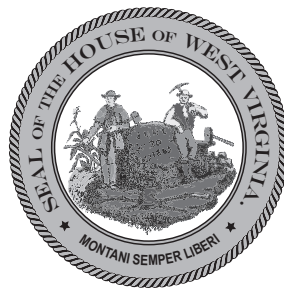


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Seventh Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



April 12, 2025
SIXTIETH DAY

Saturday, April 12, 2025

SIXTIETH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, April 11, 2025, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Messages from the Executive
and Other Communications**

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

April 11, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

The following bill, 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, has been examined and found truly enrolled:

Com. Sub. for S. B. 810, Clarifying requirements for administration of anesthesia and chronic pain practice by certain licensed nurses.

This bill is presented to you on this day, April 11, 2025.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Jeffrey Pack
Clerk of the House of Delegates

PRESENTED TO THE GOVERNOR

APR 11 2025

Time 8:55am



Patrick Morrisey
Governor of West Virginia

April 12, 2025

The Honorable Jeff Pack, 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, are the following bills:

Committee Substitute for House Bill No. Two Thousand One Hundred Twenty-Nine (2129), which was presented to me on April 7, 2025.

House Bill No. Two Thousand Four Hundred Forty-One (2441), which was presented to me on April 7, 2025.

Committee Substitute for House Bill No. Two Thousand Five Hundred Thirteen (2513), which was presented to me on April 7, 2025.

Committee Substitute for House Bill No. Two Thousand Five Hundred Forty-Eight (2548), which was presented to me on April 7, 2025.

You will note that I have approved these bills on April 12, 2025.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Morrisey".

Patrick Morrisey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk



**HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE**

BUILDING 1, ROOM M-212
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3200

April 14, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 2013, Transfer of employees to classified exempt service;

Com. Sub. for H. B. 2067, West Virginia Firearms Liability Clarification Act;

Com. Sub. for H. B. 2152, Prompt Payment Act of 2025;

H. B. 2444, Relating to limiting financial records of limited video lottery permittees that are subject to examination by Lottery Commission;

H. B. 2484, Clarifying the probationary period for paid municipal firefighters.;

Com. Sub. for H. B. 2711, Relating to the repeal of the common law rule against perpetuities by extending it to 1,000 years for all trusts;

Com. Sub. for H. B. 2761, Relating generally to magistrate courts;

H. B. 2943, Administration of the West Virginia Hazardous Waste Management Act;

Com. Sub. for H. B. 2964, Amending residency requirements for regional airport boards;

Com. Sub. for H. B. 2897, Permitting the Legislative Auditor to conduct periodic performance and financial audits of the West Virginia Department of Education;

Com. Sub. for H. B. 3012, Relating to Lottery Money Distribution;

H. B. 3157, Relating to shortened procedure for road condition claims;



**HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE**

BUILDING 1, ROOM M-212
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PHONE (304) 340-3200

Com. Sub. for H. B. 3342, Firearms Industry Nondiscrimination Act;

Com. Sub. for H. B. 3350, Supplemental Appropriation - DCR - Corrections - 0608

H. B. 3361, Supplemental Appropriation - Health, Birth to Three ;

And,

H. B. 3456, Relating to the powers and duties of the Commissioner of the Division of Corrections and Rehabilitation regarding Stevens Correctional Center.

These bills are presented to you on this day, April 14, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jeffrey Pack".

