stations, and comparable facilities, and a vulnerability assessment of the state's historic and cultural resources;

(9) Establish working groups that will conduct assessments for varied sectors of the economy, such as small business, ports and river traffic, agriculture, manufacturing, and tourism; these assessments should address vulnerabilities and economic impacts, options to mitigate impacts, options to improve preparedness, response and recovery, and economic opportunities associated with design, engineering, technological and other skills and capabilities that can improve resilience;

(10) Establish emergency permitting procedures to expedite issuance of state permits following disasters, and develop guidance (model procedures) for political subdivisions to follow; and

(11) ~~Establish a model~~ Lead long-term recovery ~~plan~~ planning efforts on behalf of the state in the event of the proclamation of the existence of a state of emergency due to a natural hazards event, or upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act, that would be activated after catastrophic events

All decisions of the board shall be decided by a majority vote of the members.

(e) The State Resiliency Office shall provide adequate staff from that office to ensure the meetings of the board are facilitated, board meeting minutes are taken, records and correspondence kept, and that reports of the board are produced in a timely manner.

(f) Notwithstanding any other provisions of this code:

(1) The meetings of the board are not subject to the provisions of §6-9A-1 *et seq.* of this code.

(2) The following are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code:

(A) All deliberations of the board;

(B) The materials, in any medium, including hard copy and electronic, placed in the custody of the board as a result of any of its duties; and

(C) All records of the board, in the possession of the board, and generated by the board, due to their falling under several exceptions to public disclosure including, but not limited to, that for security or disaster recovery plans and risk assessments.

§29-31-2a. Definitions.

As used in this article:

"Board" means the West Virginia State Resiliency Office Board created by this article;

"Code" means the Code of West Virginia, 1931, as amended;

"Community facilities" means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

"Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, or terrorist, or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

"Disaster recovery activities" means activities undertaken following a disaster to provide, or to participate in, the provision of long-term rehabilitation of infrastructure, housing, community facilities, and economic activity impacted by a disaster event;

"Flood Fund" means the West Virginia Flood Resiliency Trust Fund created by this article;

"Flood prevention or protection study" means the conduct of a hydraulic or hydrologic study of a flood plain with historic and predicted future floods, the assessment of current and projected future flood risk, and the development of strategies to prevent or mitigate damage from flash or riverine flooding;

"Flood resiliency" means efforts and activities intended to minimize damages during times of flooding resulting in reduced risk to people and infrastructure, and ensuring there is ample room for flooding and river adjustment to occur where the opportunity may exist;

"Low-income geographic area" means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household

income, or any area in the state designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service;

"Low-income household" means any household whose income does not exceed 80 percent of the local median household income;

"Nature-based solution" means sustainable planning, design, environmental management, and engineering practices that weave natural features or processes into the built environment to promote flood resiliency and preserve or enhance natural hydrologic function;

"Person" means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

"Political subdivision" means any county or municipal corporation in this state;

"Recovery Trust Fund" means the West Virginia Disaster Recovery Trust Fund created by this article; and,

"Stafford Act" means the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Chapter 68).

§29-31-3. Authority of State Resiliency Office and State Resiliency Officer.

The State Resiliency Office will coordinate the state's disaster ~~response~~ recovery and resiliency missions and the State Resiliency Officer serves as the primary representative of the Governor in these matters. The State Resiliency Officer shall, upon the order and direction of the Governor, act on behalf of the Governor in the event of the proclamation of the existence of a state of emergency or state of preparedness due to a natural hazards event or ~~state of preparedness under the provisions of §15-5-6 of this code~~ upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act. The State Resiliency Officer will assist and advise the Governor on all disaster ~~response~~ recovery and resiliency issues and serve as a liaison between the Governor's office, and all other parties, whether state, federal, public, or private to further the purposes of this article. The State Resiliency Officer will:

(1) Serve as coordinator of all economic and community resiliency planning and implementation efforts, including, but not limited to, flood protection programs and activities in the state;

(2) Develop a new state Flood Resiliency Plan due to the Board no later than June 30, 2024;

~~(2)~~(3) Coordinate an annual review of the state ~~flood protection plan~~ Flood Resiliency Plan and update the plan no less than ~~biannually~~ biennially, with updates due to the board no later than June 30 in even-numbered years;

~~(3)~~(4) Recommend legislation to reduce or mitigate flood damage;

~~(4)~~(5) Report to the Joint Legislative Committee on Flooding at least quarterly;

~~(5)~~(6) Catalog, maintain, and monitor a listing of current and proposed capital expenditures to reduce or mitigate flood damage and other hazards, and other useful and desirable resiliency efforts;

~~(6)~~(7) Coordinate planning of flood projects with federal agencies;

~~(7)~~(8) Improve professional management of flood plains;

~~(8)~~(9) Provide education and outreach on flooding issues to the citizens of this state;

~~(9)~~(10) Establish a single website integrating all agency flood information;

~~(10)~~(11) Monitor federal funds and initiatives that become available for disaster recovery and economic and community resiliency or other flood or hazard mitigation, and to direct expenditures on behalf of the Governor;

~~(11)~~(12) Pursue additional funds and resources to assist not only with long-term recovery efforts but also long-term community and statewide resiliency efforts;

~~(12)~~(13) Coordinate, integrate, and expand planning efforts in the state for hazard mitigation, long-term disaster recovery, and economic diversification;

~~(13)~~(14) Coordinate long-term disaster recovery efforts in response to disasters as they occur;

~~(14)~~(15) Establish and facilitate regular communication between federal, state, local, and private sector agencies, and organizations to further economic and disaster resilience;

~~(15)~~(16) Receive resources, monetary or otherwise, from any other governmental entity and disburse those resources to effectuate the purposes of this article;

~~(16)~~(17) Execute cooperative agreements, where appropriate, between the State Resiliency Office and the federal and/or state governments;

~~(17)~~(18) Contract, where appropriate, on behalf of the State Resiliency Office, with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia, and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals;

~~(18)~~(19) Use funds administered by the State Resiliency Office for the maintenance, construction, or reconstruction of capital repair and replacement items as necessary to effectuate the purposes of this article;

~~(19)~~(20) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia, and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for the purposes of disaster recovery, hazard mitigation, flood mitigation, flood prevention, and disaster response programs;

~~(20)~~(21) Hire necessary employees at an appropriate salary equivalent to a competitive wage rate;

~~(24)~~(22) Enroll appropriate employees in PERS, PEIA, and workers' compensation and unemployment programs, or their equivalents: *Provided*, That the State Resiliency Office, through the receipt of federal and/or state funds, pays the required employer contributions;

~~(22)~~(23) Develop a human resources division that will administer and manage its employees and receive state matching funds as necessary to ensure maximum federal funds are secured;

~~(23)~~(24) Have the ability to secure all other bonding, insurance, or other liability protections necessary for its employees to fulfill their duties and responsibilities;

~~(24)~~(25) Have the ability to draw upon other departments, divisions, agencies, and all other subdivisions of the state for research and input in fulfilling the requirements of this article, and its requests are to have priority over other such requests;

~~(25)~~(26) Participate in the interdepartmental transfer of permanent state employees, as if he or she were a department secretary, under the provisions of §5F-2-7 of this code.

~~(26)~~(27) Notwithstanding any other provision of this code to the contrary, acquire legal services that are necessary, including representation of the board, its employees, and officers before any court or administrative body from the office of the Attorney General, who shall provide such legal assistance and representation, and

~~(27)~~(28) Take all other actions necessary and proper to effectuate the purposes of this article.

The office shall have any other additional authority, duties, and responsibilities as prescribed by the Governor to effectuate the purposes of this article. Due to the at-will employment relationship with the office, its employees may not avail themselves of the state grievance procedure as set forth in §6C-2-1 *et seq.* of this code.

§29-31-6. West Virginia Disaster Recovery Trust Fund.

(a) There is hereby created a special trust fund which shall be designated and known as the West Virginia Disaster Recovery Trust Fund to be administered by the State Resiliency Officer. The recovery fund shall consist of: (1) Any appropriations, grants, gifts, contributions, or revenues received by the recovery fund from any source, public or private; and (2) all income earned on moneys, properties, and assets held in the Recovery Fund. When any funds are received by the State Resiliency Officer from any source for the purpose of disaster recovery, they shall be paid into the Recovery Fund, and shall be disbursed and otherwise managed in the manner set forth in this article unless such a transfer is not allowable by law. The Recovery Fund shall be treated by the Auditor and Treasurer as a special revenue fund and not as part of the general revenues of the state.

(b) All moneys, properties, and assets acquired by the State of West Virginia in the Disaster Recovery Trust Fund shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys, properties, and assets shall at no time be commingled with other public funds except as authorized for investment under §29-31-8 of this code. Disbursements from the Recovery Fund shall be made only upon the written requisition of the the State Resiliency Officer as set forth in §29-31-7 and §29-31-8 of this code. If no need exists for immediate use or disbursement, moneys, properties, and assets in the Recovery Fund shall be invested or reinvested by the State Resiliency Officer as provided in this article.

§29-31-7. West Virginia Disaster Recovery Trust Fund disbursement.

Upon the proclamation of the existence of a state of emergency due to a natural hazards event under the provisions of §15-5-6 of this code or upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act, the State Resiliency Officer shall have the power to disburse funds from the Disaster Recovery Trust Fund created pursuant to §29-31-6 of this code to any person, political subdivision, or local organization for emergency services in such amounts and in such manner, and to take such other actions, as the State Resiliency Officer may determine is necessary or appropriate in order to provide assistance to any person, political subdivision, or local organization for recovering from the disaster, or otherwise involved in disaster recovery activities: *Provided*, That except as provided hereafter in this section, requisitions for payment shall not be made or authorized for payment by the Auditor without the express approval of the State Resiliency Officer: *Provided, however*, That all disbursements arising out of the events surrounding the aftermath of a disaster event giving rise to the relevant disbursements shall require the express approval of the State Resiliency Officer, which approval shall not be unduly withheld or delayed.

In the occurrence of a qualifying event granting the State Resiliency Officer the power to disburse funds from the Disaster Recovery Trust Fund, the following provisions and conditions shall be adhered to:

(1) Disbursements shall be prioritized to the benefit of low-income households and geographic areas, and not less than 50 percent of all funds disbursed through the Disaster Recovery Trust Fund following any particular disaster event shall be disbursed to the benefit of low-income geographic areas, low-income households, or to local organizations conducting disaster recovery activities to the benefit of low-income geographic areas or low-income households;

(2) Disbursements to the benefit of a political subdivision may only be allowed upon the verification to the State Resiliency Officer that the recipient political subdivision has adopted, or will adopt within 24 months, the following programs or measures or risk forfeiture of future funding opportunities:

(A) Town road and bridge standards consistent with or exceeding those listed under the most current version of standards published by the West Virginia Department of Transportation;

(B) A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

(C) A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan;

(D) Adoption of a local Emergency Operations Plan (EOP) in accordance with State standards; and

(E) Attainment of an active rate classification (class #1 through #9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; and

(3) Disbursements may be further prioritized or conditioned at the discretion of the State Resiliency Officer and upon approval of the State Resiliency Office Board.

§29-31-8. Powers and duties related to the West Virginia Disaster Recovery Trust Fund.

The State Resiliency Officer is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes set forth in §29-31-7 of this code. The State Resiliency Officer has the power:

(1) To accept appropriations, gifts, grants, bequests, and devises from any source, public or private, for deposit into the Recovery Fund, and to use or dispose of the same to provide assistance to any person, political subdivision, or local organization for recovering from a disaster, or otherwise involved in disaster recovery activities;

(2) To make and execute contracts, leases, releases, and other instruments necessary or convenient for the exercise of its power;

(3) To make, and from time to time, amend, and repeal bylaws for the governance of its activities not inconsistent with the provisions of this article;

(4) To sue and be sued;

(5) To acquire, hold, and dispose of real and personal property;

(6) To enter into agreements or other transactions with any federal or state agency, political subdivision, or person;

(7) To provide for the deposit of any funds or assets of the West Virginia Disaster Recovery Trust Fund with the state Treasurer for investment pursuant to §12-6C-6 of this code;

(8) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(9) To provide financial assistance to state and local governmental entities for the nonfederal share for federal disaster assistance programs;

(10) To provide for financial assistance to homeowners and communities that are not eligible for Community Development Block Grant-Disaster Recovery and other federal funding assistance;

(11) To provide loans and grants to local governments in disaster areas that need immediate cash flow assistance;

(12) To provide grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code to repair or replace infrastructure or equipment damaged as a result of a natural disaster;

(13) To provide financial assistance for verifiable losses of agricultural commodities due to a natural disaster; and

(14) Do all acts necessary and proper to carry out the powers granted to the State Resiliency Office within its disaster recovery mission.

§29-31-9. Capitalization of the West Virginia Disaster Recovery Trust Fund.

(a) The West Virginia Disaster Recovery Trust Fund may be granted an initial one-time allocation of \$10 million in state general funds for the purposes outlined in this article.

(b) The State Resiliency Officer shall, with the concurrence of the State Auditor, present an expenditure report to the State Resiliency Office Board by no later than December 1 annually.

(c) Upon review and verification by the State Resiliency Office Board that all expenditures within the West Virginia Disaster Recovery Trust Fund expenditure report are valid and justified uses of Recovery Fund resources, the State Resiliency Office Board shall submit to the Governor by no later than December 31 annually a budget and may request to replenish the Recovery Fund up to its initial \$10 million capitalization.

§29-31-10. West Virginia Flood Resiliency Trust Fund.

(a) There is hereby created a special trust fund which shall be designated and known as the West Virginia Flood Resiliency Trust Fund to be administered by the State Resiliency Officer. The Flood Fund shall consist of: (1) Any appropriations, grants, gifts, contributions, or revenues received by the Flood Fund from any source, public or private; and (2) all income earned on moneys, properties, and assets held in the Flood Fund. When any funds are received by the State Resiliency Officer from any source for flood resiliency activities, they shall be paid into the Flood Fund, and shall be disbursed and otherwise managed in the manner set forth in this article. The Flood Fund shall be treated by the Auditor and Treasurer as a special revenue fund and not as part of the general revenues of the state.

(b) All moneys, properties, and assets acquired by the State of West Virginia in the Flood Fund shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys, properties, and assets shall at no time be commingled with other public funds except as authorized for investment under §29-31-12 of this code. Disbursements from the Flood Fund shall be made only upon the the written requisition of the State Resiliency Officer as set forth in §29-31-11 and §29-31-12 of this code. If no need exists for immediate use or disbursement, moneys, properties, and assets in the Flood Fund shall be invested or reinvested by the State Resiliency Officer as provided in this article.

§29-31-11. West Virginia Flood Resiliency Trust Fund disbursement.

Upon the development of a new state Flood Resiliency Plan, the State Resiliency Officer shall have the power to disburse funds from the Flood Fund for the purposes of implementing the Flood Resiliency Plan to any person, political subdivision, or local organization in such amounts and in such manner, and to take such other actions, as the State Resiliency Officer may determine is necessary or appropriate and is outlined within the Flood Resiliency Plan. All assistance to any person, political subdivision, or local organization shall be for the purposes of building flood resiliency in the face of current and projected future flood disaster events: *Provided*, That except as provided hereafter in this section, requisitions for payment shall not be made or authorized for payment by the Auditor without the express approval of the State Resiliency Officer: *Provided, however*, That all disbursements shall require the express approval of the State Resiliency Officer, which approval shall be contingent on the proposed activity appearing as a valid proposed flood resiliency activity and prioritized for implementation within the most recent Flood Resiliency Plan as reviewed and approved by the State Resiliency Office Board.

Following the development and approval of a new state Flood Resiliency Plan, the State Resiliency Officer is granted the power to disburse funds from the Flood Resiliency Trust Fund. In accordance with these powers, the following provisions and conditions shall be adhered to:

(1) Disbursements from the Flood Fund shall be used solely for the purposes of enhancing flood prevention or protection as required by this article. The State Resiliency Office shall manage the Flood Fund and may disburse from the Flood Fund its reasonable costs and expenses incurred in the management of the Flood Fund;

(2) Disbursements shall be prioritized to the benefit of low-income geographic areas, and not less than 50 percent of all funds disbursed through the Flood Resiliency Trust Fund shall be disbursed to the benefit of low-income geographic areas and low-income households;

(3) Disbursements shall be prioritized toward the implementation of nature-based solutions, and not less than 50 percent of all funds disbursed through the Flood Resiliency Trust Fund shall be disbursed to implement nature-based solutions. Of disbursements made to implement nature-based solutions, not less than 25 percent of these disbursements shall be utilized for the acquisition of single-family primary residences and multifamily residences in areas currently or projected to be subjected to significant flood impacts, assistance to residents relocating outside of the floodplain, and floodplain restoration activities on properties acquired through the Flood Fund;

(4) Disbursements to the benefit of a political subdivision may only be allowed upon the verification to the State Resiliency Officer that the recipient political subdivision has adopted, or will adopt within 24 months, the following programs or measures:

(A) Town road and bridge standards consistent with or exceeding those listed under the most current version of standards published by the West Virginia Department of Transportation;

(B) A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

(C) A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community, and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan;

(D) Adoption of a local Emergency Operations Plan (EOP) in accordance with state standards; and,

(E) Attainment of an active rate classification (class #1 through #9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; and

(5) Prioritization and conditions for disbursements at the discretion of the State Resiliency Officer and upon approval of the State Resiliency Office Board.

§29-31-12. Powers and duties related to the West Virginia Flood Resiliency Trust Fund.

The State Resiliency Officer is hereby granted, has, and may exercise all powers necessary or appropriate to carry out and effectuate the purposes set forth in §29-31-11 of this code. The State Resiliency Officer has the power:

(1) To accept appropriations, gifts, grants, bequests, and devises from any source, public or private, for deposit into the Flood Fund, and to use or dispose of the same to provide assistance to any person, political subdivision, or local organization for flood resiliency, flood prevention, and flood protection activities;

(2) To make and execute contracts, leases, releases, and other instruments necessary or convenient for the exercise of its power;

(3) To make, and from time to time, amend, and repeal bylaws for the governance of its activities not inconsistent with the provisions of this article;

(4) To sue and be sued;

(5) To acquire, hold, and dispose of real and personal property;

(6) To enter into agreements or other transactions with any federal or state agency, political subdivision, or person;

(7) To provide for the deposit of any funds or assets of the West Virginia Flood Resiliency Trust Fund with the state Treasurer for investment pursuant to §12-6C-6 of this code;

(8) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(9) To procure services related to the development and updating of the state Flood Resiliency Plan;

(10) To provide loans or grants to political subdivisions and individual beneficiaries for the purpose of implementing activities proposed and outlined within the Flood Resiliency Plan;

(11) To provide loans or grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code for the purpose of implementing activities proposed and outlined within the Flood Resiliency Plan;

(12) To provide loans or grants to political subdivisions for the purpose of conducting flood prevention and protection studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager; and

(13) Do all acts necessary and proper to carry out the powers granted to the State Resiliency Office for flood resiliency activities.

§29-31-13. Capitalization of the West Virginia Flood Resiliency Trust Fund.

(a) The West Virginia Flood Resiliency Trust Fund may be granted an initial one-time allocation of \$40 million in state general funds for the purposes outlined in this article.

(b) The State Resiliency Officer shall, with the concurrence of the State Auditor, present an expenditure report to the State Resiliency Office Board by no later than December 1 annually.

(c) Upon review and verification by the State Resiliency Office Board that all expenditures within the West Virginia Flood Resiliency Trust Fund expenditure report are valid and justified uses of Flood Fund resources, the State Resiliency Office Board shall submit to the Governor by no later than December 31 annually a budget and may request to replenish the Flood Fund up to its initial \$40 million capitalization.

(d) Upon state receipt of Community Development Block Grant-Disaster Recovery funds in relation to a flood disaster event, and in order to provide the state with the flexibility required to provide assistance to any person, political subdivision, or local organization recovering from the flood disaster event, a minimum of six percent of those funds shall be dedicated for the purposes of Flood Resiliency Plan development and implementation activities to the extent that those purposes are in compliance with applicable federal laws and regulations governing such funds and compatible with the state's long-term recovery goals.