Jeffrey Pack
Clerk of the House of Delegates

cc: The Honorable Lee Cassis
Clerk of the Senate

PRESENTED TO THE GOVERNOR

APR 14 2025

Time _____



HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE

BUILDING 1, ROOM M-212
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3200

April 15, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 2014, Certified Microgrid Program;

Com. Sub. for H. B. 2011, To supplement, amend, and increase an existing item of appropriation in the aforesaid accounts for the designated spending unit for expenditure during the fiscal year 2025.;

H. B. 2575, Relating to the establishment of a full-time Dementia Services Director position.;

Com. Sub. for H. B. 3024, Guaranteed course transfer bill;

H. B. 3349, Supplemental Appropriation - Medicaid

H. B. 3352, Supplemental Appropriation - Human Services - Medicaid

H. B. 3356, Supplemental Appropriation - Education - Hope Scholarship;

H. B. 3357, Supplemental Appropriation - Lottery Surplus - Hope Scholarship

H. B. 3359, Supplemental Appropriation - EDA and Medicaid Net Zero

H. B. 3360, Supplemental Appropriation - EDA Bridge Loan Fund

Com. Sub. for H. B. 3369, Supplemental Appropriation - Education - Enrollment

H. B. 3371, Supplemental Appropriation - - HLFC to OIG Net Zero

H. B. 3522, Supplemental Appropriation to Arts, Culture and History. ;

And,

Com. Sub. for H. B. 2026, Budget Bill.

These bills are presented to you on this day, April 15, 2025.

Respectfully submitted,



Jeffrey Pack
Clerk of the House of Delegates

cc: The Honorable Lee Cassis
Clerk of the Senate

PRESENTED TO THE GOVERNOR

APR 15 2025

Time 11:37am



**HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE**

BUILDING 1, ROOM M-212
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3200

April 15, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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, Establishing One Stop Shop Permitting Process;

H. B. 2003, Prohibiting Cell phones in class;

Com. Sub. for H. B. 2054, Relating to liability of vendors in private farmers markets;

H. B. 2165, Allowing disabled purple heart recipients park free at municipal metered parking spaces;

Com. Sub. for H. B. 2167, Relating to public charter schools code provisions;

H. B. 2358, Relating to postmortem examinations;

Com. Sub. for H. B. 2499, Training course for principals in public schools; informing teachers of their rights and protections; IEP format;

Com. Sub. for H. B. 2718, Relating to creating a State Advisory Council on Establishing a Military College;

H. B. 2742, Relating to creating limited waiver from certificate of public convenience and necessity requirement for certain water or sewer services projects. ;

Com. Sub. for H. B. 2752, Relating to motorcycle safety;

H. B. 2773, Higher Ed Rules ;

H. B. 2867, Relating to Small Estates;

Com. Sub. for H. B. 2889, To permit a fairness hearing exemption to the registration requirements of the Uniform Securities Act. ;

H. B. 3080, Military Spouse hiring preference;

H. B. 3156, Create exemption for Legislature for reporting requirements in Shared Services Section;

H. B. 3162, Providing that causes of action under Chapter 46A of the Code of West Virginia survive the death of the party;

H. B. 3373, To extend and revise the sunset provision in the Tourism Development Act to December 31, 2030;

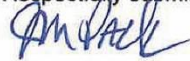
H. B. 3389, Exclude the Department of Tourism as a Governmental agency;

And,

H. B. 3513, Relating to standards of liability and insurance requirements in certain civil actions.

These bills are presented to you on this day, April 15, 2025.

Respectfully submitted,



Jeffrey Pack
Clerk of the House of Delegates

cc: The Honorable Lee Cassis
Clerk of the Senate

PRESENTED TO THE GOVERNOR

APR 15 2025

Time

2:40pm



Patrick Morrissey
Governor of West Virginia

April 15, 2025

The Honorable Kris 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-Nine (199), which was presented to me on April 8, 2025.

Committee Substitute for Senate Bill No. Two Hundred Eighty-Two (282), which was presented to me on April 8, 2025.

You will note that I have approved these bills on April 15, 2025.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Morrissey".

Patrick Morrissey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk
The Honorable Jeff Pack, 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

April 17, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 1, Requiring utility work and road paving coordination;

Com. Sub. for S. B. 50, Requiring municipal elections to be held on same day as statewide elections;

S. B. 75, Changing distribution of income from excess lottery fund;

Com. Sub. for S. B. 128, Preventing courts from ordering services at higher rate than Medicaid;

Com. Sub. for Com. Sub. for S. B. 158, Modifying eligibility requirements for serving as member of State Board of Education;

Com. Sub. for S. B. 299, Modifying WV regulations on pubertal modulation, hormonal therapy, and gender reassignment;

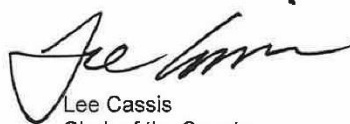
S. B. 561, Relating to Uniform Special Deposits Act;

And,

Com. Sub. for Com. Sub. for S. B. 652, Expanding cardiac arrest provisions to be applicable to elementary schools.

These bills are presented to you on this day, April 17, 2025.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Jeffrey Pack
Clerk of the House of Delegates

PRESENTED TO THE GOVERNOR

APR 17 2025

Time 2:50 pm



Patrick Morrisey
Governor of West Virginia

April 17, 2025

The Honorable Kris 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 Eleven (2011), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Forty-Seven (3347), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Forty-Nine (3349), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Three Thousand Three Hundred Fifty (3350), which was presented to me on April 14, 2025.

House Bill No. Three Thousand Three Hundred Fifty-Two (3352), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Fifty-Six (3356), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Fifty-Seven (3357), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Fifty-Eight (3358), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Fifty-Nine (3359), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Sixty (3360), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Sixty-One (3361), which was presented to me on April 14, 2025.

House Bill No. Three Thousand Three Hundred Sixty-Three (3363), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Sixty-Five (3365), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Sixty-Six (3366), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Sixty-Seven (3367), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Sixty-Eight (3368), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Three Thousand Three Hundred Sixty-Nine (3369), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Seventy (3370), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Three Hundred Seventy-One (3371), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Seventy-Two (3372), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Five Hundred Twenty-Two (3522), which was presented to me on April 15, 2025.

You will note that I have approved these bills on April 17, 2025.

Sincerely,



Patrick Morrissey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk
The Honorable Jeff Pack, Clerk



Patrick Morrissey
Office of the Governor

April 17, 2025

VIA HAND DELIVERY

The Honorable Kris Warner
 Secretary of State
 Building 1, Suite 157-K
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for House Bill 2026

Dear Secretary Warner:

Many tough fiscal decisions have been made in finalizing the FY 2026 budget, which seeks to right-size our ongoing base expenditures in General Revenue and Lottery funds. This includes maintaining a strong level of budgetary reserves, limiting the growth rate of the base, and committing to address long-term liabilities. The use of long-term budget planning, through the State's Six Year Financial Plan, highlights the need for continued conservative budget planning. With likely fiscal challenges involving Medicaid, PEIA, and potential changes to the federal tax code, it's imperative for West Virginia to maintain fiscal responsibility and flexibility in decision making.

Pursuant to the provisions of section fifty-one, article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill 2026, passed April 11, 2025, approved with the following objections:

My first objection to the Bill is contained in page 4, lines 68 through 72, which states:

"Provided further, Notwithstanding any previous provision no general revenue funds appropriated to the following funds 0403, 0481, 0482, 0483, 0484, 0485, 0486, 0487, 0488, 0489, 0492, 0493, 0494, 0495 and 0496 within the Department of Human Services may be transferred between the aforementioned funds:"

I am advised that this insertion of new language will be overly burdensome and restrictive for the operation of the Department of Human Services. Therefore, I am striking the language beginning on line 68 and ending on line 72. This will allow the Department to efficiently allocate resources during the fiscal year.

My second objection to the Bill is contained in Item 7, page 14, line 2, which states:

"Local Economic Development Assistance (R).....	81900	5,000,000"
--	--------------	-------------------

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Secretary of State Warner
 April 17, 2025
 Page 2

This appropriation has a significant reappropriated balance from previous fiscal years. In addition, as most state agencies are sharing in some of the sacrifices of lower spending, it is only appropriate for the legislative branch to also sacrifice some of their grant-making resources. Therefore, I am reducing the appropriation by \$100,000 to \$4,900,000.