§29-31-14. Tax exemption.

The State Resiliency Officer shall not be required to pay any taxes and assessments to the state or any political subdivision of the state upon any of its moneys, properties, or assets or upon its obligations or other evidences of indebtedness pursuant to the provisions of this article, or upon any moneys, funds, revenues, or other income held or received into the West Virginia Disaster Recovery Trust Fund or the West Virginia Flood Resiliency Trust Fund.;

And,

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

Eng. Com. Sub. for Senate Bill 677—A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; to repeal §15-5-4b, §15-5-4c, §15-5-24, §15-5-25, and §15-5-26, and of said code; to amend and reenact §29-31-1 and §29-31-2 of said code; to amend said code by adding thereto new sections, designated §29-31-2a; to amend and reenact §29-31-3 of said code; and to amend said code by adding thereto new sections, designated §29-31-6, §29-31-7, §29-31-8, §29-31-9, §29-31-10, §29-31-11, §29-31-12, §29-31-13 and §29-31-14, all relating to the Resiliency and Flood Protection Planning Act generally; modifying definitions; repealing, continuing, and moving provisions governing the West Virginia Disaster Recovery Trust Fund into the Act; revising provisions governing the State Resiliency Office, the State Resiliency Officer and the State Resiliency Board within the Act; expanding upon the qualifications, powers and duties of the State Resiliency Officer and the deputy State Resiliency Officer, including but not limited to requiring a vulnerability assessment of critical infrastructure at the state and municipal levels including hospitals, schools, fire stations, and comparable facilities; requiring leadership in state planning efforts "in the event of" states of emergency; and requiring development of new state Flood Resiliency Plan; providing for receipt and disbursement of funds from the West Virginia Disaster Recovery Trust Fund and the duties of the State Resiliency Officer in administering the same; creating the West Virginia Flood Resiliency Trust Fund; providing for receipt and disbursement of funds from the West Virginia Flood Resiliency Trust Fund and the duties of the State Resiliency Officer in administering the same; and providing tax exemption.

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

Engrossed Com. Sub. for S. B. 677, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 677) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 677) 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 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 735, Clarifying department responsible for administration of certain programs.

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 15, line 47, by changing the number "2024" to "2029";

On page 1, section 3, lines 1 through 9, by striking §5B-1A-3 in its entirety;

On page 7, section 4, lines 3 through 4 by striking out all of subsection (b) and inserting in lieu thereof the following:

(b) The Governor shall appoint and set the salary of the director of the office who shall be responsible for hiring such assistants and clerical staff as may be necessary to carry out the responsibilities of the office. The initial appointment for the director shall be made by July 1, 2026. Funding for this position and to carry out the duties of the office shall be provided by appropriation of the Legislature.

(c) The director shall report quarterly to the energy and finance committees of the legislature on projects funded by the office. The report shall include the amount, the recipient and a description of each project funded.;

And,

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

Eng. Senate Bill 735—A Bill to amend and reenact §5B-2-15 of said code, to amend and reenact §5B-2A-3 and §5-2A-4 of said code; to amend and reenact §5B-8-1 of said code; to amend and reenact §11-13X-9 of said code; and to amend and reenact §31G-1-5 and §31G-1-14 of said code, all relating to clarifying the department responsible for the administration of certain programs; providing an extension on the date work is to be concluded; providing the Governor appoint and set the salary of the director of the office; providing that funding for the position and to carry out the duties of the office shall be as provided by appropriation of the Legislature; and providing requirements for quarterly reports.

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

Engrossed Senate Bill 735, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 735) 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 737, Emergency Medical Services Act.

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 one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-25. Emergency Medical Services Salary Enhancement Fund.

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the Emergency Medical Services Salary Enhancement Fund which is an interest- and earnings-accumulating account. The fund is established to support supplementing the salaries of, and providing crisis response for, county emergency medical service personnel as that term is defined in §16-4C-3(g) of this code or a county designated or contracted emergency medical service provider and all moneys must be spent to support increasing salaries of emergency medical service workers and providing crisis response to encourage retention. The fund consists of moneys appropriated by the Legislature, grants, gifts, devises, and donations from any public or private source. All interest and other returns derived from the deposit and investment of moneys in the Emergency Medical Services Salary Enhancement Fund shall be credited to the fund. 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 in this section. The Director of the West Virginia Office of Emergency Medical Services shall administer the fund.

(b) The Director of the Office of Emergency Medical Services shall propose legislative rules for promulgation and promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code. These rules shall include a means of distributing any available funds to counties to accomplish the purpose of this section with an emphasis on the following factors:

(1) Counties who may demonstrate the most need;

(2) Counties that have a special levy for emergency medical services;

(3) Counties that have reached the maximum allowable rate on regular levies; and/or

(4) Counties that have a challenge recruiting and retaining emergency medical services personnel due to interstate competition.

(c) The Office of Emergency Medical Services shall prepare an annual report to the Legislative Oversight Commission on Health and Human Resources Accountability. The report shall provide:

(1) A county-by-county accounting of how the funds were distributed;

(2) An accounting by county of the number of emergency medical service workers receiving a salary enhancement; and

(3) Recommendations for continued funding.

The first report is due by July 1, 2024, and annually thereafter."

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

Engrossed Senate Bill 737, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio,

Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 737) 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, 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 amendment to the Senate amendments, as to

Eng. Com. Sub. for House Bill 2540, Travel Insurance Model 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:

On page 11, section 5, line 1, by striking "33-31-14" and inserting in lieu thereof "33-3-14".

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 2540, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 H. B. 2540) passed with its Senate amended title.

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

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

On motion of Senator Takubo, at 2:56 p.m., the Senate recessed until 4:30 p.m. today.

The Senate reconvened at 5:11 p.m.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the changed effective date, to take effect July 1, 2023,

Eng. Com. Sub. for House Bill 2346, Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment.

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 2436, Relating to the implementation of an acuity-based patient classification system.

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 3203, Relating generally to West Virginia Real Estate License Act.

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 3261, Relating to Social Workers Qualifications.

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 Trump, Takubo, and Plymale.

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 that that body had agreed to 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 House Bill 3302, To recognize unborn child as distinct victim in a DUI causing death.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Kelly, Ward, and Garcia.

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 3451, Updating the veteran preference ratings in state code for state employment.

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 July 1, 2023, of

Eng. House Bill 3473, Creating a workgroup relating to Dig Once Policy.

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 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems.

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

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

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

ARTICLE 6B. CYBER SECURITY PROGRAM.

§5A-6B-4a. High-risk platforms, services, applications, programs, and products.

(a) The Legislature hereby finds and declares that it is in the best interest of the citizens of West Virginia and to national security to enact measures designed to safeguard against untrustworthy and high-risk technology and to block such technology from interfering with or damaging critical state networks and infrastructure, including election systems. The use of certain information and communication technologies and services can create opportunities for hostile actors to exploit vulnerabilities and take adverse action against the United States or allies, which could directly or indirectly affect the safety and security of West Virginia citizens, and such use also creates opportunities for adversaries to exploit vulnerabilities and take adverse action against state or local government networks and infrastructure within or connected to West Virginia. As the threat landscape evolves, West Virginia shall work in cooperation with the federal government to implement appropriate safeguards to defend government networks in West Virginia and in the United States from foreign technology threats.

(b) Notwithstanding the provision of §5A-6B-1(b) of this code, all state agencies, including without limitation agencies within the executive branch, all constitutional officers, local government entities as defined by §7-1-1 or §8-1-2 of this code, county boards of education as defined by §18-1-1 of this code, and all state institutions of higher education as defined by §18B-1-2 of this code, shall enforce statewide standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products. Additionally, all government entities subject to this subsection must, consistent with those standards and any other applicable state or federal law, restrict, remove, ban or otherwise block access to high-risk technology platforms, services, applications, programs, or products on all government systems, services, networks, devices, or locations. For purposes of this subsection, high-risk technology platforms, services, applications, programs, or products are those designated as such in the Statewide Cybersecurity Standard published and maintained by the

Chief Information Security Officer: *Provided*, That any standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products shall contain exceptions permitting, in appropriate circumstances, the use of those platforms, services, applications, programs, or products for law enforcement activities, national security interests and activities, security research, investigative efforts authorized by this code, and for other purposes related to actual or potential litigation involving the state or one of its agencies or officers: *Provided, however*, that the Chief Information Security Officer shall develop standards and requirements designed to mitigate the risk of any such authorized use of a high-risk platform, service, application, program, or product pursuant to the exceptions set forth in this section: *Provided, further* that law enforcement agencies of the state are hereby exempt from the provisions of this section if such use of high-risk technology platforms, services, applications, programs, or products is necessary in the performance of their duties.

(c) Agencies within the legislative and judicial branches are recommended to consult these statewide standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products as part of their best management practices.

(d) The Secretary of the Department of Administration may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may also promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code when necessary to facilitate

(1) completion of the duties imposed on the Chief Information Security Officer by this section, and

(2) enforcement of the standards referenced in this section.

(e) The Chief Information Security Officer will provide an annual report by June 1 of each year on threats posed by untrustworthy and high-risk platforms, services, applications, programs, or products, and the actions required to mitigate those threats to the Joint Interim Committee on Government Operations.;

And,

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

Eng. Com. Sub. for Senate Bill 426—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-6B-4a, relating to regulating, restricting, or banning high-risk technology platforms, services, applications, programs, or products on government networks, devices, and systems; adding legislative findings related to national security threats and threats to critical state government networks and infrastructure, including election systems, posed by untrustworthy and high-risk platforms, services, applications, programs, or products; authorizing the Chief Information Security Officer to identify high-risk platforms, services, applications, programs, and products and to develop statewide standards regulating their use on government networks, devices, and systems; requiring certain government entities to adopt and enforce those standards; recommending the legislative and judicial branches to adopt and enforce those standards; authorizing the promulgation of legislative and emergency rules to facilitate the purpose of this section; and requiring the Chief Information Security Officer provide an annual report on threats posed by untrustworthy and high-risk

platforms, services, applications, programs, or products, and the actions required to mitigate those threats to the Joint Interim Committee on Government Operations.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 426) was reported by the Clerk and adopted:

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

ARTICLE 6B. CYBER SECURITY PROGRAM.

§5A-6B-4a. High-risk platforms, services, applications, programs, and products.

(a) The Legislature hereby finds and declares that it is in the best interest of the citizens of West Virginia and to national security to enact measures designed to safeguard against untrustworthy and high-risk technology and to block such technology from interfering with or damaging critical state networks and infrastructure, including, without limitation, election systems. The use of certain information and communication technologies and services can create opportunities for hostile actors to exploit vulnerabilities and take adverse action against the United States or allies, which could directly or indirectly affect the safety and security of West Virginia citizens, and such use also creates opportunities for adversaries to exploit vulnerabilities and take adverse action against state or local government networks and infrastructure within or connected to West Virginia. As the threat landscape evolves, West Virginia shall work in cooperation with the federal government to implement appropriate safeguards to defend government networks in West Virginia and in the United States from technology threats posed by hostile actors.

(b) Notwithstanding the provision of §5A-6B-1(b) of this code, all state agencies and instrumentalities, including without limitation agencies within the executive, legislative, and judicial branches, all constitutional officers, local government entities as defined by §7-1-1 or §8-1-2 of this code, county boards of education as defined by §18-1-1 of this code, and all state institutions of higher education as defined by §18B-1-2 of this code, shall enforce statewide standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products. Additionally, all government entities subject to this subsection must, consistent with those standards and any other applicable state or federal law, restrict, remove, ban or otherwise block access to high-risk technology platforms, services, applications, programs, or products on all government systems, services, networks, devices, or locations. For purposes of this subsection, high-risk technology platforms, services, applications, programs, or products are those designated as such in the Statewide Cybersecurity Standard published and maintained by the Chief Information Security Officer: *Provided*, That any standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products shall contain exceptions permitting, in appropriate circumstances, the use of those platforms, services, applications, programs, or products for law enforcement activities, national security interests and activities, security research, investigative efforts authorized by this code, and for other purposes related to actual or potential litigation involving the state or one of its agencies or officers: *Provided, however*, that the Chief Information Security Officer shall develop standards and requirements designed to mitigate the risk of the authorized use of a high-risk platform, service, application, program, or product pursuant to the exceptions set forth in this section: *Provided, further* that the Chief Information Security Officer shall, after consultation with the affected entities, exempt law enforcement agencies and other instrumentalities from the provisions of this section to the extent that the use of high-risk technology platforms, services, applications, programs, or products is determined to be necessary to performance of their official duties.

(C) The Secretary of the Department of Administration may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code and may also promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code when necessary to facilitate:

(1) completion of the duties imposed on the Chief Information Security Officer by this section, and

(2) enforcement of the standards referenced in this section.

(d) The Chief Information Security Officer will provide an annual report by June 1 of each year on threats posed by untrustworthy and high-risk platforms, services, applications, programs, or products, and the actions required to mitigate those threats to the Joint Interim Committee on Government Operations.

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

Engrossed Committee Substitute for Senate Bill 426, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 426) passed with its House of Delegates 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 from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 552, Relating to abortion.

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 the following:

ARTICLE 2R. UNBORN CHILD PROTECTION ACT.

§16-2R-9. Severability.

~~If any provision of §16-2R-1 et seq. of this code is judicially determined to be unconstitutional, this entire article shall be of no force and effect and the provisions of §16-2F-1 et seq., §16-2I-1 et seq., §16-2M-1 et seq., §16-2O-1, §16-2P-1, §16-2Q-1, and §33-42-8 of this code shall become immediately effective.~~

Severability as provided in §2-2-10(b)(7) is applicable to this article: *Provided*, That if this entire article is judicially determined to be unconstitutional, then the provisions of §16-2F-1 et seq., §16-2I-1 et seq., §16-2M-1 et seq., §16-2O-1, §16-2P-1, §16-2Q-1, and §33-42-8 of this code shall become immediately effective: *Provided, however*, That if a provision or provisions of §16-2R-1 et seq. are judicially determined to be unconstitutional, then the provisions of §16-2F-9, §16-2I-9, §16-2M-7, §16-2O-1(e), §16-2P-1(d), §16-2Q-1(m), and §33-42-8(d) are not effective.;

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 amend and reenact §16-2R-9 of the Code of West Virginia, 1931, as amended; relating to abortion; and revising severability clauses.

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, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Jeffries—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. 552) 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, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Jeffries—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. 552) 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 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 573, Relating to child support guidelines and Support Enforcement Commission.

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 205, line 8, by striking the word "noncustodial";

On page 1, section 205, line 11 by striking the word "noncustodial";

On page 3, section 202, by inserting

§48-13-202. Application of expenses and credits in determining child support.

In determining the total child support obligation, the court shall:

(1) Add to the basic child support obligation any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court; and

(2) Subtract any extraordinary credits agreed to by the parents or ordered by the court.

(3) Deduct from a parent's adjusted gross income the reasonable monthly amount of a student loan payment actually being paid to the lending institution that originally issued the loan by a parent for a student loan debt owed in his or her own name and for his or her own educational expenses; provided that the total amount of the student loan payment deducted may not exceed 25% of the parent's total gross income determined before the deduction. The Family Court shall have discretion to exclude all or a portion of the student loan deduction if the parent with the student loan debt is in child support arrears, if the parent is not current or is in arrears on the student loan payment, if the student loan is being paid by a third party and not the parent, or if the child is not receiving or expected to receive a financial benefit from the education associated with the student loan expenses incurred. If the student loan deduction is awarded:

(a) The parent shall have a duty to immediately disclose to the Court, the BCSE, and any other party, any changes in the monthly amount of the student loan payment, including any payment deferrals or student loan forgiveness.

(b) The Court may require a parent to annually disclose to the Court, the BCSE, and any other party, a statement showing a history of student loan payments for the prior year.

(c) Failure to timely make the disclosures above may be a basis for the Court to modify child support to exclude the student loan deduction, including retroactively to the first of the month following any unreported change.;

And,

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

Eng. Com. Sub. for Senate Bill 573—A Bill to amend and reenact §48-1-205 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-13-202, §48-13-301, §48-13-302, §48-13-303, §48-13-403, §48-13-404, §48-13-501, and §48-13-502 of said code, all relating generally to the child support guidelines and the Support Enforcement Commission; allowing a deduction for student loan payments under specific circumstances, clarifying circumstances and factors for attributed income; updating monthly basic child support obligations to reflect 2022 financial data; updating income amount requiring manual calculation to determine basic child support obligation; updating amount for the ability to pay calculation and self-support reserve; and amending the multiplier for extended shared parenting adjustment.

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

Engrossed Committee Substitute for Senate Bill 573, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 573) 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 733, Relating to wildlife licenses and stamps.

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 2. WILDLIFE RESOURCES.

§20-2-42I. Class A-1 small arms hunting stamp.

~~Notwithstanding the provisions of section two, article seven, chapter sixty one of this code, a~~ A Class A-1 stamp is a small arms hunting stamp. ~~To be eligible to get a Class A-1 stamp, a person must be legally able to possess a firearm. If a person is otherwise qualified, Except for~~

~~any person prohibited from possessing a firearm by state or federal law, to a Class A-1 stamp may be issued to a person twenty-one 18 years of age or older who is otherwise qualified and holds a valid resident or nonresident hunting license, or to a person who is a resident sixty-five 65 years of age or older, but a Class A-1 stamp shall never be issued to a person who has been convicted of a misdemeanor associated with the use of firearms or dangerous weapons or who has been convicted of a felony. A Class A-1 stamp entitles the licensee to hunt, as otherwise permitted by the provisions of this chapter, but only during small game and big game seasons as established annually by the Director, with either a revolver or pistol which has a barrel at least four inches in length. Unless otherwise permitted by the Code of West Virginia, a Class A-1 stamp entitles the licensee to carry or have in his or her possession only one revolver or pistol when going to and from his or her home or residence and a place of hunting and while hunting: Provided, That the Class A-1 stamp may not be valid unless the licensee has in his or her possession a valid resident or nonresident hunting license or is a resident sixty-five 65 years of age or older: Provided, however, That at all times, when not actually hunting, the revolver or pistol shall be unloaded. While while hunting, the licensee shall carry the revolver or pistol in an unconcealed and easily visible place. Nothing in this section shall be construed to prohibit a person from carrying a firearm for self-defense who is not prohibited from possessing a firearm by state or federal law.~~ The fee for the stamp is \$8. A lifetime Class A-1 stamp may be issued to anyone otherwise qualified and holding a valid Class A-L or, AB-L, E-L or EE-L license or to a resident sixty-five 65 years of age or older. The lifetime Class A-1 stamp will be issued in a form prescribed by the Director. The fee for a lifetime Class A-1 stamp is \$75. All fees collected for the issuance of the Class A-1 and lifetime Class A-1 stamps shall be deposited in the State Treasury and credited to the law-enforcement section of the Division of Natural Resources. The fees collected shall be paid out of the State Treasury on order of the Director and used solely for law-enforcement purposes. Any person ~~convicted of a misdemeanor associated with the use of firearms or dangerous weapons or convicted of a felony, or any person who becomes legally unable to possess a firearm shall immediately surrender the stamp to the Division of Natural Resources.~~ A holder of a Class A-1 or lifetime Class A-1 stamp is required to purchase the appropriate base license before participating in the activities specified in this section, except as noted.

ARTICLE 2B. WILDLIFE ENDOWMENT FUND.

20-2B-7. Lifetime hunting, fishing, and trapping licenses created.

(a) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu of the equivalent annual license: Lifetime resident statewide hunting and trapping license; lifetime resident combination statewide hunting, fishing, and trapping license; lifetime resident statewide fishing license; and lifetime resident trout fishing license.

(b) The director shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code, setting fees for lifetime licenses and ~~shall have authority to promulgate emergency legislative rules necessary to make effective the provisions of this section by July 1, 2024.~~ The fees for adult lifetime licenses shall be 23 times the fee for the equivalent annual licenses or stamps. The rule shall provide that the fee for any resident who has not reached his or her 15th birthday shall be:

(1) Forty percent of the adult fee set under rule for any resident who has not reached his or her first birthday;

(2) Fifty-five percent of the adult fee set under rule for any resident who is over one year old but has not reached his or her fifth birthday;

(3) Seventy-five percent of the adult fee set under rule for any resident who is over five years old but has not reached his or her 10th birthday; and

(4) Ninety percent of the adult fee set under rule for any resident who is over 10 years old but has not reached his or her 15th birthday.

The rule shall also provide that any resident who has not reached his or her 15th birthday and has been legally adopted shall be provided the same fee schedule, except the division shall use the date of entry of the order or decree of adoption as the licensee's date of birth for purposes of calculating the appropriate fee: *Provided*, That in addition to the provisions of this subsection for adopted children, foster parents may also purchase a lifetime license for their respective foster children under the same guidelines, except the division shall use the date of entry of the order placing the child in foster care as the licensee's date of birth for purposes of calculating the appropriate fee.

(c) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu of the equivalent annual license: Lifetime nonresident statewide hunting and trapping license; lifetime nonresident statewide fishing license; and lifetime nonresident bear hunting license.

(d) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping stamps and for the lifetime of the licensee, the lifetime stamps serve in lieu of the equivalent annual stamp: Lifetime nonresident trout fishing stamp; lifetime nonresident archery deer hunting stamp; lifetime nonresident muzzleloading deer hunting stamp; lifetime nonresident turkey hunting stamp; and lifetime nonresident national forest hunting, fishing, and trapping stamp.

(e) The director shall propose a rule for legislative approval in accordance with §29A-3-1 et seq. of this code, setting fees for nonresident lifetime licenses and stamps and shall have authority to promulgate emergency legislative rules necessary to make effective the provisions of this section by July 1, 2023. The fees for adult nonresident lifetime licenses and stamps shall be 23 times the fee for the equivalent annual licenses or stamps. The rule shall provide that the fee for any nonresident who has not reached his or her 15th birthday shall be:

(1) Forty percent of the adult fee set under rule for any nonresident who has not reached his or her first birthday;

(2) Fifty-five percent of the adult fee set under rule for any nonresident who is over one year old but has not reached his or her fifth birthday;

(3) Seventy-five percent of the adult fee set under rule for any nonresident who is over five years old but has not reached his or her 10th birthday; and

(4) Ninety percent of the adult fee set under rule for any nonresident who is over 10 years old but has not reached his or her 15th birthday.

§20-2B-8. Privileges of lifetime licensees.

(a) Pursuant to ~~section seven of this article~~ §20-2B-7 of this code, resident lifetime licensees shall be entitled to the same privileges and subject to the same restrictions as resident licensees possessing the equivalent annual license with the following exceptions:

(1) Class A-L, AB-L, B-L and O-L licenses shall be valid for the lifetime of the licensee;

(2) A Class O-L lifetime resident trout fishing license shall be issued only to residents of the state and shall be valid only when accompanied by a Class AB-L, B, B-L, X or XJ license; and

(3) No additional fee shall be required of Class A-L, AB-L or B-L licensees for the conservation stamp required by ~~section nine of this article~~ §20-2B-9 of this code. No additional fee shall be required of Class A-L or AB-L licensees for the Class BG stamp required by ~~section forty two v, article two of this chapter~~ §20-2-42v of this code.

(b) Pursuant to §20-2B-7 of this code, nonresident lifetime licensees shall be entitled to the same privileges and subject to the same restrictions as nonresident licensees possessing the equivalent annual license with the following exceptions:

(1) Class E-L, EE-L, F-L and OO-L licenses shall be valid for the lifetime of the licensee; and

(2) No additional fee shall be required of Class E-L, EE-L, or F-L licensees for the nonresident conservation law-enforcement and sports education stamp required by §20-2B-10 of this code.

(3) A Class OO-L lifetime nonresident trout fishing license shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class F or F-L license; and

(4) A Class UU-L lifetime resident archery deer hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(5) A Class VV-L lifetime nonresident muzzleloading deer hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(6) A Class WW-L lifetime nonresident turkey hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(7) A Class I-L lifetime nonresident national forest hunting, trapping, and fishing stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L, EE-L, or F-L license.

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

Engrossed Senate Bill 733, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 733) 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 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. House Bill 2967, Expediting License Applications for active military members and veterans, and their spouses.

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 4, section 30-1B-2, line 77, by inserting the word "duties" immediately following the word "official";

On page 8, section 30-1B-4, line 177, by striking the words "three and four" and inserting in lieu thereof "two and three";

On page 8, section 30-1B-4, line 185, by striking "§30-1B-3(a)(3) and §30-1B-(a)(4), or §30-1B-4(a)" and inserting in lieu thereof "§30-1B-2(a)(3), §30-1B-3(a)(3), or §30-1B-3(a)(4)";

And,

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

Eng. House Bill 2967—A Bill to amend and reenact §30-1B-1, §30-1B-2, §30-1B-3, and §30-1B-4 of the Code of West Virginia, 1931, as amended; and to repeal §30-1B-5 and §30-1B-7 of said code, all relating to licensure to practice professions and occupations; stating findings; establishing standards for licensure of military-trained applicants; creating an exception for the practices of law, medicine, and osteopathic medicine; mandating boards act on applications from military-trained applicants not later than 15 days after receipt; providing for conditions for issuance of authorization to practice occupation or trade to military-trained applicants; prohibiting board from charging fee for initial authorization to practice; establishing standards for licensing spouses of current military members; creating an exception for the practices of law, medicine, and osteopathic medicine; mandating boards act on applications from spouses not later than 15 days after receipt; prohibiting boards from charging fee to spouse of military member for initial authorization to practice; and providing for temporary authorization to practice while application is pending.

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 2967, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2967) 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 Senate amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, to take effect July 1, 2023, 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 3084, Relating to revising provisions related to public charter schools.

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 the title and inserting in lieu thereof a new title to read as follows:

Eng. Com. Sub. for House Bill 3084—A Bill to amend and reenact §18-5-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-7, §18-5G-12 and §18-5G-15 of said code; and to amend and reenact §18-9A-15 of said code; all relating to revising provisions related to public charter schools; providing public charter school access to funding from School Safety Fund; modifying priorities for funds use; requiring rule on process for needs-based funding requests and requiring rules; removing prohibition on elected public official profiting from or receiving monetary consideration from public charter school; expressing legislative intent on comparable levels of funding for public charter school students; authorizing state institution of higher education as applicant; prohibiting imposition of requirements on public charter schools choosing to incorporate post-secondary, industry and workforce program that are not required of noncharter public schools; authorizing public charter schools to include before and after school programs in their education program; excluding public charter school programs from regulation as child care facility; authorizing public charter school students to participate on the same basis as other public school students in extracurricular athletic and academic interscholastic activities sponsored by noncharter public school serving attendance area if not sponsored by charter school; emphasizing that charter school determines certification and licensure for teachers and instructional staff employed by it; clarifying public charter schools are exempt from state board policies unless otherwise specifically provided; excluding requirement that charter school employees be certified or licensed as

condition of employment and providing that charter school may require employees be certified or licensed as condition of employment but is not required to; requiring professional charter school board to consult with nationally recognized organizations along with the state board; providing for administering required state assessments in virtual setting; requiring state board to establish framework and procedures for interaction between public charter schools, public noncharter schools and county boards to facilitate cooperation and ensure prompt transfer of records; providing for invoicing of certain funding when student transfers from and to certain entities after the beginning of the school year; allowing member of charter school governing board to be employee of education service provider if services are provided by state institution of higher education; providing conditions for charter school governing board to be administrative unit of state institution of higher education and authorizing contract; authorizing professional charter school board to receive and expend gifts, grants and donations to carry out purposes of act, to apply for federal funds to implement programs, and to make start-up grants to public charter schools; and requiring for state board rule on method for providing increased enrollment funding for public charter schools.

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 3084, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Jeffries—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 H. B. 3084) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Jeffries—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. 3084) takes effect July 1, 2023.

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 3443, Relating to a development or improvement on land subject to review by the State Historic Preservation Office.

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 amendment to the bill.

Engrossed House Bill 3443, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3443) 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 had been filed at 5:40 p.m. today:

Eng. Com. Sub. for House Bill 3302, To recognize unborn child as distinct victim in a DUI causing death.

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 495, Providing correctional institutions and juvenile facilities video and audio records be confidential.

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 in 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~~

(a) The contents of all records necessary for the safe and secure management of inmates and residents committed to state correctional and juvenile facilities are confidential and may only be disclosed or released:

(1) Pursuant to this section;

(2) As required by the provisions of §29B-1-1 *et seq.* of this code;

(3) In accordance with the discovery provisions of the West Virginia Rules of Civil Procedure or the West Virginia Rules of Criminal Procedure; or

(4) In accordance with the provisions of §49-5-101 of this code.

(b) As used in this section, "records necessary for the safe and secure management of inmates and residents" means:

(1) Video and audio recordings produced in a correctional or juvenile facility;

(2) Incident reports and attachments thereto;

(3) Investigation reports and any attachments thereto, including, but not limited to, witness statements; and

(4) Any document or recording generated within a facility containing information which would reasonably place the safety of an employee, inmate, or resident in jeopardy.

(c) Records protected pursuant to the provisions of this section may be disclosed:

(1) To the Secretary of the Department of Homeland Security, his or her designees, and the commissioner or his or her designees for official use;

(2) To law enforcement when release is determined by the commissioner or his or her designees to be necessary for the investigation, prevention, or prosecution of a crime or crimes;

(3) To the Juvenile Justice Commission and its designees acting in the course of their official duties; and

(4) Pursuant to a lawful order of a court of record or an administrative tribunal for use in a civil, criminal, or administrative matter: *Provided*, That the order shall contain a provision limiting disclosure or publication of the records to purposes necessary to the proceeding and prohibiting its unauthorized use and reproduction.

(5) The commissioner shall authorize an attorney, licensed to practice law in 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: *Provided*, That 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.

(d) The commissioner shall authorize an attorney, licensed to practice in this state and who is representing a person related by consanguinity or affinity to an inmate or resident who has suffered an alleged injury or death while in the custody of the division to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents under the conditions set forth in subdivision (5), subsection (c) of this section.

(e) The confidentiality provisions of this section extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record or administrative tribunal.;

And,

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

Eng. Com. Sub. for Senate Bill 495—A Bill to amend and reenact §15A-4-8a of the Code of West Virginia, 1931, as amended, relating generally to correctional institutions and juvenile facilities; deeming certain video and audio recordings records and reports to be confidential;

creating exceptions to confidentiality; requiring court or administrative tribunal orders directing disclosure to contain a provision limiting disclosure to the purposes necessary to the proceeding and prohibiting unauthorized use and publication; requiring the Commissioner of the Division of Corrections and Rehabilitation to permit the viewing of certain records to licensed attorneys under certain conditions; 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 495, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 495) 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 495) 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, adoption as amended, and requested concurrence of the Senate in the House of Delegates amendments, as to

Senate Concurrent Resolution 24, Renaming Mount Olive Correctional Complex and Jail as Mike V. Coleman Maximum Security Complex.

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

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

On page 1, line 1, after the word, Jail, by striking, "the Mike V. Coleman Maximum Security Complex."; and inserting in lieu thereof the following: "the Mike V. Coleman Mount Olive Maximum Security Complex.";

And,

On page 3, line 13 by striking, "the Mike V. Coleman Maximum Security Complex;" and inserting in lieu thereof the following: "the Mike V. Coleman Mount Olive Maximum Security Complex.".

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

The question being on the adoption of the resolution (S. C. R. 24), as amended, the same was put and prevailed.

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. Com. Sub. for House Bill 3313, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute.

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 Hamilton, Woodrum, and Plymale.

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 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 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Summers, Williams, and Hardy.

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 Maroney, Barrett, and Woelfel.

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 passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2883—A Bill supplementing and amending Chapter eleven, Acts of the Legislature, Regular Session, 2022, known as the budget bill, as amended, in Title II from the appropriations of public moneys out of federal moneys remaining unappropriated, to the Executive, Governor's Office, Coronavirus State Fiscal Recovery Fund, fund 8823, fiscal year 2023, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—1.

The bill was read a second time and ordered to third reading.

Engrossed Committee Substitute for House Bill 2883 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 H. B. 2883) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 2883) takes effect from passage.

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

Executive Communications

Senator Blair (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, submitting the annual probation and parole report, which was received:



Jim Justice
Governor of West Virginia

March 11, 2023

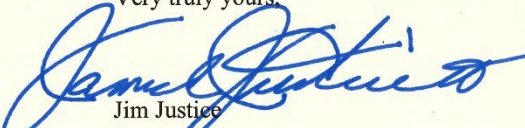
EXECUTIVE MESSAGE NO. 5
2023 REGULAR SESSION

The Honorable Craig Blair
President, Senate of West Virginia
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. President:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2022 through March 11, 2023.

Very truly yours,


Jim Justice
Governor

cc: Lee Cassis, Senate of West Virginia
Division of Archives and History

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Senator Blair (Mr. President) next laid before the Senate the following communication from His Excellency, the Governor, regarding annual reports, which communication was received and filed with the Clerk:



Jim Justice
Governor of West Virginia

March 11, 2023

Executive Message 6
2023 Regular Session

The Honorable Craig Blair
President, West Virginia State Senate
State Capitol, Rm 229M
Charleston, West Virginia 25305

Dear Mr. President:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

Accountancy, West Virginia Board of; FY 2022 WV Board of Accountancy

Acupuncture, West Virginia Board; FY 2021-2022 WV Board of Acupuncture

Administration, West Virginia Department of; State Building Commission Fund May 2022

Administration, West Virginia Department of; State Building Commission Fund June 2022

Administration, West Virginia Department of; State Building Commission Fund July 2022

Administration, West Virginia Department of; State Building Commission Fund June 2022

Administration, West Virginia Department of; State Building Commission Fund August 2022

Administration, West Virginia Department of; State Building Commission Fund September 2022

Administration, West Virginia Department of; State Building Commission Fund October 2022

OFFICE OF THE GOVERNOR

Administration, West Virginia Department of; State Building Commission Fund
November 2022

Administration, West Virginia Department of; State Building Commission Fund
December 2022

Administration, West Virginia Department of; State Building Commission Fund January
2023

Alcohol Beverage Control Administration, West Virginia; WVABCA Annual Report FY
2022

Architects, West Virginia Board of; FY2022 Annual Report Board of Architects

Insurance Commissioner, West Virginia Office of the; 2023 PTSD Annual Report

Barbers & Cosmetologists, West Virginia Board of; ANNUAL REPORT

Broadband Enhancement Council, West Virginia; West Virginia Office of Broadband
and West Virginia Broadband Enhancement Council 2022 Annual Report

Catastrophic Illness Commission, James "Tiger" Morton; James "Tiger" Morton
Catastrophic Illness Commission Year 2022 Report

Commission on Special Investigations; 42nd Annual Report

Contractor Licensing Board West Virginia; Contractor Licensing Board Activity Report

Correctional Industries, West Virginia; West Virginia Correctional Industries Annual
Report

Corrections, West Virginia Division of; FY 22 Annual Report WVDCR

Counseling, West Virginia Board of; 2022 Annual Report

Deaf and Hard of Hearing, West Virginia Commission for the; 2021 Annual Report

Dentists & Dental Hygienists, Board of; Report of the Biennium for Fiscal Years 2021 &
2022

Division of Justice and Community Services, West Virginia; JUSTICE
REINVESTMENT INITIATIVE (S.B. 371)

Division of Justice and Community Services, West Virginia; Sexual Assault Forensic
Examination SAFE Commission

Division of Justice and Community Services, West Virginia; Recommendations for
Criminal Sentencing Law Reform for the State of West Virginia A Report of the
Sentencing Commission Subcommittee of the Governor's Committee on Crime,
Delinquency, and Correction to the West Virginia Legislature

OFFICE OF THE GOVERNOR

Division of Justice and Community Services, West Virginia; Law Enforcement Professional Standards (LEPS) Subcommittee/Program

Division of Justice and Community Services, West Virginia; Juvenile Justice Subcommittee

Division of Justice and Community Services, West Virginia; WEST VIRGINIA COMMUNITY CORRECTIONS ACT

Elkins Depot Welcome Center CVB; Elkins Depot Welcome Center CVB, Inc. 2021-2022 Annual Report

Environmental Protection, West Virginia Department of; Environmental Protection Advisory Council 2022 Annual Report

Environmental Protection, West Virginia Department of; 2022 Special Reclamation Fund Advisory Council Annual Report

Environmental Protection, West Virginia Department of; FY 2022 Annual UST Report for Fund 3325

Environmental Protection, West Virginia Department of; Annual OOG Report for Fund 3323 FY2022

Environmental Protection, West Virginia Department of; FY 2022 Annual Report of Aboveground Storage Tanks Fund

Environmental Protection, West Virginia Department of; FY2022 Annual Report for Fund 3016 (POW)

Environmental Protection, West Virginia Department of; Stream Restoration Fund 3349 Annual Report

Environmental Protection, West Virginia Department of; 2022 Annual Water Resources Report

Fire Marshal's Office, West Virginia State; FY 2022 Annual Report

Fleet Management Division, West Virginia; Fleet Management Division 2022 Annual Fleet Report

Forestry, West Virginia Division of; Outdoor Heritage Conservation Fund Annual Report

Forestry, West Virginia Division of; WVDOF Managed Timberland

Forestry, West Virginia Division of; WVDOF Logging Sediment Control Act

Funeral Service Examiners, West Virginia Board of; FY2012-FY2022 Annual Report

Geological and Economic Survey, West Virginia; West Virginia Geological & Economic Survey Annual Report

OFFICE OF THE GOVERNOR

Hatfield-McCoy Regional Recreation Authority; 2022 Financial and Compliance Report

Hatfield-McCoy Regional Recreation Authority; Hatfield McCoy Annual Audit

Health and Human Resources, West Virginia Department of; Office of Emergency Medical Services Annual Report 2022

Health and Human Resources, West Virginia Department of; West Virginia Office of Drug Control Policy 2022 Semi-Annual Report

Health and Human Resources, West Virginia Department of; Fatality and Mortality Review Team

Health and Human Resources, West Virginia Department of; Annual Child Care Report

Highways, West Virginia Division of; 2021 Complete Streets Advisory Board Annual Report

Human Rights Commission, West Virginia; Human Rights Commission Annual Report

Insurance Commissioner, West Virginia Office of the; West Virginia Office of Consumer Advocate Offices of the WV Insurance Commissioner 2022 Annual Report

Insurance Commissioner, West Virginia Office of the; 2022 State Agency Workers Compensation (SAWC) Annual Report

Insurance Commissioner, West Virginia Office of the; Occupational Pneumoconiosis Board 2021-2022 Annual Report

Insurance Commissioner, West Virginia Office of the; 2022 West Virginia Automobile Survey

Insurance Commissioner, West Virginia Office of the; 2022 PTSD Annual Report

Insurance Commissioner, West Virginia Office of the; 2022 Safety Initiatives Report

Investment Management Board, West Virginia; 2022 Annual Report

Landscape Architects, West Virginia Board of; Board of Landscape Architects FY 2022 Annual Report

Library Commission, West Virginia; 2022 Annual Report

Massage Therapy Licensure Board, West Virginia; Annual Report FY 2021-2022

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report FY-2022

Medicine, West Virginia Board of; West Virginia Board of Medicine Annual Report to the Legislature July 1, 2020, through June 30, 2022

Miners' Health, Safety and Training, West Virginia Office of; FY2022 Annual Report

OFFICE OF THE GOVERNOR

Motor Vehicles, West Virginia Division of; Motor Vehicle Test and Lock Program (Interlock) 2022

Motor Vehicles, West Virginia Division of; 2022 WV Motorcycle Safety Program

Motor Vehicles, West Virginia Division of; DMV Safety and Treatment Program 2022

Municipal Bond Commission, West Virginia; Fiscal Year 2022 Annual Report

Natural Resources, West Virginia Division of; West Virginia Division of Natural Resources 2021-2022 Annual Report

Nursing Home Administrators Licensing Board, West Virginia; 2022 Annual Report

Occupational Therapy, West Virginia Board of; Annual Report 2022

Osteopathic Medicine, West Virginia Board of; West Virginia Board of Osteopathic Medicine - Annual Report 2022

Personnel, West Virginia Division of; West Virginia Division of Personnel Annual Report 2022

Pharmacy, West Virginia Board of; WV Board of Pharmacy Annual Report

Professional Engineers, West Virginia Board of; FY2022 ANNUAL REPORT - WV Board of Registration for Professional Engineers

Professional Surveyors, West Virginia Board of; WV Board of Professional Surveyors 2022 Annual Report

Public Service Commission, West Virginia; Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecast for 2023-2032

Purchasing Division; West Virginia; Semi-Annual Report on All Commodities Sold to Eligible Organizations

Real Estate Appraiser Licensing and Certification Board, West Virginia; WV Real Estate Appraiser Board Annual Report 2021-2022

Real Estate Commission, West Virginia; FY2022 Annual Report

Sanitarians, West Virginia State Board of; Annual Report 2022

Social Work Examiners, West Virginia Board of; Biennial Report FY 2022

State Police, West Virginia; 2021-2022 Annual Report

State Privacy Office, West Virginia; 2022 Annual Report

Tax Department, West Virginia State; West Virginia Children with Autism Trust Board Annual Report


OFFICE OF THE GOVERNOR

Tax Department, West Virginia State; 2022 Annual Report of the Criminal Investigation Division and Special Audit Division

Tourism, West Virginia Department of; 2022 Annual Report

Water Development Authority; West Virginia; Water Development Authority Annual Report

Sincerely,

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

Jim Justice
Governor

cc: Lee Cassis, Clerk, West Virginia State Senate
Division of Culture and History

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



Jim Justice
Governor of West Virginia

March 11, 2023

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

Dear Mr. Clerk:

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

Senate Bill No. One Hundred Thirty-Six (136), which was presented to me on March 6, 2023.