My third objection to the Bill is contained in Item 10, page 18, lines 38 through 39, which states:

“From the above appropriation for Current Expenses (fund 0131, appropriation 13000) \$100,000 shall be used for the Willowbend Agricultural Innovation Center.”

This directive language -- which I am striking in its entirety -- appropriates money needed by the Agriculture Commissioner for its operations. I have directed our office to work with Willowbend to address its budgetary needs.

My fourth objection to the Bill is contained in Item 44, page 35, line 4, which states:

“Tourism – Industry Development (R) 61806 3,050,000”

A cautious and prudent approach must be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by \$300,000 to \$2,750,000.

My fifth objection to the Bill is contained in Item 44, page 35, lines 16 through 17, which states:

“, and \$300,000 shall be used for Mountwood Park”

To keep in line with the reduction made to this appropriation above, I am also eliminating the associated directive language for fund 0246, appropriation 61806, regarding Mountwood Park. This provision was inserted into the budget bill, however, no supporting documentation was provided to the Executive to justify the expenditure.

My sixth objection to the Bill is contained in Item 46, page 37, line 5, which states:

“Current Expenses 13000 1,639,624”

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$500,000 to \$1,139,624.

My seventh objection to the Bill is contained in Item 46, page 37, line 10, which states:

“From the above appropriation for Current Expenses (fund 0296, appropriation 13000) \$1,500,000 shall be used for the Martinsburg Berkeley Public Library.”

To keep in-line with the reduction made to this appropriation above, I am also reducing the associated directive language for fund 0296, appropriation 13000, by \$500,000 to \$1,000,000.

Secretary of State Warner
 April 17, 2025
 Page 3

My eighth objection to the Bill is contained in Item 49, page 38, line 6, which states:

“Safe Schools..... 14300 7,443,900”

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$200,000 to \$7,243,900.

My ninth objection to the Bill is contained in Item 49, page 39, line 22, which states:

“Computer Science Education xxxxx 2,000,000”

This is a new program for which a necessary level of appropriation has not yet been established. In light of this uncertainty and the ongoing budget challenges we are facing, a cautious and prudent approach must be taken to avoid unnecessarily increasing the State’s base budget. Therefore, I am reducing the appropriation by \$1,400,000 to \$600,000.

My tenth objection to the Bill is contained in Item 49, page 39, line 29, which states:

“Mountain State Digital Literacy Program 86401 1,300,000”

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$300,000 to \$1,000,000.

My eleventh objection to the Bill is contained in Item 49, page 41, lines 63 through 64, which states:

“From the appropriation for Safe Schools (fund 0313, appropriation 14300), \$3,100,000 shall be used for school mapping.”

To keep in-line with the reduction made to this appropriation above, I am also reducing “\$3,100,000” to “\$2,900,000” in the directive language under fund 0313.

My twelfth objection to the Bill is contained in Item 49, page 41, lines 65 through 66, which states:

“From the above appropriation for MATH Program (fund 0313, appropriation 36800), \$50,000 shall be for Math Counts.”

This directive language does not reflect my original recommendation. Therefore, I am eliminating the directive language for fund 0313, appropriation 36800 regarding Math Counts.

My thirteenth objection to the Bill is contained in Item 58, page 46, line 5, which states:

“Current Expenses 13000 5,239,831”

Secretary of State Warner
 April 17, 2025
 Page 4

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$3,000,000 to \$2,239,831. This is the same amount as my original recommendation.

My fourteenth objection to the Bill is contained in Item 58, page 47, lines 10 through 11, which states:

“From the above appropriation for Current Expenses (fund 0407, appropriation 13000), \$5,000,000 shall be used for the Ronald McDonald House of Morgantown.”

To keep in line with the reduction made to the appropriation above, I am reducing the directive language for fund 0407, appropriation 13000 by \$3,000,000 to \$2,000,000.

My fifteenth objection to the Bill is contained in Item 81, page 56, line 14, which states:

“In-Home Family Education 68800 1,100,000”

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$100,000 to \$1,000,000.