Committee Substitute for Senate Bill No. Two Hundred Eight (208), which was presented to me on March 6, 2023.

Committee Substitute for Senate Bill No. Two Hundred Seventy (270), which was presented to me on March 6, 2023.

Senate Bill No. Two Hundred Seventy-Six (276), which was presented to me on March 6, 2023.

Committee Substitute for Senate Bill No. Three Hundred (300), which was presented to me on March 6, 2023.

Senate Bill No. Four Hundred Eighty-One (481), which was presented to me on March 6, 2023.

Senate Bill No. Five Hundred Fifty-Three (553), which was presented to me on March 6, 2023.

You will note that I have approved these bills on March 11, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia
March 11, 2023

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for House Bill No. Three Thousand Three Hundred Eight (3308), which was presented to me on March 6, 2023.

You will note that I have approved this bill on March 11, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 26 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance and the Joint Committee on the Judiciary to study the creation and implementation of an earned compliance credit program for parolees and probationers.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

On motion of Senator Takubo, the resolution (S. C. R. 26) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

On motion of Senator Takubo, at 5:51 p.m., the Senate recessed until 6:30 p.m. today.

The Senate reconvened at 7:07 p.m.

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 Com. Sub. for Senate Bill 273, Relating to allocation of child protective workers in counties based upon population of county.

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 House of Delegates amended title, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 361, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the replacement of Delegate Griffith with Delegate Williams on the committee of conference as to

Eng. Com. Sub. for Senate Bill 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

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 2760, To allow CPR fire fighters to drive ambulances when both attendants are needed to administer patient care.

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 2820, To provide HOPE Scholarship recipients with the ability to play 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. Com. Sub. for House Bill 3018, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court.

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 3190, Amending the definition of "minor".

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 3, after section 32, after line 20, by inserting the following section relating to Chapter 61, article 8A:

ARTICLE 8A. PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE MATTER TO MINORS

§61-8A-1. Definitions.

When used in this article, the following words, and any variations thereof required by the context, shall have the meaning ascribed to them in this section:

(a) "Adult" means a person eighteen years of age or older.

(b) "Computer" means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing logical, arithmetic or storage functions and includes any data storage facility or communication facility directly related to or operating in conjunction with such device. As used in this article, computer includes file servers, mainframe systems, desktop personal computers, laptop personal computers, tablet personal computers, cellular telephones, game consoles and any electronic data storage device or equipment. The term "computer" includes any connected or directly related device, equipment or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device, but such term does not include an automated typewriter or typesetter, a portable hand-held calculator or other similar device.

(c) "Computer network" means the interconnection of hardware or wireless communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(d) "Display" means to show, exhibit or expose matter, in a manner visible to general or invited public, including minors. As used in this article, display shall include the placing or exhibiting of matter on or in a billboard, viewing screen, theater, marquee, newsstand, display rack, window, showcase, display case or similar public place.

(e) "Distribute" means to transfer possession, transport, transmit, sell or rent, whether with or without consideration.

(f) "Employee" means any individual who renders personal services in the course of a business, who receives compensation and who has no financial interest in the ownership or operation of the business other than his or her salary or wages.

(g) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

(h) "Knowledge of the character of the matter" means having awareness of or notice of the overall sexual content and character of matter as depicting, representing or describing obscene matter.

(i) "Matter" means any visual, audio, or physical item, article, production transmission, publication, exhibition, or live performance, or reproduction thereof, including any two- or three-dimensional visual or written material, film, picture, drawing, video, graphic, or computer generated or reproduced image; or any book, magazine, newspaper or other visual or written material; or any motion picture or other pictorial representation; or any statue or other figure; or any recording, transcription, or mechanical, chemical, or electrical reproduction; or any other articles, video laser disc, computer hardware and software, or computer generated images or message recording, transcription, or object, or any public or commercial live exhibition performed for consideration or before an audience of one or more.

(j) "Minor" means an ~~unemancipated~~ person under eighteen years of age or a person representing himself or herself to be a minor. Any prosecution under this article relating to a victim who is representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law enforcement.

(k) "Obscene matter" means matter that:

(1) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(2) An average person, applying community standards, would find depicts or describes, in a patently offensive way, sexually explicit conduct; and

(3) A reasonable person would find, taken as a whole, lacks serious literary, artistic, political or scientific value.

(l) "Parent" includes a biological or adoptive parent, legal guardian or legal custodian.

(m) "Person" means any adult, partnership, firm, association, corporation or other legal entity.

(n) "Sexually explicit conduct" means an ultimate sexual act, normal or perverted, actual or simulated, including sexual intercourse, sodomy, oral copulation, sexual bestiality, sexual sadism and masochism, masturbation, excretory functions and lewd exhibition of the genitals.;

And,

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

Eng. Com. Sub. for House Bill 3190—A Bill to amend and reenact § 61-3C-14b of the Code of West Virginia, 1931, as amended, to further amend said code by adding thereto a new section, designated §61-8-32; to amend and reenact §61-8A-1; and to amend and reenact §61-14-1 of said code, all relating to criminal law generally; updating certain criminal code definitions; extending criminal liability to certain adults that use computers to solicit, entice, seduce, lure, or attempt to solicit, entice, seduce, or lure a minor, or a person representing himself or herself to be a minor, as a means to engage in specific enumerated illegal acts contained in the West Virginia Code; defining the term "minor"; expanding criminal liability to include adults who contact minors by means other than by computer and additionally engage in an overt act which is designed to put the adult in the physical presence of the minor, or a person representing himself or herself to be a minor and creating criminal penalties and fines therein.

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 3190, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Jeffries, Trump, Weld, 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. Com. Sub. for H. B. 3190) 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 Senate amendment to, and the passage as amended, to take effect from passage, of

Eng. Com. Sub. for House Bill 3191, Relating to certain facilities operated by the state government to obtain a license.

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. Com. Sub. for House Bill 3306, Relating to the organizational structure of the Office of Drug Control Policy.

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 2, line 76, subparagraph (i), after the word "issues," by inserting a period and striking the words "The taskforce will also examine the situation of a resident who was transported from any location within or without the state of West Virginia and is discharged, evicted, or otherwise removed from a recovery residence, and whether or not a recovery residence should provide transportation to the location from which the resident was initially transported, at the expense of the recovery residence. The taskforce will additionally examine, the situation of a resident who may be discharged, evicted, or otherwise removed prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or service, in the context of requiring the recovery residence to promptly report relevant information regarding the circumstances for each early discharge, eviction, or removal of a resident to the Department of Health and Human Resources' Bureau for Behavioral Health. The taskforce will further examine whether or not residents of a recovery residence should be granted any minimal tenancy rights or otherwise be considered a worthy recipient for relief from a magistrate court arising from their discharge, eviction, or removal from a recovery residence.";

And,

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

Eng. Com. Sub. for House Bill 3306—A Bill to amend and reenact §16-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5T-2 and §16-5T-4 of said code; and to amend said code by adding thereto a new section, designated §16-5T-7 of said code; all relating to the department; creating a special revenue account; providing for the appointing of the director of the Office of Drug Control Policy; requiring the creation of a task force; setting forth composition of the taskforce; setting forth areas to be examined by taskforce; requiring reporting; establishing deadlines for reports; continuing data dashboard; adding variables to items that must be collected; amending information technology platform; setting forth items that must be displayed on dashboard; providing for enforcement; providing for imposition of civil monetary penalties for violation of reporting requirements.

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 3306, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Jeffries, Trump, and Weld—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. 3306) 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 Senate amendments to, and the passage as amended with its Senate amended title, of

Eng. House Bill 3360, Creating an office of the Inspector General within the Department of Homeland Security.

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 3439, To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than \$1 million per incident.

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 3482, To create the Coal Fired Grid Stabilization and Security Act of 2023.

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. Com. Sub. for House Bill 2008, Requiring local entities to enforce immigration laws.

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 4, by redesignating section number and section heading "§15-15-3. Mandatory agreements for housing persons subject to immigration detainers" as "§15-5-4. Mandatory agreements for housing persons subject to immigration detainers", and by renumbering the remaining sections accordingly;

And,

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

Eng. Com. Sub. for House Bill 2008—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto one new article containing nine new sections, designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, §15-15-6, §15-15-7, §15-15-8, and §15-15-9, all relating to prohibiting subdivisions and local entities from adopting policies that prohibit or materially restrict cooperation with federal entities enforcing immigration law; requiring state entities, local entities and law enforcement agencies to cooperate with the enforcement of immigration laws; providing for definitions; requiring that entities and agencies not prohibit the enforcement of immigration laws or cooperation with other governmental agencies to enforce immigration laws; providing for complaint procedures; providing for mandatory duties regarding immigration detainers; providing for actions to ensure compliance; providing that the failure to satisfy the duties imposed by this enactment constitutes neglect of duty and malfeasance in office and exposes elected officials to removal from office as provided by law; providing for mandatory agreements regarding the housing of persons subject to immigration detainers; providing for the Attorney General to defend good-faith compliance under certain circumstances; providing Whistle-Blower protections to individuals who report violations; and prohibiting discrimination on the basis of protected classes.

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 2008, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Caputo—1.

Absent: Jeffries and Weld—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 H. B. 2008) 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. Com. Sub. for House Bill 3315, Relating generally to readiness enhancement and commission bonuses.

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 Committee Substitute for House Bill 3315, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Weld—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. 3315) passed with its title.

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

At the request of Senator Takubo, and by unanimous consent, the Senate reconsidered its action by which in earlier proceedings today it adopted Senator Takubo's motion that the Senate concur in House of Delegates amendments, as amended (*shown in the Senate Journal of today, pages 69 to 71, inclusive*), as to

Eng. Senate Bill 740, Relating to compensation and expense reimbursement for members of Legislature.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendments, as amended, to the bill.

Thereafter, at the request of Senator Takubo, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill (*shown in the Senate Journal of today, pages 69 and 70*).

Engrossed Senate Bill 740, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Maroney, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Stover, Swope, Takubo, Tarr, Taylor, Trump, Woelfel, Woodrum, and Blair (Mr. President)—25.

The nays were: Chapman, Karnes, Martin, Maynard, Phillips, Smith, and Stuart—7.

Absent: Jeffries and Weld—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 740) 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 agreed to 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 House Bill 3261, Relating to Social Workers Qualifications.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Phillips, McGeehan, and Young.

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, 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 3332, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election.

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 32, section 6, line 8, by striking the sentence beginning with "The secretary-clerk" through line 19 ending with the word "code"; and, page 33, section 6, line 30, by striking the number "\$36,000"; and, page 33, section 6, line 30, by striking the sentence beginning with "Provided, That on" through line 34 ending with the word "code"; and, page 34, line 53, by striking subsection "(g)".

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 3332, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Tarr—1.

Absent: Jeffries—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 H. B. 3332) passed with its Senate amended 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 had been filed at 7:25 p.m. tonight:

Eng. Com. Sub. for Senate Bill 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

(Senator Woodrum in the Chair.)

The Clerk announced the following conference committee report had been filed at 7:49 p.m. tonight:

Eng. Com. Sub. for House Bill 3261, Relating to Social Workers Qualifications.

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

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. Com. Sub. for House Bill 2026, Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time.

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 33a, line 4, by striking "§8-22A-8(a)" and inserting in lieu thereof "§8-22A-28(a)"; and

On page 4, following section 33a, by striking the remainder of the bill.;

And,

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

Eng. Com. Sub. for House Bill 2026—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-33a, relating to additional opportunity for municipal police officers or firefighters to transfer into the Municipal Police Officers and Firefighters Retirement System; providing conditions upon which municipal police officers or firefighters may transfer into Municipal Police Officers and Firefighters Retirement System; providing for transfer of assets pertaining to municipal police officers or firefighters; requiring certain computations to be made by the Consolidated Public Retirement Board; requiring certain payments; and terminating liability of the Public Employees Retirement System.

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 2026, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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 H. B. 2026) 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 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 3552, Relating to per diem jail costs.

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 6, section 16, line 124 through 137, by striking subsection (l) in its entirety and renumbering the remainder of the section accordingly;

And,

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

Eng. House Bill 3552—A Bill to amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating to per diem jail costs; providing authority for counties to seek reimbursement from certain municipalities for certain per diem costs; providing for the payment of housing and maintenance of inmates; setting a per day, per inmate base rate for payments; establishing a means of calculating fees; providing for a reduced rate in certain circumstances; providing for an enhanced rate in certain circumstances; providing for recalculation every decennial; requiring publication on the agency webpage; and establishing an effective date.

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 3552, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3552) passed with its House of Delegates amended title.

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

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

Pending announcement of a meeting of the Committee on Rules,

On motion of Senator Takubo, at 8:04 p.m., the Senate recessed until 8:30 p.m. tonight.

The Senate reconvened at 9:15 p.m.

At the request of Senator Takubo, and by unanimous consent, the Senate reconsidered the vote by which in earlier proceedings today it refused to concur in the House of Delegates amendments (*shown in the Senate Journal of today, pages 66 to 69, inclusive*), as to

Eng. Senate Bill 739, Relating to moratorium on carbon capture agreements.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's motion that the Senate refuse to concur in the House of Delegates amendments to the bill.

At the request of Senator Takubo, and by unanimous consent, his foregoing motion was withdrawn.

Thereafter, on motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page 3, section 4b, after line 63, by inserting a new subsection, designated subsection (h), to read as follows:

(h) For a period of 60 days from the effective date of the legislation passed during the regular session of the Legislature, 2023, establishing this article, it shall be unlawful and prohibited for any contract or agreement to be entered into which includes any provision for the selling, leasing, letting, or otherwise transferring any property rights for property situate in this state relating to any carbon storage, carbon capture, carbon sequestration, or similar methods of offset for economic or other gain.;

And,

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

Eng. Senate Bill 739—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-12-4b, relating to carbon offset agreements affecting real property interests; requiring parties to current and new carbon offset agreements to register with the West Virginia Tax Department; providing for registration requirements and identifying certain information to be submitted to the Tax Department; providing for business registration certificates; defining terms, including carbon offset agreements and greenhouse gases; providing

exceptions for underground sequestration and methane flaring; requiring reports of specified information by the Tax Department to the Legislature and Executive; authorizing generalized disclosure of information by the Tax Commissioner for said reports; specifying application of West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; declaration of a moratorium for 60 days on entering into contracts or agreements selling, leasing, letting, or otherwise transferring property rights relating to any carbon storage, carbon capture, carbon sequestration, or similar agreements, in order to give the Legislature time to deliberate and pass laws as may be determined to be necessary to prevent or mitigate substantial economic harm to West Virginia citizens and authorizing promulgation of rules by the Tax Department.

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

Engrossed Senate Bill 739, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 739) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Jeffries—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. 739) 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 and requested the concurrence of the Senate in the adoption of the following resolutions:

House Concurrent Resolution 52—Requesting that the Joint Committee on Government and Finance study the financial effects of raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal, public service district, county, and state public works projects.

House Concurrent Resolution 78—Proclaiming the extension of a state of emergency in our correctional institutions.

House Concurrent Resolution 80—Requesting the Joint Committee on Government and Finance to study pediatric cancer in Appalachia and to provide directive language asking for a report on this issue in the Appalachian region.

House Concurrent Resolution 82—Proclaiming the month of February to be designated annually as West Virginia Cancer Prevention Month.

At the request of Senator Takubo, and by unanimous consent, reference of the resolutions to a committee was dispensed with, and they were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions (H. C. R. 52, 78, 80, and 82), the same was put and prevailed.

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

The Senate again proceeded to the fourth order of business.

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

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 18, Requesting Joint Committee on Government and Finance study increasing availability of prescription nonopioid medications.

Senate Concurrent Resolution 19, Requesting Joint Committee on Government Organization study operations of Division of Personnel.

Senate Concurrent Resolution 20, Requesting Joint Committee on Judiciary study operations of WV BRIM.

And,

Senate Concurrent Resolution 22, Requesting study on need for awarding attorney's fees and recovering damages in civil tort actions.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 18, 19, 20, and 22) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

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

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

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

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 26, Requesting study on creation and implementation of earned compliance credit program for parolees and probationers.

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 26) contained in the preceding report from the Committee on Rules was taken up for immediate consideration.

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

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

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

The Senate again proceeded to the fourth order of business.

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

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 27 (originating in the Committee on Rules)—Requesting that the Joint Committee on the Judiciary commission a study on requiring the use of E-Verify for all employers, both public and private, and any employer with a public contract that is paid for using West Virginia taxpayers' dollars.

And,

Senate Concurrent Resolution 28 (originating in the Committee on Rules)—Requesting that the Joint Committee on Government and Finance study whether legislation is needed to address privacy in the social care and health-related social needs space.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 27 and 28) contained in the preceding report from the Committee on Rules were each taken up for immediate consideration.

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

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

Senator Maroney, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

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 617 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

ARTICLE 5W. REGULATION OF BEHAVIORAL HEALTH.

§16-5W-1. Reporting.

(a) The Office of the Inspector General shall send to county prosecutors any findings that may be subject to criminal prosecution in cases of abuse and neglect with IDD. The Office of the Inspector General shall send to the P&A the findings of any cases involving instances of substantiated abuse or neglect involving a person with a developmental disability.

(b) An annual report shall be submitted to the Legislative Oversight Commission on Health and Human Resources Accountability including:

(1) All instances where abuse and neglect cases involving IDD at any location has been substantiated by the Office of the Inspector General.

(2) The county or region where the substantiated abuse or neglect occurred;

(2) The descriptive category of the abuse and neglect;

(3) The type of setting where the abuse and neglect occurred;

(4) Whether the abuse and neglect information was turned over to the county prosecutor and law enforcement;

(5) The name of the provider, if the provider is involved, who is charged with the care of the individual; and

(6) The age range and gender of the individual.

(c) In instances where abuse and/or neglect leads to the death of an individual, the department shall send a letter, within 30 days after the findings were substantiated, to the Senate President, the Speaker of the House, and the chairs of LOCHHRA outlining the information above about the case.

§16-5W-2. Independent Mental Health Ombudsman.

(a) (1) The Office of the Inspector General shall continue an independent mental health ombudsman;

(2) The duties of the mental health ombudsman shall include, but are not limited to, the following:

(A) Advocating for the well-being, treatment, safety, and rights of consumers of mental health care facilities or psychiatric hospital;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a consumer of a mental health care facility or psychiatric hospital, relating to action, inaction, or decisions of providers of mental and behavioral health, of public agencies, or social service agencies, which may adversely affect the health, safety, welfare, and rights of a consumer of a mental health care facility or psychiatric hospital; and

(C) Monitoring the development and implementation of federal, state, and local legislation, regulations, and policies with respect to mental and behavioral health care and services;

(3) The mental health ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities;

(4)(A) Information relating to any investigation of a complaint that contains the identity of the complainant or consumer shall remain confidential except:

(i) Where imminent risk of serious harm is communicated directly to the mental health ombudsman or his or her staff; or

(ii) 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 mental health 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 mental health care ombudsman to carry out duties of the office or to support recommendations;

(C) All information, records, and reports received by or developed by the mental health ombudsman program which relate to a consumer of a mental health care facility or psychiatric hospital, including written material identifying a consumer are confidential, and are not subject to

the provisions of §29-1-1, et seq. of this code, and may not be disclosed or released by the mental health ombudsman program, except under the circumstances enumerated in this section;

(D) Nothing in this section prohibits the preparation and submission by the mental health ombudsman of statistical data and reports, as required to implement the provisions of this section or any applicable federal law, exclusive of any material that identifies any consumer or complainant; and

(E) The Inspector General shall have access to the records and files of the mental health ombudsman program to verify its effectiveness and quality.

§16-5W-3. Intellectual and Developmental Disabilities Waiver Program workforce study.

(a) By July 1, 2023, the Legislative Oversight Commission on Health and Human Resources Accountability shall conduct a workforce study pertaining to the Intellectual and Developmental Disabilities Waiver Program (IDDW Program). The study shall use data and statistics generally relied upon by reasonably prudent individuals, and shall determine/address the following:

(1) The categories of personnel offering services as part of the IDDW Program;

(2) The mean hourly pay rate for each such category of personnel, broken down by West Virginia County where service is provided to patients;

(3) The mean hourly pay rate for each such category of personnel offering services as part of programs equivalent to the IDDW Program in surrounding states.

(4) A comparison of the hourly pay rates identified in subdivisions 2 and 3 of this section, broken down by category of personnel; and

(5) Any other factor the commission reasonably deems relevant to the issues.

(b) Within the report the commission shall make recommendations as to the appropriateness of the current mean hourly pay rate for each category of IDDW Program personnel, as well as any potential pay rate increases necessary to ensure that the IDDW Programs can successfully recruit and retain qualified personnel.

(c) The commission shall issue the report by January 1, 2024.

§16-5W-4. Annual capitation rate review.

(a) The Bureau of Medicaid Services shall conduct an annual study reviewing the adequacy and appropriateness of the reimbursement rates to providers in the IDDW Program. The bureau shall also include a recommendation for any adjustment deemed appropriate, including, but not limited to, annual inflationary costs, costs arising from amendments to existing contracts, costs relating to recruiting and retaining personnel, and any other costs necessitating additional payments to IDDW providers. The bureau may require, and contracted providers shall provide financial data to the bureau to assist in the study. Without limiting the generality of the foregoing in conducting this study, the bureau shall review and compare equivalent programs both in and out of state in order to determine appropriate rates.

(b) Upon completion of the study, BMS shall provide the report to the Joint Committee of Finance beginning July 1, 2024, and annually thereafter, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 8. ~~MAINTENANCE OF MENTALLY ILL OR MENTALLY RETARDED PATIENTS.~~

§27-8-2b. Local mental health programs — Separate account for receiving and expending gifts, bequests, donations, fees and miscellaneous income.

[Repealed.]

§27-8-3. Care of patients in boarding homes.

[Repealed.]

ARTICLE 16. ~~STERILIZATION OF MENTAL DEFECTIVES~~

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 617—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated, §16-5W-1, §16-5W-2, §16-5W-3, and §16-5W-4; and to repeal §27-8-2b and §27-8-3 of said code; all relating to behavioral health services; establishing a mental health ombudsman; providing authority to the ombudsman; providing an exemption of consumer information from the Freedom of Information Act; requiring reporting; requiring a workforce study; outlining program data required to be included in the study; requiring recommendations for hourly pay; creating an annual capitation review; repealing antiquated code; and repealing antiquated terminology.

Respectfully submitted,

Michael J. Maroney (*Chair*), Jason Barrett, Michael A. Woelfel, *Conferees on the part of the Senate.*

Amy Summers (*Chair*), John Hardy, John Williams, *Conferees on the part of the House of Delegates.*

On motions of Senator Maroney, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 617, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Woelfel—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 S. B. 617) 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 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. Com. Sub. for House Bill 2007, Prohibiting certain medical practices.

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, line 14, by striking the word, "alteration" and inserting the word, "transition";

On page 2, line 33, by striking the word, "alteration" and inserting the word, "transition";

And,

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

Eng. Com. Sub. for House Bill 2007—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-20; and to amend said code by adding thereto a new section, designated §30-14-17, all relating to prohibiting certain medical practices; defining terms; prohibiting irreversible gender reassignment surgery to a minor; prohibiting the providing of gender altering medication to a minor; providing exceptions; establishing an internal effective date.

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 2007, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Jeffries—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 H. B. 2007) 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 amendment to the House of Delegates amendments and requested the Senate to recede, as to

Eng. Com. Sub. for Senate Bill 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems.

On motion of Senator Takubo, the Senate refused to recede from its amendment to the House amendments to the bill and requested the House of Delegates to reconsider its position.

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 10:17 p.m., the Senate recessed until 10:30 p.m. tonight.

The Senate reconvened at 11:04 p.m.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, of

Eng. Com. Sub. for Senate Bill 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students.

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 January 1, 2024, of

Eng. Com. Sub. for Senate Bill 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, of

Eng. Senate Bill 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs.

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 2900, Relating to the Deputy Sheriff Retirement System.

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. for House Bill 3040, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary.

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, to take effect January 1, 2024, 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 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers.

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 2, following section 7, by striking the remainder of the bill and inserting in lieu thereof the following:

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.

(a) (1) For the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed an additional premium tax equal to one percent of taxable premiums for fire insurance and casualty insurance policies. For purposes of this section, casualty insurance does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) All moneys collected from this additional tax shall be received by the commissioner and paid by him or her into a special account in the State Treasury, designated the Municipal Pensions and Protection Fund, to be allocated as follows: *Provided*, That on or after January 1, 2010, the commissioner shall pay

(A) Ten percent of the amount collected ~~to~~ shall be deposited in the Teachers Retirement System Reserve Fund created in §18-7A-18 of this code;

(B) Twenty-five percent of the amount collected ~~to~~ shall be deposited in the Fire Protection Fund ~~created in section 33 of this article for allocation~~ distribution by the State Treasurer to volunteer and part-volunteer fire companies and departments according to the requirements of §33-3-33 of this code; and

~~65% of the amount collected to the Municipal Pensions and Protection Fund: *Provided, however,* That upon notification by the Municipal Pensions Oversight Board pursuant to the provisions of §8-22-18b of this code, on or after January 1, 2010, or as soon thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds,~~

(C) Sixty-five percent of the amount collected by the commissioner shall be deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code the net proceeds of this tax after appropriation thereof by the Legislature is to be distributed in accordance with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d) of this code.

(b) Municipal Pensions Security Fund allocation and distribution —

(1) Before August 1 of each year, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund is established shall report to the ~~State Treasurer~~ Municipal Pensions Oversight Board the average monthly number of members who worked at least 100 hours per month and the average monthly number of retired members of municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System during the preceding fiscal year. ~~*Provided, That beginning in the year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a of this code. These reports received by the oversight board shall be provided*~~ The reports received by the Municipal Pensions Oversight Board shall be provided annually to the State Treasurer by September 1.

(2) ~~Before September 1 of each calendar year, the State Treasurer, or the Municipal Pensions Oversight Board once in operation, shall allocate and authorize for distribution the revenues in the Municipal Pensions and Protection Fund which were collected during the preceding calendar year for the purposes set forth in this section. Before September 1 of each calendar year, and after the Municipal Pensions Oversight Board has notified the Treasurer and commissioner pursuant to §8-22-18b of this code, the~~ The Municipal Pensions Oversight Board shall allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which were collected during the preceding calendar year for the purposes set forth in this section. In any year the actuarial report required by §8-22-20 of this code indicates no actuarial deficiency in the municipal policemen's or firemen's pension and relief fund and that no pensions funding revenue bonds of the building commission of such municipality remain outstanding, no revenues may be allocated from the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund to that fund. The revenues from the Municipal Pensions and Protection Security Fund shall then be allocated to all other pension and relief funds which have an actuarial deficiency. Pension funding revenue bonds include bonds of a municipality's building commission the net proceeds of which were used to fund either or both of a municipality's policemen's or firemen's pension and relief fund or bonds issued to refinance such bonds.

(3) ~~The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If the municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down one hundred percent of their allocations.~~

~~(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code.~~

~~(e) (1) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues \$8,709,689.42 allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by this section any amount of the collections of the tax imposed by this section in excess of \$8,709,689.42 and interest thereon, there shall be allocated and authorized for distribution to each municipal policemen's or firemen's pension and relief fund, a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average number of police officers and firefighters who are members of a municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System and who worked at least 100 hours per month during the preceding fiscal year and average monthly number of retired police officers and firefighters during the preceding fiscal year. For the purposes of this subsection, the growth in moneys collected from the tax collected pursuant to this section is determined by subtracting the amount of the tax collected during the fiscal year ending June 30, 1996, from the tax collected during the fiscal year for which the allocation is being made and interest thereon. All moneys received by municipal pension and relief funds under this section may be expended only for those purposes described in §8-22-16 through §8-22-28a of this code. Notwithstanding the foregoing provision of this subdivision, if a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the allocable share of revenues to be allocated which would otherwise have been allocated to a municipal policemen's or firemen's pension and relief fund shall instead be allocated to the trustee of any outstanding pension funding revenue bonds.~~

~~(2) Each volunteer fire company or department shall receive an equal share of the revenues allocated for volunteer and part-volunteer fire companies and departments.~~

~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of this subsection, each municipal fire department composed of full-time paid members and volunteers and part-volunteer fire companies and departments shall receive a share equal to the share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by an amount equal to the share multiplied by the ratio of the number of full-time paid fire department members who are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System to the total number of members of the fire department. (4) If a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.~~

~~(d) (5) The allocation and distribution of revenues provided in this section are subject to the provisions of §8-22-20, §8-15-8a, and §8-15-8b of said chapter this code.~~

(c) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal Pensions and Protection Fund were miscalculated and errors were made in amounts transferred, resulting in overpayments and underpayments to the relief and pension funds and to the Teachers Retirement System, and that the relief and pension funds and the Teachers Retirement System were not at fault for any of the overpayments and underpayments. The Legislature hereby further finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to recover any of the overpayments would be unjust and create economic hardship for the entities that received overpayments. No entity, including, without limitation, the Municipal Pension Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement System or the state any overpayments received from the Municipal Pensions and Protection Fund and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to this subsection, and to use the amount transferred to remit the amounts due to the pension and relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight Board and any pension or relief fund, may seek to recover any further amounts.

(d) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If a municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down 100 percent of their allocations.

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments and emergency medical services providers; Public Employees Insurance Agency and municipal pension plans; special fund created; Fire Protection Fund; allocation of proceeds. effective date.

(a) For the purposes of this section:

(1) "Full-time paid members" means the members of a fire department who are compensated to provide services to the department on a full-time basis and are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System.

(2) The "policy surcharge" refers to the surcharge on certain insurance policies imposed by subsection (b) of this section.

(3) "Volunteer fire departments" or "departments" includes volunteer and part-volunteer fire departments and companies, as described in §18-15-1 et seq. of this code.

(b) (1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2), (3) and ~~(3)~~ (4) of this subsection.

(2) After June 30, 2005, through December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.

(3) After December 31, 2005, through December 31, 2023, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.55% of the taxable premium for each such policy.

(4) After December 31, 2023, for the purpose of providing additional revenue for volunteer fire departments and emergency medical services providers, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. The policy surcharge is separate from and in addition to the tax imposed by §33-3-14d of this code.

~~(4)~~ (c) For purposes of this section, casualty insurance ~~may~~ does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge ~~may~~ is not ~~be~~ subject to premium taxes, agent commissions, or any other assessment against premiums.

~~(b)~~ (d) The policy surcharge imposed by this section shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year. All money from the policy surcharge shall be collected by the commissioner, who shall disburse 77.5 percent of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subsection (f) of this section. The commissioner shall disburse 22.5 percent of the money received from the surcharge into the Emergency Medical Services Equipment and Training Fund established in §16-4C-24 of this code for disbursement in accordance with the provisions of that section.

~~(e)~~ (e) Any person failing or refusing to collect and remit to the commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly

filing is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the commissioner.

~~(d)~~ (f) Fire Protection Fund allocation and distribution. —

(1) ~~All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the state Treasury, designated the Fire Protection Fund. The State Treasurer's Office shall distribute the net proceeds of this portion of the tax the portion of the policy surcharge deposited into the Fire Protection Fund pursuant to §33-3-33 of this code, the amount deposited into the Fire Protection Fund pursuant to §29-3E-7 of this code, the amount deposited into the Fire Protection Fund pursuant to §33-3-14d of this code, and the amount deposited into the Fire Protection Fund pursuant to §33-12C-7 of this code, and the interest thereon on a quarterly basis, after appropriation by the Legislature. shall be distributed quarterly. The distributions shall occur on the first day of the months of January, April, July, and October to each eligible volunteer fire company or department, on an equal share basis by the state Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.~~

(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse one half of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(B) The remaining portion of moneys collected shall be transferred into the fund in the state Treasury of the Public Employees Insurance Agency into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.

(3) After December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(4) Before each distribution date to volunteer fire ~~companies~~ or departments, the State Fire Marshal shall report to the State Treasurer:

(A) The names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet met the eligibility requirements established in §8-15-8a of this code during the preceding quarter; and

(B) The number of volunteer firefighters and the number of full-time paid members providing services to each volunteer and part-volunteer department during the preceding quarter.

(5) Each eligible volunteer fire department shall receive an equal share of the amount of proceeds to be distributed each quarter: *Provided*, That each part-volunteer department's share will be reduced by a percentage amount equal to the percentage of the members of the fire department who are full-time paid members of the department, according to the report described in subdivision (4) of this subsection.

(e) (g) The allocation, distribution, and use of revenues provided in the Fire Protection Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.

ARTICLE 12C. SURPLUS LINE.

§33-12C-7. Surplus lines tax.

(a) In addition to the full amount of gross premiums charged by the insurer for the insurance, every person licensed pursuant to §33-12C-8 of this code shall collect and pay to the commissioner a sum equal to 4.55 percent of the gross premiums and gross fees charged, less any return premiums, for surplus lines insurance provided by the licensee pursuant to the license; Provided, That after December 31, 2023, the sum collected by the licensee pursuant to this subsection shall be equal to 5 percent of the gross premiums and gross fees charged, less any return premiums. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state and this state is the insured's home state, the sum payable shall be computed on that portion of the gross premiums allocated to this state, plus an amount equal to the portion of the gross premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state, and less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of policy: *Provided, That the surcharge imposed by section thirty-three, article three of this chapter §33-3-33 of this code on surplus lines policies shall no longer be effective with respect to premium attributable to coverage under such policies for periods after June 30, 2011: Provided, however, That 12 percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies after June 30, 2011, shall be disbursed and distributed in accordance with subsection (d) (f), section thirty-three, article three of this chapter and 88 per cent in accordance with subdivision (2), subsection (f) of this section: Provided further, That beginning January 1, 2024, 16 percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies, shall be disbursed and distributed in accordance with §33-3-33 of this code, 4 percent of taxes collected under this subsection shall be disbursed into the Emergency Medical Services Equipment and Training Fund established in §16-4C-24 of this code for distribution in accordance with the provisions of that section, and 80 percent of the taxes collected under this subsection shall be disbursed in accordance with subdivision (2), subsection (f) of this section.* The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any.

(b) The individual insurance producer may not:

(1) Pay directly or indirectly the tax or any portion thereof, either as an inducement to the policyholder to purchase the insurance or for any other reason; or

(2) Rebate all or part of the tax or the surplus lines licensee's commission, either as an inducement to the policyholder to purchase the insurance or for any reason.

(c) The surplus lines licensee may charge the prospective policyholder a fee for the cost of underwriting, issuing, processing, inspecting, service, or auditing the policy for placement with the surplus lines insurer if:

(1) The service is required by the surplus lines insurer;

(2) The service is actually provided by the individual insurance producer or the cost of the service is actually incurred by the surplus lines licensee; and

(3) The provision or cost of the service is reasonable, documented, and verifiable.

(d) The surplus lines licensee shall make a clear and conspicuous written disclosure to the policyholder of:

(1) The total amount of premium for the policy;

(2) Any fee charged;

(3) The total amount of any fee charged; and

(4) The total amount of tax on the premium and fee.

(e) The clear and conspicuous written disclosure required by ~~subdivision (4) of this subsection~~ (d) of this section is subject to the record maintenance requirements of §33-12C-8 of this code.

(f)(1) This tax is imposed for the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and additional revenue for volunteer and part-volunteer fire companies and departments. This tax is required to be paid and remitted, on a calendar year basis and in quarterly estimated installments due and payable on or before the 25th day of the month succeeding the close of the quarter in which they accrued, except for the fourth quarter, in respect of which taxes shall be due and payable and final computation of actual total liability for the prior calendar year shall be made, less credit for the three quarterly estimated payments prior made, and filed with the annual return to be made on or before March 1 of the succeeding year. Provisions of this chapter relating to the levy, imposition, and collection of the regular premium tax are applicable to the levy, imposition, and collection of this tax to the extent that the provisions are not in conflict with this section.

(2) Except as provided in subsection (a) of this section, all taxes remitted to the commissioner pursuant to subdivision (1) of this subsection shall be paid by him or her into a special account in the State Treasury, designated Municipal Pensions and Protection Fund, or pursuant to §8-22-18b of this code, the Municipal Pensions Security Fund, and after appropriation by the Legislature, shall be distributed in accordance with ~~the provisions of subsection (c), section fourteen d, article three of this chapter~~ §33-3-14d of this code. The surplus lines licensee shall return to the policyholder the tax on any unearned portion of the premium returned to the policyholder because of cancellation of policy.

(g) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks, or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks, or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to an appropriate allocation table.

(1) If a policy covers more than one classification:

(A) For any portion of the coverage identified by a classification on the allocation schedule, the tax shall be computed by using the allocation schedule for the corresponding portion of the premium;

(B) For any portion of the coverage not identified by a classification on the allocation schedule, the tax shall be computed by using an alternative equitable method of allocation for the property or risk;

(C) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(2) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee's method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(A) By use of the allocation schedule where the risk is appropriately identified in the schedule;

(B) Where the allocation schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured's physical assets in this state, the percentage of the insured's sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy.

(h) The commissioner is authorized to participate in a clearinghouse established through NIMA or in a similar allocation procedure for the purpose of collecting and disbursing to signatory states any funds collected pursuant to this section that are allocable to properties, risks, or exposures located or to be performed outside of this state: *Provided*, That twelve per cent of any moneys received from a clearinghouse or through a similar allocation procedure is are subject to the provisions of subsection ~~(d)~~ (f), section thirty-three, article three of this chapter and 88 percent of such moneys ~~is~~ are subject to the provisions of subdivision (2), subsection (f) of this section: *Provided, however*, That beginning January 1, 2024, 16 percent of any moneys received from a clearinghouse or through a similar allocation procedure is are subject to the provisions of §33-3-33 of this code, four percent of such moneys are subject to the provisions of §16-4C-24 of this code, and 80 percent of such moneys is are subject to the provisions of subdivision (2), subsection (f) of this section: *Provided, further*, That to the extent other states where portions of the properties, risks, or exposures reside have failed to enter into NIMA or a similar allocation procedure with this state, the net premium tax collected shall be retained by this state and shall be disbursed and distributed in the same manner as moneys received through a clearinghouse or similar allocation procedure.