My sixteenth objection to the Bill is contained in Item 81, page 56, lines 28 through 29, which states:

“From the above appropriation of Current Expenses (fund 0403, appropriation 13000), \$300,000 shall be used for Green Acres Regional Center, Inc.”

This provision was inserted into the budget bill, however, no supporting documentation was provided to the Executive to justify the expenditure. Therefore, I am striking it in its entirety.

My seventeenth objection to the Bill is contained in Item 112, page 78, line 7, which states:

“Trooper Class..... 52100 3,227,388”

In consultation with the State Police, and as a good steward of the taxpayer’s dollars, I am restoring the appropriation back to my original recommendation. Therefore, I am reducing the appropriation by \$161,172 to \$3,066,216.

My eighteenth objection to the Bill is contained in Item 115, page 80, line 5, which states:

“Court Appointed Special Advocates xxxxx 1,100,000”

This program has primarily been funded by state and federal grants. In light of the ability to obtain grants and the ongoing budget challenges we are facing, a cautious and prudent approach must be taken to avoid building the State’s base budget. Therefore, I am reducing the appropriation by \$800,000 to \$300,000.

Secretary of State Warner
 April 17, 2025
 Page 5

My nineteenth objection to the Bill is contained in Item 123, page 84, line 5, which states:

“Federal Funds/Grant Match..... 74900 1,250,000”

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$500,000 to \$750,000.

My twentieth objection to the Bill is contained in Item 126, page 86, line 8, which states:

“Veterans’ Nursing Home (R)..... 28600 11,443,175”

In my budget adjustment letter submitted to the Legislature on March 27, 2025, I recommended a net zero adjustment. A necessary reduction was not reflected in House Bill 2026. Therefore, I am reducing the appropriation by \$187,650 to \$11,255,525.

My twenty-first objection to the Bill is contained in Item 139, page 90, line 7, which states:

“Tuition Contract Program (R)..... 16500 1,533,917”

At a time when we are facing ongoing budget challenges, it is imperative that we take steps to limit new spending. Therefore, I am reducing the appropriation by \$208,000 to \$1,325,917.

My twenty-second objection to the Bill is contained in Item 139, page 91, line 16, which states:

“West Virginia University College of Law..... xxxxx 250,000”

This provision was inserted into the budget bill, however, no supporting documentation was provided to the Executive to justify the expenditure. Therefore, I am reducing the appropriation by \$250,000 to \$0.

My twenty-third objection to the Bill is contained in Item 151, page 96, line 3, which states:

“LPN to BSN..... xxxxx 250,000”

This provision was inserted into the budget bill, however, no supporting documentation was provided to the Executive to justify the expenditure. Therefore, I am reducing the appropriation by \$250,000 to \$0.

My twenty-fourth objection to the Bill is contained in Item 156, page 99, line 4, which states:

“Maintenance..... 23700 700,235,315”

This modification will bring State Road Fund appropriations more in line with estimated collections. Therefore, I am reducing the appropriation by \$25,000,000 to \$675,235,315.

My twenty-fifth objection to the Bill is contained in Item 318, page 158 which states:

Secretary of State Warner
 April 17, 2025
 Page 6

“Higher Education Policy Commission –

Military College Advisory Council Fund

(W.V. Code Chapter 18B)

Fund XXXX FY 2026 Org 0442”

The above org number references “0442” which is the System branch of the Higher Education Policy Commission, which is typically responsible for capital projects and facility needs. House Bill 2718 states that this new fund is for the State Advisory Council on Establishing a Military College, which would fall under Higher Education Policy Commission – Administration, org number “0441”. Therefore, I hereby disapprove and strike the org number “0442”.

My twenty-sixth objection to the Bill is contained in Item 434, page 214, line 1, which states:

“Direct Transfer - Surplus 70099 \$ 125,000,000”

I am reducing this surplus appropriation by \$25,000,000 to \$100,000,000 to retain the ability of the State to address likely fiscal challenges involving Medicaid, PEIA, and potential changes to the federal tax code.