(i) Collection of tax.

If the tax owed by a surplus lines licensee under this section has been collected and is not paid within the time prescribed, the same shall be recoverable in a suit brought by the commissioner against the surplus lines licensee. The commissioner may charge interest for any unpaid tax, fee, financial assessment or penalty, or portion thereof: *Provided*, That interest may

not be charged on interest. Interest shall be calculated using the annual rates which are established by the Tax Commissioner pursuant to §11-10-17a of this code and shall accrue daily.;

And,

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

Eng. Com. Sub. for House Bill 3153—A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-3-14d and §33-3-33 of said code; and to amend and reenact §33-12C-7 of said code, all relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; defining terms; providing method of allocation and distribution for proceeds of fireworks safety fee deposited in Fire Protection Fund; eliminating obsolete language; increasing surcharge on fire and casualty policies; providing method of allocation of policy surcharge; requiring the State Fire Marshal provide certain information to the State Treasurer; increasing tax on surplus lines policies; providing method of allocation of surplus lines policy tax; and clarifying requirements for distribution of funds in Fire Protection Fund.

Senator Takubo moved that the Senate refuse to concur to the foregoing House amendments to the bill (Eng. Com. Sub. for H. B. 3153) with the exception of the House amendment providing for an internal effective date for the policy surcharge increase of .45 percent to begin January 1, 2024.

Following discussion,

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

Engrossed Committee Substitute for House Bill 3153, as amended by the Senate and the House of Delegates, in part, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Jeffries—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 H. B. 3153) passed with its Senate amended title.

Senator Takubo moved that the bill take effect January 1, 2024.

On this question, the yeas were: Azinger, Barrett, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Jeffries—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. 3153) takes effect January 1, 2024.

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

At the request of Senator Takubo, unanimous consent being granted, Senators Blair (Mr. President), Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, and Woodrum offered the following resolution from the floor:

Senate Resolution 50—Strongly urging West Virginia’s congressional delegation to support legislative measures to improve federal enforcement of safety standards for railroads in West Virginia, following a series of train derailments directly impacting the health and safety of West Virginia citizens.

At the request of Senator Takubo, unanimous consent being granted, reference of the resolution to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

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

Your Committee on Rules has had under consideration

Eng. House Bill 3199, Relating to removing the requirement that an ectopic pregnancy be reported.

Now on third reading, with the right to amend, having been referred to the Committee on Rules on March 2, 2023;

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

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3199) contained in the preceding report from the Committee on Rules was taken up for immediate consideration and read a third time.

There being no amendments offered,

Engrossed House Bill 3199 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Maroney, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Stover, Swope, Takubo, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Chapman, Karnes, Martin, Maynard, Rucker, Smith, Stuart, and Taylor—8.

Absent: Boley, Jeffries, and Tarr—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3199) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Maroney, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Stover, Swope, Takubo, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Chapman, Karnes, Martin, Maynard, Rucker, Smith, Stuart, and Taylor—8.

Absent: Boley, Jeffries, and Tarr—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. 3199) takes effect from passage.

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

At the request of Senator Takubo, unanimous consent being granted, the Senate reconsidered its action by which in prior proceedings tonight it refused to concur in the House amendments with the exception of the amendment providing for an internal effective date for the policy surcharge increase of .45 percent to begin January 1, 2024 (*shown in the Senate Journal of today, pages 329 to 344, inclusive*), as to

Eng. Com. Sub. for House Bill 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's motion that the Senate refuse to concur in the House amendments to the bill with the exception of the amendment providing for an internal effective date for the policy surcharge increase of .45 percent to begin January 1, 2024.

At the request of Senator Takubo, and by unanimous consent, his foregoing motion was withdrawn.

Thereafter, on motion of Senator Takubo, the Senate refused to concur in the House amendments to Engrossed Committee Substitute for House Bill 3153 (*shown in the Senate journal of today, pages 329 to 344, inclusive*) 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 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 3261, Relating to Social Workers Qualifications.

Whereupon, Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for House Bill 3261, Relating to Social Workers Qualifications.

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 the Engrossed Committee Substitute for House Bill 3261 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 on pages 3 through 4, by striking out all of section 110a, and that the Senate and House agree to an amendment as follows:

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-110a Bureau of Social Service authority to hire and employ workers who are not social workers in geographical areas of critical shortage.

(a) The Legislature hereby finds that there is a crisis in West Virginia in certain geographical regions of the state, that is caused by an absence of people employed by the Department of Health and Human Resources as child protective services workers, youth case workers, and support staff for these positions.

(b) Notwithstanding any other provisions of this code to the contrary, the Bureau of Social Services, pursuant to the provisions of this section, may establish a pilot program to employ persons who do not hold a social worker's license and persons who are not on the social work register to work for the bureau as child protective services workers, youth case workers and support staff, in geographical areas of critical shortage of this state.

(c) For purposes of this pilot program and this section, "geographical areas of critical shortage" means the counties comprising the 14th judicial circuit and the 23rd judicial circuit as of the effective date of the amendments to the section enacted during the 2023 regular session of the Legislature.

(d) Workers hired by the bureau under this section to work in geographical areas of critical shortage may be employed by the bureau and work in said geographical areas as child protective services workers, youth service workers, case managers, clerical staff and in other related positions for the bureau. Wherever possible, workers hired pursuant to this section shall be supervised by a licensed social worker.

(e) The provisions of this section shall operate independently of, and in addition to, any other provisions of law or policy that allow persons to be employed in these jobs, and the provisions of this section do not eliminate any other provisions of law that permit persons to be employed in the jobs described in this section.

(f) In order for a person to be eligible for employment under this section, he or she shall:

(1) Be at least 18 years of age.

(2)(A) Have an associate's degree or higher in social work, human services, sociology, psychology, or social services from an accredited college, university, community and technical college, community college or junior college; or

(B) Be an honorably retired law enforcement officer or be an honorably retired parole officer or honorably retired federal or state probation officer.

(3) Provide to the bureau three letters of recommendation from persons not related to the applicant.

(4) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the bureau, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(5) Satisfy the requirements of the West Virginia Clearance for Access Registry and Employment Screening Act, §16-49-1 *et seq.* of this code; and

(6) Satisfy the requirements provided in §30-1-24 of this code.

(C) Meet any other requirements established by the bureau.

(g) The bureau shall provide training to any and all persons hired and employed hereunder, as the bureau deems appropriate.

(h) The provisions of this section authorizing the hiring of persons shall sunset, expire, and be of no force and effect on or after the 31st day of December 2026, but shall not serve to require the termination of persons hired pursuant to this section.

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 House Bill 3261—A Bill to amend and reenact §30-30-16 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §49-2-110a all relating to social work and child welfare generally; directing that provisional social workers who are laid off or ill during the four year provisional licensure period may request the West Virginia Board of Social Work allow a reasonable interruption in service and allow additional time to complete the licensure requirements; declaring a crisis exists in certain parts of the state due to an absence of child protective services, youth services workers, youth case workers and support staff; defining affected geographical areas; establishing a three

year pilot program in two judicial circuits; designating the 14th and 23rd judicial circuits as the pilot program judicial circuits; authorizing the hiring of persons not on the

[CLERK'S NOTE: Text shown is as submitted at Clerk's desk.]

Respectfully submitted,

Chris Phillips (*Chair*), Pat McGeehan, Kayla Young, *Conferees on the part of the House of Delegates*.

Charles S. Trump IV (*Chair*), Tom Takubo, Robert H. Plymale, *Conferees on the part of the Senate*.

Senator Trump, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Trump, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill 3261, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Chapman—1.

Absent: Barrett, Boley, and Jeffries—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. 3261) passed with its conference 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 3302, To recognize unborn child as distinct victim in a DUI causing death.

Whereupon, Senator Deeds, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for House Bill 3302, To recognize unborn child as distinct victim in a DUI causing death.

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 3302 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That the Senate recede from its amendment striking everything after the enacting clause;

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 3302—A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, and to amend and reenact §61-2-30 of said code; all relating to including an embryo or fetus as a distinct unborn victim for certain driving under the influence of alcohol or drugs offenses; including an embryo or fetus as a distinct unborn victim for the offenses of driving under the influence of alcohol or drugs causing death and driving under the influence of alcohol or drugs causing serious bodily injury; clarifying that a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims as applied to the offenses of driving under the influence of alcohol or drugs causing death and driving under the influence of alcohol or drugs causing serious bodily injury; and establishing criminal penalties.
PREAMBLE: THIS LAW SHALL BE KNOWN AS LIAM'S LAW

Respectfully submitted,

David Kelly (*Chair*), Bryan Ward, Joey Garcia, *Conferees on the part of the House of Delegates.*

Vince S. Deeds (*Chair*), Bill Hamilton, Michael A. Woelfel, *Conferees on the part of the Senate.*

On motions of Senator Deeds, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill 3302, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Azinger, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Barrett, Boley, and Jeffries—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. 3302) passed with its conference 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. Com. Sub. for House Bill 3135, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025.

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 one, following line seventeen, by striking out subsections (c) and (d) in their entirety and inserting in lieu thereof new subsections (c) and (d) to read as follows:

(c) Notwithstanding the provisions of subsection (a) or subsection (b) of this section, beginning calendar year 2025, and beginning in the calendar year of each fourth year thereafter, the salary of the Governor shall be set by the Salary Table For Locality Pay Area of Rest of U.S. as published by the United States Office of Personnel Management. The salary of the Governor shall be equal to the amount set as Grade 15, Step 10 on the Salary Table For Locality Pay Area of Rest of U.S. at the beginning of that calendar year and shall not be increased or diminished for the duration of the four year term of office beginning in that calendar year.

(d) Notwithstanding the provisions of subsection (a) or subsection (b) of this section, beginning calendar year 2025, and beginning in the calendar year of each fourth year thereafter, the salary of the Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and the Treasurer shall be set by the Salary Table General Schedule Increase as published by the United States Office of Personnel Management. The salary of the Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and the Treasurer shall be equal to the amount set as Grade 15, Step 4 on the Salary Table General Schedule Increase at the beginning of that calendar year and shall not be increased or diminished for the duration of the four year terms of each of those offices beginning in that calendar year.;

And,

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

Eng. Com. Sub. for House Bill 3135—A Bill to amend and reenact §6-7-2 of the Code of West Virginia, 1931, as amended, relating to compensation of designated constitutional officers, including for the Governor, Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and State Treasurer, beginning in the calendar year 2025, and beginning in the calendar year of each fourth year thereafter; providing for a means to calculate salaries of constitutional officers based upon certain federal salary tables; and providing for a salary modification when modifications are made to those salary tables at the beginning of each calendar year in which those officers' terms begin.

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 3135, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Caputo, Clements, Deeds, Hamilton, Hunt, Maroney, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Swope, Takubo, Tarr, Taylor, Trump, Woelfel, Woodrum, and Blair (Mr. President)—24.

The nays were: Chapman, Grady, Karnes, Martin, Maynard, Smith, Stuart, and Weld—8.

Absent: Boley and Jeffries—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 H. B. 3135) 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 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. Com. Sub. for House Bill 3035, Relating generally to high-quality education programs and school operations.

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 10, line 5, after the word "reading" by inserting the word "and mathematics";

And

On page 2, section 10, line 43, after the word, "aides", by inserting the word "paraprofessionals";

And

On page 2, section 10, line 44, after the word, "teacher", by striking out the words "or aides" and inserting a comma and the words "aides, or paraprofessionals";

And

On page 2, section 10, line 63, after the word "parent(s)" by inserting the word "or guardians";

And

On page 3, section 10, line 91, after the word "reading" by inserting the word "or mathematics";

And

On page 4, section, 10, lines 102-103, after the words "assistant teachers" by striking out the words "and aides" and inserting a comma and the words "aides and paraprofessionals";

And

On page 4, section 10, line 105, after the word "teacher" by striking out the words "or aid" and inserting a comma and the words "aides or paraprofessionals";

And

On page 7, section 10, line 173, by striking out the words "and aides" and inserting in lieu thereof "aides and paraprofessionals";

And

On page 7, section 10, line 176, after the word "teacher", by striking out the words "or aide" and inserting a comma and the words "aide or professional";

On page 7, section 10, line 179, after the word "aides" by inserting the word "paraprofessionals";

And

On page 8, section 10, line 203, after the word "arts" by inserting the word "or mathematics";

And

On pages 10-11, section 18a, lines 9-13, by striking out subdivision (2) in its entirety, and inserting in lieu thereof the following:

(2) For first, second, and third grades, not more than 25 pupils for each teacher and one early childhood classroom assistant teacher, aide or paraprofessional in classrooms with more than 12 pupils: *Provided*, That the early childhood classroom assistant teacher/aide/paraprofessional requirement for classrooms with more than 12 pupils shall be effective beginning the 2023-2024 school year, for first grade classrooms; shall be effective beginning the 2024-2025 school year, for second grade classrooms; and shall be effective beginning the 2025-2026 school year, for third grade classrooms; *Provided however*: That if all grade level classrooms are already being served by an early childhood classroom assistant teacher/aide/paraprofessional by the school year required, the county board has the discretion to add the assistant teachers/aides/paraprofessionals in first, second and third grade classrooms of the greatest need beginning July 1, 2023 and completing full implementation by July 1, 2026 ; and

On page 10, section 18a, line 16, after the word "teacher" by striking out the words "or aide" and inserting a comma and the words "aide or paraprofessional";

And

On page 10, section 18a, line 21, after the word "teachers" by striking out the words "and aides" and inserting a comma and the words "aides and paraprofessionals";

And,

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

Eng. Com. Sub. for House Bill 3035—A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend and reenact §18-20-10 of said code, all relating to enhancing academic achievement of students including those with learning disabilities; establishing the Third Grade Success Act; replacing transformative system of support for early literacy with multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; revising findings; defining "science of reading"; revising inclusions in West Virginia Board of Education rules required to effectuate Third Grade Success Act section; requiring each county board to adopt high-quality instructional materials; specifying data to be used to inform the classroom teacher's recommendation on grade level retention; requiring county boards of education to provide in-service training for early childhood classroom assistant teachers, aides, paraprofessionals, classroom teachers, and in certain instances, interventionists in grades kindergarten through three; updating deadlines for West Virginia Board of Education multi-tiered system of support for early literacy and numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act section; requiring retention in the third grade in certain circumstances; specifying exceptions to third grade retention requirement; adding maximum early childhood classroom assistant teacher or aide-pupil ratio for kindergarten; adding maximum early childhood classroom assistant teacher, paraprofessional, or aide-pupil ratio for grades one through three; requiring ratios to be by grade level with flexibility once grade level requirement is met for full implementation by 2026; allowing county boards to employ an interventionist instead of an early childhood assistant teacher, paraprofessional or aide; removing requirement for survey of districts on class overcrowding and report to the Legislative Oversight Commission on Education Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios of service personnel per 1,000 students for the purpose of determining the basic foundation allowance for service personnel; revising findings pertaining to standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills and appropriate measures for recognizing characteristics of dyslexia and dyscalculia; replacing responsibilities of the West Virginia Board of Education pertaining to specific learning disabilities, including dyslexia and dyscalculia, with duties of the state board and the local education agencies; requiring state board rule to implement section pertaining to dyslexia and dyscalculia; stating minimum inclusions for rule; requiring report of certain information to the Legislative Oversight Commission on Education Accountability.

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 3035, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Boley and Jeffries—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 H. B. 3035) 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 3354, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services.

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 Committee Substitute for House Bill 3354, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Caputo, Chapman, Clements, Deeds, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Boley, Grady, and Jeffries—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. 3354) 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 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 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

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 11, US Army SGT Brian Christopher Karim 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, Supporting Medal of Valor nominees recommended by First Responders Honor Board.

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

House Concurrent Resolution 10, Shelby "Cubby" Foster and Robert "Robbie" Collins Memorial Road.

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

House Concurrent Resolution 23, U.S. Army SGT Theron Turner Memorial Bridge.

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

House Concurrent Resolution 33, Lt. Col. Mitchell M. Mickel Memorial Bridge.

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

House Concurrent Resolution 42, U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge.

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

House Concurrent Resolution 61, U.S. Army Sgt. John Edsel Edens Memorial Road.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on March 11, 2023:

Senate Bill 483: Senator Nelson.

(Senator Swope in the Chair.)

At the request of Senator Takubo, unanimous consent being granted, the Clerk was authorized to notify the House of Delegates and Governor that the Senate has completed its labors and is ready to adjourn *sine die*.

At the further request of Senator Takubo, and by unanimous consent, the Clerk of the Senate was directed to submit communications, after bills have been examined, found truly enrolled, authenticated with signatures, 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, showing the date such bills so enrolled were presented to the Governor; said communications to be included in the final Journal, together with Governor's action on said bills.

In accordance with the foregoing unanimous consent request, the following communications were reported by the Clerk:

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
1900 KANAWHA BLVD, EAST
CHARLESTON, WV 25305-0800
304-357-7800

March 13, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

S. B. 99, Relating to meetings among county boards of education;

Com. Sub. for S. B. 356, Authorizing DOT to promulgate legislative rules;

Com. Sub. for S. B. 451, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System;

S. B. 452, Relating to Emergency Medical Services Retirement System;

S. B. 457, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises;

S. B. 487, Extending additional modification reducing federal adjusted gross income;

Com. Sub. for S. B. 558, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media;

S. B. 597, Allowing Workforce WV to hire classified service exempt employees;

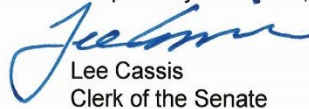
Com. Sub. for S. B. 688, Allowing BOE to hire retired teachers to assist with tutoring;

And,

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability.

These bills are presented to you on this day, March 13, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates



West Virginia House of Delegates
OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

March 13, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 3113, Requiring high school students to complete course of study in personal finance;

And,

H. B. 3428, Relating to the West Virginia Business Ready Sites Program.

These bills are presented to you on this day, March 13, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
1900 KANAWHA BLVD. EAST
CHARLESTON, WV 25305-0800
304-357-7800

March 15, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:


Com. Sub. for S. B. 294, Clarifying amount of deputy sheriff annual salary increase;

And,

S. B. 678, Adding appropriations to DHHR, Division of Human Services.

These bills are presented to you on this day, March 15, 2023.

Respectfully submitted,


Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates



West Virginia House of Delegates
OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

March 15, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bill, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, has been examined and found truly enrolled:

Com. Sub. for H. B. 2024, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

This bill is presented to you on this day, March 15, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



West Virginia House of Delegates

OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

March 15, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2883, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund;

H. B. 2904, Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary;

H. B. 2906, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits;

H. B. 2907, Supplementing and amending appropriations to the Department of Administration, Division of General Services;

Com. Sub. for H. B. 2908, Supplementing and amending appropriations to the Department of Commerce, Division of Forestry;

Com. Sub. for H. B. 2910, Making a supplementary appropriation to the Department of Administration, Public Defender Services;

Com. Sub. for H. B. 2911, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services;

H. B. 2913, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund;

Com. Sub. for H. B. 2914, Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund;

H. B. 2915, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund;

And,

Com. Sub. for H. B. 2928, Supplementing and amending appropriations to DHHR, Division of Health .

These bills are presented to you on this day, March 15, 2023.

Respectfully submitted,

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



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March 15, 2023

The Honorable Jim Justice, II
 Governor, State of West Virginia
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

H. B. 3039, Making a supplementary appropriation to Adjutant General - State Militia;

Com. Sub. for H. B. 3040, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary;

H. B. 3065, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission;

H. B. 3066, Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools;

H. B. 3067, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit;

H. B. 3073, Supplementing and amending appropriations to Adjutant General - State Militia;

Com. Sub. for H. B. 3074, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities;

H. B. 3108, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority;

H. B. 3109, Supplementing and amending appropriations to the State Board of Education - State Department of Education;

And,

H. B. 3396, Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways.

These bills are presented to you on this day, March 15, 2023.

Respectfully submitted,


 Stephen J. Harrison
 Clerk of the House of Delegates

C: The Honorable Lee Cassis
 Clerk of the Senate



West Virginia House of Delegates
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March 15, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bill, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, has been examined and found truly enrolled:

Com. Sub. for H. B. 3302, To recognize unborn child as distinct victim in a DUI causing death.