My twenty-seventh objection to the Bill is contained in Item 435, page 214, line 1, which states:

“Directed Transfer - Surplus..... 70099 \$ 75,000,000”

Currently the Economic Development Project Fund, where this surplus appropriation was to be transferred, has a sufficient cash and investment balance. A cautious and prudent approach must be taken to avoid spending the State’s surplus balances due to anticipated out-year budget gaps and to address likely fiscal challenges involving Medicaid, PEIA, and potential changes to the federal tax code. Therefore, I am reducing the appropriation by \$75,000,000 to \$0.

My twenty-eighth objection to the Bill is contained in Item 436, page 214, line 1, which states:

“Directed Transfer - Surplus..... 70099 \$ 10,000,000”

A cautious and prudent approach must be taken to avoid spending the State’s surplus balances due to anticipated out-year budget gaps and to address likely fiscal challenges involving Medicaid, PEIA, and potential changes to the federal tax code. Therefore, I am reducing the appropriation by \$10,000,000 to \$0.

My twenty-ninth objection to the Bill is contained in Item 437, page 215, line 1, which states:

Secretary of State Warner
April 17, 2025
Page 7

“Current Expense - Surplus 13099 \$ 250,000”

While the above projects may be of worth, I am hesitant to add funding for programs when the future challenges in West Virginia’s budget make it imperative that a cautious and prudent approach be taken to avoid spending the State’s surplus balances due to anticipated out-year budget gaps and to address likely fiscal challenges involving Medicaid, PEIA, and potential changes to the federal tax code. Therefore, I am reducing the appropriation by \$250,000 to \$0.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill 2026.

Sincerely,



Patrick Morrissey
Governor

cc: The Hon. Roger Hanshaw
Speaker, West Virginia House of Delegates

The Hon. Randy Smith
President, West Virginia Senate



**HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE**

BUILDING 1, ROOM M-212
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3200

April 21, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 2491, Relating to conditions on holding online raffles;

H. B. 3424, Removing language regarding short term loans being provided to released inmates for costs related to reentry into the community;

Com. Sub. for H. B. 3411, Relating to commissions; removing the legislative members; and eliminating expired commissions;

Com. Sub. for H. B. 3209, To provide at least one counselor for every 250 students in public schools and public charter schools in this state.;

H. B. 3187, Relating to the West Virginia Task Force on Artificial Intelligence;

Com. Sub. for H. B. 3179, Funding for failing public utilities;

Com. Sub. for H. B. 3166, Requirements for School Safety Mapping Data;

H. B. 3000, Relating to agency changes and updates to the West Virginia Commercial Feed Law.;

Com. Sub. for H. B. 2961, To amend the law concerning ownership and possession of real property;

H. B. 2802, Relating to in-service training credits for law-enforcement officers;

Com. Sub. for H. B. 2576, NIL Protection Act;

And,

H. B. 3434, Relating to the controlled substance schedules and to clean-up errors identified in the code sections.

These bills are presented to you on this day, April 21, 2025.

Respectfully submitted,



Lori Skull

Deputy Clerk of the House of Delegates

cc: The Honorable Lee Cassis
Clerk of the Senate

PRESENTED TO THE GOVERNOR

APR 21 2025

Time 11:55am

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

April 21, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 35, Permitting campus police officers to participate in Deputy Sheriffs Retirement System;

Com. Sub. for S. B. 102, Modifying form of certain deeds;

Com. Sub. for Com. Sub. for S. B. 154, Prohibiting sexual orientation instruction in public schools;

Com. Sub. for S. B. 196, Lauren's Law;

Com. Sub. for S. B. 225, Expanding powers of National Park Service law-enforcement officers;

Com. Sub. for S. B. 275, Removing requirement school cooks or custodians have high school diploma or equivalent;

Com. Sub. for S. B. 325, Authorizing Department of Health to promulgate legislative rules;

Com. Sub. for S. B. 427, Permitting certain teenagers to work without obtaining work permit;

Com. Sub. for S. B. 449, Permitting compressed air and rimfire shooting teams in public schools;

Com. Sub. for Com. Sub. for S. B. 474, Ending diversity, equity, and inclusion programs;

Com. Sub. for Com. Sub. for S. B. 531, Relating to offenses of assault and battery on athletic officials;

LEE.CASSIS@WVSENATE.GOV

Com. Sub. for S. B. 581, Relating to school attendance and student participation in 4-H activities;

And,

Com. Sub. for Com. Sub. for S. B. 587, Relating generally to government contracting.

These bills are presented to you on this day, April 21, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis", is written over the printed name.

Lee Cassis
Clerk of the Senate

C: The Honorable Jeffrey Pack
Clerk of the House of Delegates

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

April 21, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 526, Creating Pharmacist Prescribing Authority Act;

Com. Sub. for S. B. 576, Authorizing fixed odds racing in horse and dog racing;

Com. Sub. for Com. Sub. for S. B. 586, Relating to requirements for filling vacancies in certain elected federal, state, and county offices;

Com. Sub. for S. B. 677, Increasing fees charged by Commissioner of Securities for each offering;

Com. Sub. for S. B. 710, Relating to the practice of teledentistry;

S. B. 712, Relating to retirement provisions of systems managed by CPRB;

Com. Sub. for S. B. 722, Creating WV Short Line Railroad Modernization Act;

S. B. 747, Relating to Real Estate License Act;

Com. Sub. for Com. Sub. for S. B. 765, Establishing Troops-to-Teachers Program;

And,

Com. Sub. for S. B. 794, Authorizing DOH to erect warning signs.

LEE.CASSIS@WVSENATE.GOV

These bills are presented to you on this day, April 21, 2025.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Jeffrey Pack
Clerk of the House of Delegates

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

April 21, 2025

The Honorable Patrick Morrissey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrissey,

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. 800, Relating to insurance holding company systems;

Com. Sub. for S. B. 825, Permitting higher education institutions enter agreements with non-profit organizations for economic development and job creation;

Com. Sub. for S. B. 833, Excluding pharmaceutical medication from prior authorization gold card process;

S. B. 837, Eliminating WV Office of Equal Opportunity;

S. B. 856, Removing certain reporting requirements to Joint Committee on Government and Finance;

Com. Sub. for S. B. 883, Providing director of WV Office of Miners' Health, Safety and Training discretion and authority in certain appointments;

S. B. 907, Relating to high impact development projects;

Com. Sub. for S. B. 912, Relating to student growth assessment program;

Com. Sub. for S. B. 914, Relating to testing and attendance requirements for private, parochial, and church schools;

S. B. 941, Clarifying authority regarding dams designed by US Conservation Service;

And,

S. B. 942, Modifying requirements for diesel-powered equipment in mines.

LEE.CASSIS@WVSENATE.GOV

These bills are presented to you on this day, April 21, 2025.

Respectfully submitted,



Lee Cassis
Clerk of the Senate

C: The Honorable Jeffrey Pack
Clerk of the House of Delegates

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

April 22, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

The following bill, 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, has been examined and found truly enrolled:

S. B. 280, Displaying official US motto in public schools.

This bill is presented to you on this day, April 22, 2025.