This bill is presented to you on this day, March 15, 2023.

Respectfully submitted,

A handwritten signature in cursive script that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



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March 15, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

H. B. 3307, Establishing the West Virginia-Ireland Trade Commission;

Com. Sub. for H. B. 3317, Relating to removing specific continuing education requirements;

Com. Sub. for H. B. 3337, Prohibiting additional drug and alcohol treatment facilities and services in a certain county ;

And,

H. B. 3444, Relating to the creation of the West Virginia Semiquincentennial Commission and Fund.

These bills are presented to you on this day, March 15, 2023.

Respectfully submitted,

A handwritten signature in black ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



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March 15, 2023

The Honorable Jim Justice, II
 Governor, State of West Virginia
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

H. B. 3509, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund;

H. B. 3510, Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund;

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program;

H. B. 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development;

H. B. 3518, Making a supplementary appropriation to the Department of Agriculture;

H. B. 3524, Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund;

H. B. 3526, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission;

H. B. 3529, Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services;

H. B. 3542, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund;

H. B. 3553, Supplementing and amending appropriations to Department of Health and Human Resources;

H. B. 3557, Making a supplementary appropriation to the Department of Veterans' Assistance;

And,

H. B. 3563, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

These bills are presented to you on this day, March 15, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
 Clerk of the House of Delegates

C: The Honorable Lee Cassis
 Clerk of the Senate



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March 15, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

H. B. 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services;

H. B. 3513, Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority;

H. B. 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund;

H. B. 3515, Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund;

H. B. 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment;

And,

H. B. 3564, Making a supplementary appropriation to the Division of Human Services - Energy Assistance.

These bills are presented to you on this day, March 15, 2023.

Respectfully submitted,

A handwritten signature in cursive script that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
1900 KANAWHA BLVD, EAST
CHARLESTON, WV 25305-0800
304-357-7800

March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

- Com. Sub. for Com. Sub. for S. B. 47**, Creating Charter Schools Stimulus Fund;
- Com. Sub. for S. B. 121**, Creating Student Journalist Press Freedom Protection Act;
- Com. Sub. for S. B. 191**, Relating to liability for payment of court costs as condition of pretrial diversion agreement;
- Com. Sub. for S. B. 200**, Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting;
- Com. Sub. for S. B. 220**, Industrial Hemp Development Act;
- Com. Sub. for S. B. 247**, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act;
- Com. Sub. for S. B. 258**, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit;
- Com. Sub. for S. B. 271**, Modifying approval process requirements for First Responders Honor Board;
- Com. Sub. for S. B. 298**, Relating to non-federally declared emergencies and non-states of emergency;
- Com. Sub. for S. B. 302**, Relating to Law Enforcement Safety Act;
- Com. Sub. for S. B. 409**, Authorizing Department of Commerce to promulgate legislative rules;

Com. Sub. for S. B. 631, Updating administration, funding, and requirements for federal elections held in WV;

Com. Sub. for S. B. 665, Amending licensure requirements for massage therapist;

S. B. 674, Providing statutory recognition and appointment of board members for WV First Foundation;

And,

S. B. 734, Requiring adoption of cloud computing services by state agencies.

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



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March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

S. B. 146, Modifying regulations of peer-to-peer car sharing program;

S. B. 149, Exempting certain organizations from property taxation;

Com. Sub. for S. B. 151, Levying tax on pass-through entity's income;

S. B. 244, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public;

Com. Sub. for S. B. 345, Authorizing Department of Revenue to promulgate legislative rules;

S. B. 465, Increasing limit on moneys placed in county's rainy day fund;

Com. Sub. for S. B. 478, Relating to Jumpstart Savings Program;

Com. Sub. for S. B. 613, Relating generally to certificates of need;

And,

Com. Sub. for S. B. 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission.

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



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March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

Com. Sub. for Com. Sub. for S. B. 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students;

S. B. 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations;

S. B. 544, Increasing power purchase agreement cap;

And,

Com. Sub. for S. B. 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid.

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
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304-357-7800

March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

S. B. 443, Directing payment of estate administration fee to State Auditor;

S. B. 444, Transferring moneys in WV Future Fund to General Revenue Fund;

Com. Sub. for S. B. 469, Providing funding for CPR instruction to high school students;

S. B. 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures;

Com. Sub. for S. B. 516, Relating to requirements for disclosure of donor contributions;

Com. Sub. for S. B. 523, Clarifying purpose and use of Economic Development Project Fund;

Com. Sub. for S. B. 527, Allowing family members of military personnel access to discharge records;

Com. Sub. for S. B. 546, Adding and removing certain compounds from controlled substance list;

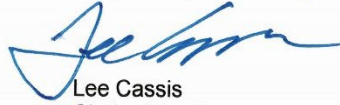
Com. Sub. for S. B. 568, Relating to Dangerousness Assessment Advisory Board;

And,

Com. Sub. for S. B. 579, Providing payment to vendors who provided services to state.

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
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March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

Com. Sub. for Com. Sub. for S. B. 561, Relating to administration of WV Drinking Water Treatment Revolving Fund Act;

Com. Sub. for S. B. 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription;

Com. Sub. for S. B. 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study;

S. B. 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs;

S. B. 733, Relating to wildlife licenses and stamps;

S. B. 737, Emergency Medical Services Act;

And,

S. B. 740, Relating to compensation and expense reimbursement for members of Legislature.

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted, .

A handwritten signature in blue ink, appearing to read 'Lee Cassis', written in a cursive style.

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates



West Virginia House of Delegates
OFFICE OF THE CLERK
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March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2754, Relating to immunizations performed in a pharmacy;

H. B. 3299, Relating to Natural Resource Police Officer Retirement;

Com. Sub. for H. B. 3148, Relating to financing municipal policemen's and firemen's pension and relief funds;

H. B. 2827, Make public charter schools eligible for Safe Schools Funds;

Com. Sub. for H. B. 2860, To dispose of old AFFF foam accumulated by fire departments;

And,

H. B. 3328, Authorizing the Hatfield-McCoy Regional Recreation Authority to contract to build and maintain trails on privately owned property.

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



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March 16, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2759, Relating to updating the health care provider tax;

Com. Sub. for H. B. 2817, Relating to Public Service Commission jurisdiction over alternative fuel for motor vehicles;

Com. Sub. for H. B. 2848, Water and Sewer Operator licensing reciprocity;

Com. Sub. for H. B. 2870, Correcting a reference relating to siting certificates for certain electric generating facilities;

Com. Sub. for H. B. 3012, To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief;

Com. Sub. for H. B. 3044, Relating to the annual fee for limited video lottery terminal permits;

H. B. 3244, Relating to Municipal Pensions Oversight Board proposing legislative rules;

And,

H. B. 3387, Extending the moratorium on the authorization of new convention and visitors bureaus for an additional two years .

These bills are presented to you on this day, March 16, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
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304-357-7800

March 17, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

S. B. 240, Requiring state board of examination or registration proceedings to be open to public inspection;

Com. Sub. for Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county;

Com. Sub. for S. B. 361, Authorizing miscellaneous boards and agencies to promulgate legislative rules;

Com. Sub. for S. B. 422, Requiring public schools to publish curriculum online at beginning of each new school year;

S. B. 446, Removing methanol and methanol fuel from definition of special fuel;

Com. Sub. for S. B. 461, Relating to WV public employees grievance procedure;

Com. Sub. for S. B. 468, Continuing Cabwaylingo State Forest Trail System;

S. B. 488, Aligning state and federal accreditation rules;

Com. Sub. for S. B. 573, Relating to child support guidelines and Support Enforcement Commission;

Com. Sub. for S. B. 232, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system;

Com. Sub. for S. B. 495, Providing correctional institutions and juvenile facilities video and audio records be confidential;

Com. Sub. for Com. Sub. for S. B. 522, Allocating percentage of county excise taxes for funding improvements to election administration;

And,

Com. Sub. for S. B. 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements.

These bills are presented to you on this day, March 17, 2023.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



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March 17, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

Com. Sub. for Com. Sub. for S. B. 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education;

Com. Sub. for S. B. 552, Relating to abortion;

S. B. 608, Correcting list of items which are considered deadly weapons;

Com. Sub. for S. B. 633, Requiring prompt appearances for persons detained on capiases;

Com. Sub. for S. B. 647, Relating to substantiation of abuse and neglect allegations;

Com. Sub. for S. B. 661, Clarifying preferential recall rights for employees sustaining compensable injury;

Com. Sub. for S. B. 667, Requiring periodic performance audits of WV Secondary School Activities Commission;


Com. Sub. for S. B. 677, Clarifying role and responsibilities of State Resiliency Officer;

And,

S. B. 735, Clarifying department responsible for administration of certain programs.

These bills are presented to you on this day, March 17, 2023.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates



West Virginia House of Delegates
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March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2005, Establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education.;

Com. Sub. for H. B. 2218, Distracted Driving Act;

Com. Sub. for H. B. 2605, Relating to Good Samaritan law;

Com. Sub. for H. B. 2757, Relating to expanding institutional eligibility for the WV Invests Grant Program;

Com. Sub. for H. B. 2760, To allow CPR fire fighters to drive ambulances when both attendants are needed to administer patient care;

Com. Sub. for H. B. 2862, Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments;

Com. Sub. for H. B. 2900, Relating to the Deputy Sheriff Retirement System;

And,

Com. Sub. for H. B. 3303, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office.

These bills are presented to you on this day, March 20, 2023.

Respectfully submitted,

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

*West Virginia House of Delegates*

OFFICE OF THE CLERK
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March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2026, Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time;

H. B. 2283, Relating to authorized expenditures of revenues from certain state funds for fire departments;

H. B. 2310, Provide the Division of Motor Vehicles authority to develop an "Antique Fleet" program so that multiple antique motor vehicles may utilize a single registration plate;

Com. Sub. for H. B. 2540, Travel Insurance Model Act;

H. B. 2607, Clarify that vehicles with a capacity larger than 10 passengers may be used to transport students provided that no more than 10 passengers may be transported at one time;

And,

H. B. 3146, Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act.

These bills are presented to you on this day, March 20, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

**West Virginia House of Delegates**

OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2221, Relating to bankruptcy;

Com. Sub. for H. B. 2509, Creating the Uniform Premarital Agreement Act;

Com. Sub. for H. B. 2569, Establishing the Motorsport Responsibility Act;

Com. Sub. for H. B. 3013, Relating to authorizing the Jefferson County Commission to levy a special district excise tax;

H. B. 3448, Relating generally to probation officer field training;

And,

Com. Sub. for H. B. 3479, Creating requirements for use of unmanned aerial vehicles.

These bills are presented to you on this day, March 20, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

**West Virginia House of Delegates**

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March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2346, Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment;

Com. Sub. for H. B. 3035, Relating generally to high-quality education programs and school operations;

Com. Sub. for H. B. 3270, To amend the deliberate intent statute to limit noneconomic damages to \$500,000;

And,

Com. Sub. for H. B. 3271, Relating to increasing monitoring of special education classrooms.

These bills are presented to you on this day, March 20, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



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March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2917, Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources;

H. B. 3451, Updating the veteran preference ratings in state code for state employment;

And,

H. B. 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office.

These bills are presented to you on this day, March 20, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

*West Virginia House of Delegates*

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STEPHEN J. HARRISON
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STEVE.HARRISON@VHHOUSE.GOV

March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2993, Relating to rural emergency hospital licensure;

Com. Sub. for H. B. 3114, Deny severance pay to employees of DOT for failure or refusal of drug testing;

Com. Sub. for H. B. 3211, Relating to authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the Municipal Police Officer and Firefighter Retirement System;

Com. Sub. for H. B. 3233, Relating generally to uniform and equipment allowances for the National Guard;

H. B. 3286, Relating to an additional modification decreasing federal taxable income;

Com. Sub. for H. B. 3369, Creating a School Safety Unit within the Division of Protective Services;

And,

H. B. 3547, Increasing the number of personal leave days that county board of education employees may use.

These bills are presented to you on this day, March 20, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Stephen J. Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

**West Virginia House of Delegates**

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CLERK OF THE HOUSE

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STEVE.HARRISON@WVHOUSE.GOV

March 20, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bill, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, has been examined and found truly enrolled:

Com. Sub. for H. B. 3482, To create the Coal Fired Grid Stabilization and Security Act of 2023.

This bill is presented to you on this day, March 20, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



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STEPHEN J. HARRISON
CLERK OF THE HOUSE

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

March 21, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2380, Relating to School Building Authority;

Com. Sub. for H. B. 2515, Require agencies to develop and maintain an inventory of available services for single parents wanting to obtain degrees, secure training or reenter the workforce;

Com. Sub. for H. B. 2640, Authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules;

Com. Sub. for H. B. 3092, Relating to in-state food service permit reciprocity;

And,

H. B. 3499, To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship.

These bills are presented to you on this day, March 21, 2023.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



West Virginia House of Delegates

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STEPHEN J. HARRISON
 CLERK OF THE HOUSE

(304) 340-3200
 STEVE.HARRISON@WVHOUSE.GOV

March 22, 2023

The Honorable Jim Justice, II
 Governor, State of West Virginia
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2002, Relating to providing support for families;

Com. Sub. for H. B. 2004, Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct;

Com. Sub. for H. B. 2007, Prohibiting certain medical practices;

Com. Sub. for H. B. 2008, Requiring local entities to enforce immigration laws;

Com. Sub. for H. B. 2648, Authorizing certain agencies and boards of the DHHR to promulgate a legislative rule;

Com. Sub. for H. B. 2820, To provide HOPE Scholarship recipients with the ability to play sports;

And,

Com. Sub. for H. B. 2821, Relating to taxation of gambling and lottery winnings.

These bills are presented to you on this day, March 22, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
 Clerk of the House of Delegates

C: The Honorable Lee Cassis
 Clerk of the Senate



West Virginia House of Delegates
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STEPHEN J. HARRISON
CLERK OF THE HOUSE

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STEVE.HARRISON@WVHOUSE.GOV

March 22, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 3084, Relating to revising provisions related to public charter schools;

Com. Sub. for H. B. 3168, Ensuring investment in WV Tourism is competitive with other states and accessible long term;

Com. Sub. for H. B. 3190, Amending the definition of "minor";

Com. Sub. for H. B. 3224, Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients;

Com. Sub. for H. B. 3311, Relating to wine alcohol by volume as compared to beer;

Com. Sub. for H. B. 3332, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election;

And,

Com. Sub. for H. B. 3450, Relating generally to racetrack video lottery and the Licensed Racetrack Modernization Fund.

These bills are presented to you on this day, March 22, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

*West Virginia House of Delegates*

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STEPHEN J. HARRISON
CLERK OF THE HOUSE

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STEVE.HARRISON@WVHOUSE.GOV

March 27, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2016, Relating to confidential childcare records;

H. B. 2955, Relating to the establishment and operation of regional water, wastewater and stormwater authorities;

Rev. Com. Sub. for H. B. 3110, Relating to funding the Office of Oil and Gas in the Department of Environmental Protection;

Com. Sub. for H. B. 3191, Relating to certain facilities operated by the state government to obtain a license;

H. B. 3203, Relating generally to West Virginia Real Estate License Act;

Com. Sub. for H. B. 3261, Relating to Social Workers Qualifications;

Com. Sub. for H. B. 3306, Relating to the organizational structure of the Office of Drug Control Policy;

Com. Sub. for H. B. 3344, To pay certain moral obligations of the state;

Com. Sub. for H. B. 3354, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services;

Com. Sub. for H. B. 3398, Relating to the establishment of the West Virginia Memorial to Fallen Heroes of the Global War on Terrorism;

H. B. 3432, Relating to statutory construction;

H. B. 3439, To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than \$1 million per incident;

And,

H. B. 3552, Relating to per diem jail costs.

These bills are presented to you on this day, March 27, 2023.

Respectfully submitted,



Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate



West Virginia House of Delegates
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STEPHEN J. HARRISON
 CLERK OF THE HOUSE

(304) 340-3200
 STEVE.HARRISON@WVHOUSE.GOV

March 27, 2023

The Honorable Jim Justice, II
 Governor, State of West Virginia
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2436, Relating to the implementation of an acuity-based patient classification system;

Com. Sub. for H. B. 2621, Relating generally to bail bondsman;

Com. Sub. for H. B. 2814, To create a Hydrogen power task force;

Com. Sub. for H. B. 2865, To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility;

H. B. 2875, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR;

Com. Sub. for H. B. 2890, Modifying student discipline;

H. B. 2967, Expediting License Applications for active military members and veterans, and their spouses;

Com. Sub. for H. B. 3018, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court;

Com. Sub. for H. B. 3036, Increasing the number of districts and the limit on approved costs under the BUILD WV Act;

Com. Sub. for H. B. 3077, Relating to making the use of the multi-state real time tracking system permanent;

Com. Sub. for H. B. 3135, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025;

H. B. 3141, Relating to the practice of dentistry;

Com. Sub. for H. B. 3147, To create the Upper Ohio Valley Trail Network;

H. B. 3156, Raising the compensation rates of panel attorneys;

H. B. 3166, To permit a hospital to hold a patient experiencing a psychiatric emergency for up to 72 hours;

Com. Sub. for H. B. 3189, The PFAS Protection Act;

H. B. 3199, Relating to removing the requirement that an ectopic pregnancy be reported;

Com. Sub. for H. B. 3214, To create the Road Optimization & Assessment Data (ROAD) Pilot Project;

Com. Sub. for H. B. 3265, Remove statutory mandates that the sheriff of a county shall serve process or is responsible for cost of service or arrest by another law enforcement agency;

Com. Sub. for H. B. 3315, Relating generally to readiness enhancement and commission bonuses;

H. B. 3360, Creating an office of the Inspector General within the Department of Homeland Security ;

Com. Sub. for H. B. 3370, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts;

H. B. 3371, Relating to federal funds for land-grant institutions;

H. B. 3441, Revising the training requirements for members of the Higher Education Policy Commission, Council for Community and Technical College Education and the institutional governing boards;

H. B. 3443, Relating to a development or improvement on land subject to review by the State Historic Preservation Office ;

H. B. 3473, Creating a workgroup relating to Dig Once Policy;

H. B. 3555, Relating to student purchase and refunds of course material;

H. B. 3559, Relating to defining a newborn safety device;

And,

H. B. 3560, Relating to expanding the definitions of land and recreational purposes.

These bills are presented to you on this day, March 27, 2023.

Respectfully submitted,



Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

Executive Communications

Under authorization of Senate approval therefor in prior proceedings today, to include in this day's Journal communications showing the Governor's action on enrolled bills presented to him in post-session reports, the following are inserted hereinafter:

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



Jim Justice
Governor of West Virginia

March 13, 2023

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. Two Hundred Thirty-Seven (237), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Four Hundred Ninety (490), which was presented to me on March 8, 2023.

You will note that I have approved these bills on March 13, 2023.

Sincerely

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

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, 2023

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, is the following bill:

Senate Bill No. Two Hundred Ninety-Four (294), which was presented to me on March 15, 2023.

You will note that I have approved this bill on March 15, 2023.

Sincerely,

A handwritten signature in cursive script, reading "Jim Justice".

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, 2023

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. Three Thousand Three Hundred Two (3302), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Two Hundred Eighteen (3218), which was presented to me on March 7, 2023.

You will note that I have approved these bills on March 15, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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 Seventy-Eight (678), which was presented to me on March 15, 2023.

Senate Bill No. Five Hundred Ten (510), which was presented to me on March 8, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Eighty-Three (2883), which was presented to me on March 15, 2023.

House Bill No. Two Thousand Nine Hundred Four (2904), which was presented to me on March 15, 2023.

House Bill No. Two Thousand Nine Hundred Six (2906), which was presented to me on March 15, 2023.

House Bill No. Two Thousand Nine Hundred Seven (2907), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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, is the following bill:

Committee Substitute for House Bill No. Two Thousand Twenty-Four (2024), which was presented to me on March 15, 2023.

You will note that I have approved this bill on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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 Eight (2908), which was presented to me on March 15, 2023.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Ten (2910), which was presented to me on March 15, 2023.

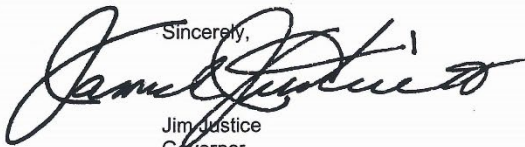
Committee Substitute for House Bill No. Two Thousand Nine Hundred Eleven (2911), which was presented to me on March 15, 2023.

House Bill No. Two Thousand Nine Hundred Thirteen (2913), which was presented to me on March 15, 2023.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Fourteen (2914), which was presented to me on March 15, 2023.

House Bill No. Two Thousand Nine Hundred Fifteen (2915), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 16, 2023.

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 16, 2023

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 Twenty-Eight (2928), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Thirty-Nine (3039), which was presented to me on March 15, 2023.

Committee Substitute for House Bill No. Three Thousand Forty (3040), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Sixty-Five (3065), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Sixty-Six (3066), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Sixty-Seven (3067), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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. Three Thousand Seventy-Three (3073), which was presented to me on March 15, 2023.

Committee Substitute for House Bill No. Three Thousand Seventy-Four (3074), which was presented to me on March 15, 2023.

House Bill No. Three Thousand One Hundred Eight (3108), which was presented to me on March 15, 2023.

House Bill No. Three Thousand One Hundred Nine (3109), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Three Hundred Ninety-Six (3396), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Nine (3509), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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. Three Thousand Five Hundred Ten (3510), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Eleven (3511), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Twelve (3512), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Thirteen (3513), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Fourteen (3514), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Fifteen (3515), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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. Three Thousand Five Hundred Sixteen (3516), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Seventeen (3517), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Eighteen (3518), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Nineteen (3519), which was presented to me on March 8, 2023.

House Bill No. Three Thousand Five Hundred Twenty (3520), which was presented to me on March 8, 2023.

House Bill No. Three Thousand Five Hundred Twenty-One (3521), which was presented to me on March 8, 2023.

You will note that I have approved these bills on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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. Three Thousand Five Hundred Twenty-Two (3522), which was presented to me on March 8, 2023.

House Bill No. Three Thousand Five Hundred Twenty-Three (3523), which was presented to me on March 8, 2023.

House Bill No. Three Thousand Five Hundred Twenty-Four (3524), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Twenty-Six (3526), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Twenty-Seven (3527), which was presented to me on March 8, 2023.

House Bill No. Three Thousand Five Hundred Twenty-Eight (3528), which was presented to me on March 8, 2023.

You will note that I have approved these bills on March 16, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 16, 2023

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. Three Thousand Five Hundred Twenty-Nine (3529), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Forty-Two (3542), which was presented to me on March 15, 2023.

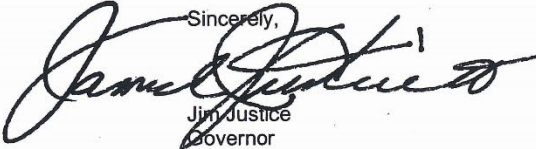
House Bill No. Three Thousand Five Hundred Fifty-Three (3553), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Fifty-Seven (3557), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Sixty-Three (3563), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Five Hundred Sixty-Four (3564), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 16, 2023.

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 17, 2023

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 Committee Substitute for Senate Bill No. Two Hundred Sixty-Eight (268), which was presented to me on March 7, 2023.

Committee Substitute for Senate Bill No. Four Hundred Twenty-Three (423), which was presented to me on March 7, 2023.

House Bill No. Three Thousand Three Hundred Seven (3307), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 17, 2023.

Sincerely,

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

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, 2023

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 Twenty-Two (422), which was presented to me on March 17, 2023.

Committee Substitute for House Bill No. Two Thousand Five (2005), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Thirty-Five (3035), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Sixty-Nine (3369), which was presented to me on March 20, 2023.

You will note that I have approved these bills on March 21, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 22, 2023

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-Six (526), which was presented to me on March 8, 2023.

Senate Bill No. Six Hundred Seventy-Four (674), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Three (3303), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Four Hundred Eighty-Two (3482), which was presented to me on March 20, 2023.

You will note that I have approved these bills on March 22, 2023.

Sincerely,

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

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, 2023

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. Fifty-One (51), which was presented to me on March 10, 2023.

Committee Substitute for Senate Bill No. One Hundred Twenty-One (121), which was presented to me on March 16, 2023.

Senate Bill No. One Hundred Forty-Two (142), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Two Hundred Five (205), which was presented to me on March 10, 2023.

Committee Substitute for Senate Bill No. Two Hundred Twenty (220), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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. Two Hundred Forty-Four (244), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Two Hundred Forty-Seven (247), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Two Hundred Fifty-Eight (258), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Two Hundred Sixty-Seven (267), which was presented to me on March 10, 2023.

Committee Substitute for Senate Bill No. Two Hundred Seventy-One (271), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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 Ninety-Eight (298), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Three Hundred Two (302), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Three Hundred Thirty-Five (335), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Three Hundred Forty-Five (345), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Three Hundred Fifty-Six (356), which was presented to me on March 13, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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 Nine (409), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Four Hundred Thirty-Nine (439), which was presented to me on March 9, 2023.

Senate Bill No. Four Hundred Forty-Three (443), which was presented to me on March 16, 2023.

Senate Bill No. Four Hundred Forty-Four (444), which was presented to me on March 16, 2023.

Senate Bill No. Four Hundred Forty-Nine (449), which was presented to me on March 9, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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 Fifty (450), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Four Hundred Fifty-One (451), which was presented to me on March 13, 2023.

Senate Bill No. Four Hundred Fifty-Two (452), which was presented to me on March 13, 2023.

Committee Substitute for Senate Bill No. Four Hundred Fifty-Three (453), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Four Hundred Fifty-Five (455), which was presented to me on March 9, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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 Fifty-Seven (457), which was presented to me on March 13, 2023.

Senate Bill No. Four Hundred Fifty-Eight (458), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Four Hundred Sixty-Three (463), which was presented to me on March 10, 2023.

Senate Bill No. Four Hundred Sixty-Five (465), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Four Hundred Sixty-Nine (469), which was presented to me on March 16, 2023.

Committee Substitute for Committee Substitute for Senate Bill No. Five Hundred Sixty-One (561), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 23, 2023.

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, 2023

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 Seventy-Seven (577), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Six Hundred Seventeen (617), which was presented to me on March 16, 2023.

Senate Bill No. Six Hundred Twenty-Five (625), which was presented to me on March 16, 2023.

Senate Bill No. Seven Hundred Thirty-Three (733), which was presented to me on March 16, 2023.

Senate Bill No. Seven Hundred Thirty-Seven (737), which was presented to me on March 16, 2023.

Senate Bill No. Seven Hundred Forty (740), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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 Fifty-Four (2754), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Fifty-Nine (2759), which was presented to me on March 16, 2023.

House Bill No. Two Thousand Eight Hundred Thirty-Nine (2839), which was presented to me on March 9, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Forty-Eight (2848), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Sixty (2860), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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 Eight Hundred Seventy (2870), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Three Thousand Forty-Four (3044), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Thirteen (3113), which was presented to me on March 13, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Forty-Eight (3148), which was presented to me on March 16, 2023.

House Bill No. Three Thousand Two Hundred Fifteen (3215), which was presented to me on March 9, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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. Three Thousand Two Hundred Forty-Four (3244), which was presented to me on March 16, 2023.

House Bill No. Three Thousand Two Hundred Ninety-Nine (3299), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Seventeen (3317), which was presented to me on March 15, 2023.

House Bill No. Three Thousand Three Hundred Twenty-Eight (3328), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Thirty-Seven (3337), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

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

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, 2023

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. Three Thousand Three Hundred Sixty-Four (3364), which was presented to me on March 9, 2023.

House Bill No. Three Thousand Three Hundred Eighty-Seven (3387), which was presented to me on March 16, 2023.

House Bill No. Three Thousand Three Hundred Ninety-One (3391), which was presented to me on March 9, 2023.

House Bill No. Three Thousand Four Hundred Twenty-Eight (3428), which was presented to me on March 13, 2023.

House Bill No. Three Thousand Four Hundred Forty-Four (3444), which was presented to me on March 15, 2023.

You will note that I have approved these bills on March 23, 2023.

Sincerely,

A handwritten signature in black ink that reads "Jim Justice".

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, 2023

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 Forty-Six (146), which was presented to me on March 16, 2023.

Senate Bill No. One Hundred Forty-Nine (149), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. One Hundred Fifty-One (151), which was presented to me on March 16, 2023.

Committee Substitute for Committee Substitute for Senate Bill No. One Hundred Eighty-Seven (187), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. One Hundred Eighty-Eight (188), which was presented to me on March 8, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

A handwritten signature in black ink that reads "Jim Justice".

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, 2023

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. One Hundred Ninety-One (191), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Two Hundred (200), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Four Hundred Thirty (430), which was presented to me on March 8, 2023.

Committee Substitute for Senate Bill No. Five Hundred Seventy-Nine (579), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Six Hundred Thirteen (613), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

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, 2023

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 Two (2002), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Two Thousand Two Hundred Eighteen (2218), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Four Hundred Thirty-Six (2436), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Two Thousand Six Hundred Twenty-One (2621), which was presented March 27, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Fourteen (2814), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

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, 2023

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 Eight Hundred Seventeen (2817), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Sixty-Two (2862), which was presented to me on March 20, 2023.

House Bill No. Two Thousand Eight Hundred Seventy-Five (2875), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Ninety (2890), which was presented to me on March 27, 2023.

House Bill No. Two Thousand Nine Hundred Fifty-Five (2955), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

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, 2023

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 Nine Hundred Sixty-Seven (2967), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Eighteen (3018), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Seventy-Seven (3077), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Thirty-Five (3135), which was presented on March 27, 2023.

House Bill No. Three Thousand One Hundred Forty-One (3141), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

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, 2023

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. Three Thousand One Hundred Forty-Seven (3147), which was presented to me on March 27, 2023.

House Bill No. Three Thousand One Hundred Fifty-Six (3156), which was presented to me on March 27, 2023.

House Bill No. Three Thousand One Hundred Sixty-Six (3166), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Eighty-Nine (3189), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Ninety-One (3191), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

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, 2023

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. Three Thousand Two Hundred Three (3203), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Fourteen (3214), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Sixty-One (3261), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Sixty-Five (3265), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Six (3306), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

A handwritten signature in black ink that reads "Jim Justice".

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, 2023

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. Three Thousand Three Hundred Fifteen (3315), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Forty-Four (3344), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Ninety-Eight (3398), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Four Hundred Thirty-Nine (3439), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Four Hundred Forty-One (3441), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

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, 2023

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. Three Thousand Four Hundred Forty-Three (3443), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Four Hundred Seventy-Three (3473), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Five Hundred Fifty-Nine (3559), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Five Hundred Sixty (3560), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 28, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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 Committee Substitute for Senate Bill No. Forty-Seven (47), which was presented to me on March 16, 2023.

Senate Bill No. Ninety-Nine (99), which was presented to me on March 13, 2023.

Senate Bill No. One Hundred Thirty-One (131), which was presented to me on March 8, 2023.

Committee Substitute for Senate Bill No. Two Hundred Thirty-Two (232), which was presented to me on March 17, 2023.

Senate Bill No. Two Hundred Forty (240), which was presented to me on March 17, 2023.

Senate Bill No. Two Hundred Forty-Six (246), which was presented to me on March 8, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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 Committee Substitute for Senate Bill No. Two Hundred Seventy-Three (273), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Three Hundred Sixty-One (361), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Four Hundred Seventy-Five (475), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Four Hundred Seventy-Six (476), which was presented to me on March 10, 2023.

Committee Substitute for Senate Bill No. Four Hundred Seventy-Eight (478), which was presented to me on March 16, 2023.

Senate Bill No. Four Hundred Eighty-Seven (487), which was presented to me on March 13, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Forty-Six (446), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Four Hundred Sixty-One (461), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Four Hundred Sixty-Eight (468), which was presented to me on March 17, 2023.

Senate Bill No. Four Hundred Eighty-Eight (488), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Four Hundred Ninety-Five (495), which was presented to me on March 17, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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 Five Hundred Eight (508), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Five Hundred Sixteen (516), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Three (523), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Seven (527), which was presented to me on March 16, 2023.

Senate Bill No. Five Hundred Twenty-Nine (529), which was presented to me on March 9, 2023.

Senate Bill No. Five Hundred Thirty-Three (533), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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 Committee Substitute for Senate Bill No. Five Hundred Twenty-Two (522), which was presented to me on March 17, 2023.

Committee Substitute for Committee Substitute for Senate Bill No. Five Hundred Forty-Three (543), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Five Hundred Fifty-Two (552), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Five Hundred Seventy-Three (573), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Five Hundred Ninety-Four (594), which was presented to me on March 8, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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-Four (534), which was presented to me on March 17, 2023.

Senate Bill No. Five Hundred Forty-Four (544), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Five Hundred Forty-Six (546), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Five Hundred Forty-Eight (548), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Five Hundred Fifty-Eight (558), which was presented to me on March 13, 2023.

Committee Substitute for Senate Bill No. Five Hundred Sixty-Eight (568), which was presented to me on March 16, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Ninety-Seven (597), which was presented to me on March 13, 2023.

Senate Bill No. Six Hundred Five (605), which was presented to me on March 9, 2023.

Committee Substitute for Senate Bill No. Six Hundred Thirty-One (631), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Six Hundred Forty-Nine (649), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Six Hundred Sixty-Five (665), which was presented to me on March 16, 2023.

Committee Substitute for Senate Bill No. Six Hundred Eighty-Eight (688), which was presented to me on March 13, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Eight (608), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Six Hundred Thirty-Three (633); which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Six Hundred Forty-Seven (647), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Six Hundred Sixty-One (661), which was presented to me on March 17, 2023.

Committee Substitute for Senate Bill No. Six Hundred Seventy-Seven (677), which was presented to me on March 17, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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. Seven Hundred Thirty (730), which was presented to me on March 13, 2023.

Senate Bill No. Seven Hundred Thirty-Four (734), which was presented to me on March 16, 2023.

Senate Bill No. Seven Hundred Thirty-Five (735), which was presented to me on March 17, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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 Four (2004), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Two Thousand Seven (2007), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Two Thousand Eight (2008), which was presented to me on March 22, 2023.

House Bill No. Two Thousand Three Hundred Nine (2309), which was presented to me on March 9, 2023.

Committee Substitute for House Bill No. Two Thousand Five Hundred Eighty-Seven (2587), which was presented to me on March 7, 2023.

House Bill No. Two Thousand Five Hundred Ninety-Seven (2597), which was presented to me on March 9, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Sixteen (2016), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Two Thousand Twenty-Six (2026), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Two Hundred Twenty-One (2221), which was presented to me on March 20, 2023.

House Bill No. Two Thousand Two Hundred Eighty-Three (2283), which was presented to me on March 20, 2023.

House Bill No. Two Thousand Three Hundred Ten (2310), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Three Hundred Forty-Six (2346), which was presented to me on March 20, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Three Hundred Eighty (2380), which was presented to me on March 21, 2023.

Committee Substitute for House Bill No. Two Thousand Five Hundred Nine (2509), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Five Hundred Fifteen (2515), which was presented to me on March 21, 2023.

Committee Substitute for House Bill No. Two Thousand Five Hundred Forty (2540), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Five Hundred Sixty-Nine (2569), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Six Hundred Five (2605), which was presented to me on March 20, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Seven (2607), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Six Hundred Forty (2640), which was presented to me on March 21, 2023.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Seventeen (2917), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Thirty-Six (3036), which was presented to me on March 27, 2023.

Committee Substitute for House Bill No. Three Thousand Eighty-Four (3084), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Three Thousand Ninety-Two (3092), which was presented to me March 21, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Eleven (2611), which was presented to me on March 7, 2023.

Committee Substitute for House Bill No. Two Thousand Six Hundred Thirty-Eight (2638), which was presented to me on March 9, 2023.

Committee Substitute for House Bill No. Two Thousand Six Hundred Forty-Eight (2648), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Fifty-Seven (2757), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty (2760), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty-Two (2762), which was presented to me on March 9, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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 Eight Hundred Twenty-One (2821), which was presented to me on March 22, 2023.

House Bill No. Two Thousand Eight Hundred Twenty-Seven (2827), which was presented to me on March 16, 2023.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Sixty-Five (2865), which was presented to me on March 27, 2023.

House Bill No. Two Thousand Eight Hundred Ninety-Nine (2899), which was presented to me on March 7, 2023.

Committee Substitute for House Bill No. Two Thousand Nine Hundred (2900), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Ninety-Three (2993), which was presented to me on March 20, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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. Three Thousand Thirteen (3013), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Fourteen (3114), which was presented to me on March 20, 2023.

House Bill No. Three Thousand One Hundred Forty-Six (3146), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Sixty-Eight (3168), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Three Thousand One Hundred Ninety (3190), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Ten (3210), which was presented to me on March 7, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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:

Revised Committee Substitute for House Bill No. Three Thousand One Hundred Ten (3110), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Two Hundred Eighty-Six (3286), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Eleven (3311), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Thirty-Two (3332), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Three Thousand Three Hundred Fifty-Four (3354), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Three Hundred Sixty (3360), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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. Three Thousand Two Hundred Eleven (3211), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Twenty-Four (3224), which was presented to me on March 22, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Thirty-Three (3233), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Two Hundred Seventy-One (3271), which was presented to me on March 20, 2023.

House Bill No. Three Thousand Four Hundred Forty-Eight (3448), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Four Hundred Fifty (3450), which was presented to me on March 22, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

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 29, 2023

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. Three Thousand Three Hundred Seventy (3370), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Three Hundred Seventy-One (3371), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Four Hundred Thirty-Two (3432), which was presented to me on March 27, 2023.

House Bill No. Three Thousand Five Hundred Forty-Seven (3547), which was presented to me on March 20, 2023.

House Bill No. Three Thousand Five Hundred Fifty-Five (3555), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

March 29, 2023

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. Three Thousand Four Hundred Fifty-One (3451), which was presented to me on March 20, 2023.

Committee Substitute for House Bill No. Three Thousand Four Hundred Seventy-Nine (3479), which was presented to me on March 20, 2023.

House Bill No. Three Thousand Four Hundred Ninety-Nine (3499), which was presented to me on March 21, 2023.

House Bill No. Three Thousand Five Hundred (3500), which was presented to me on March 20, 2023.

House Bill No. Three Thousand Five Hundred Fifty-Two (3552), which was presented to me on March 27, 2023.

You will note that I have approved these bills on March 29, 2023.

Sincerely,

A handwritten signature in black ink that reads "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis, Clerk
The Honorable Stephen J. Harrison, Clerk

[CLERK'S NOTE: Enr. Committee Substitute for House Bill 2820, Enr. Committee Substitute for House Bill 3012, Enr. House Bill 3199, and Enr. Committee Substitute for House Bill 3270 became law without the Governor's signature on March 29, 2023, under the provisions of Section 14, Article VII of the Constitution of West Virginia.]

Veto Messages

Jim Justice
Governor of West Virginia

March 29, 2023

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 Senate Bill 667

Secretary Warner:

Pursuant to Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 667. This bill requires the Legislative Auditor to conduct periodic audits of the West Virginia Secondary Schools Activities Commission ("WVSSAC").

While I most certainly believe fiscal responsibility is of the upmost importance, so is preventing government overreach. WVSSAC is a private, non-profit organization comprised of dedicated West Virginians who volunteer their time and resources to ensuring our interscholastic athletics and other extracurricular activities are accessible to all our students. To require WVSSAC to undergo audits by the Legislative Auditor would be to treat this private, non-profit corporation as if it were a state agency. To prevent such government overreach, I disapprove and return Enrolled Committee Substitute for Senate Bill 667.

Sincerely,


Jim Justice
Governor

cc: The Honorable Craig Blair
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates

All business of the sixty-day session now being concluded,

On motion of Senator Takubo, at 11:49 p.m., the Senate adjourned *sine die*.