Respectfully submitted,


Lee Cassis
Clerk of the Senate

C: The Honorable Jeffrey Pack
Clerk of the House of Delegates

PRESENTED TO THE GOVERNOR

APR 22 2025

Time 9:55am



**HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE**

BUILDING 1, ROOM M-212
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3200

April 22, 2025

The Honorable Patrick Morrissey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrissey,

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. 2008, Executive Branch Reorganization ;

H. B. 2009, Relating to the merging and reorganizing of the executive branch;

Com. Sub. for H. B. 2066, Creating a crime for the destruction of first responder equipment.;

Com. Sub. for H. B. 2121, Deceased Disabled Veteran Real Property Exemption for Widowed Spouses;

Com. Sub. for H. B. 2123, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse;

Com. Sub. for H. B. 2164, To allow for public and private schools in West Virginia to employ security personnel.;

Com. Sub. for H. B. 2267, Authorizing Department of Revenue to Promulgate Legislative Rules;

H. B. 2344, Relating generally to traffic safety;

Com. Sub. for H. B. 2351, Relating to compensation for panel attorneys;

H. B. 2397, Prevent immediate family members from acting in a fiduciary capacity for the same governmental authority;

H. B. 2402, Relating to providing access to medical records; providing access to a minor's medical record;

Com. Sub. for H. B. 2411, To provide and change graduation requirements and change duties relating to academic content standards ;

Com. Sub. for H. B. 2434, Relating to establishing the Stop Squatters Act;

Com. Sub. for H. B. 2451, To facilitate the creation of home-based businesses;

H. B. 2479, Relating to Management and control of county authority vested in board;

H. B. 2511, Relating to charitable bingo and alcohol sales and consumption while such bingo is taking places;

Com. Sub. for H. B. 2528, To permit students in Christian schools at the elementary and middle school level to participate in county level sport tournaments;

Com. Sub. for H. B. 2595, Non Profit Athletics Act;

Com. Sub. for H. B. 2695, Raleigh and Mason Counties Economic Opportunity Development Districts;

Com. Sub. for H. B. 2755, To provide that the West Virginia Board of Education may promulgate rules or policies to be submitted to the Legislature for review;

Com. Sub. for H. B. 2960, Allowing the Division of Highways to contract out snow removal to private companies on secondary roads in Monongalia and Preston counties.;

H. B. 2678, Relating to school zones of public or private schools;

Com. Sub. for H. B. 2797, Relating to who may diagnose post-traumatic stress disorder as a compensable injury or disease under workers compensation;

Com. Sub. for H. B. 2836, Relating to wild animal rehabilitation permits;

Com. Sub. for H. B. 2866, Relating to fees and charges for municipality provided fire services;

Com. Sub. for H. B. 2871, Relating to the crime of negligent homicide;

Com. Sub. for H. B. 2880, Relating to parent resource navigators;

H. B. 2942, Administration of the West Virginia Department of Environmental Protection Design-Build Pilot Program;

Com. Sub. for H. B. 2963, To ensure that the survivor of a merger, reorganization, purchase, or assumption of liabilities of a bank chartered by West Virginia is insured by the Federal Deposit Insurance Corporation;

Com. Sub. for H. B. 3014, Relating generally to liability of hospital police;

Com. Sub. for H. B. 3016, Photo voter ID.;

Com. Sub. for H. B. 3125, To remove restrictions from teachers receiving permanent teaching licenses;

Com. Sub. for H. B. 3133, Permitting counties and municipalities to enter into memoranda of understanding for demolition of dilapidated structures;

Com. Sub. for H. B. 3144, Wireless Infrastructure and Facilities Siting and Co-location;

Com. Sub. for H. B. 3152, Claims Bill;

Com. Sub. for H. B. 3164, Requiring registered sex offenders pay annual fee ;

Com. Sub. for H. B. 3181, Allow all law enforcement officers to purchase gun upon retirement;

H. B. 3263, Relating to providing notification of utility service disruption to its' customers;

H. B. 3272, Relating to eviction proceedings;

H. B. 3274, Relating to reports of circuit court proceedings;

H. B. 3275, Update timing for appeals;

H. B. 3277, Relating to defining terms for the West Virginia Hospital Finance Authority Act;

Com. Sub. for H. B. 3279, Relating to requirements for WVU and WVSU Board of Governors;

Com. Sub. for H. B. 3297, Establishing the Washington Center for Civics, Culture, and Statesmanship at West Virginia University.;

Com. Sub. for H. B. 3336, Well Plugging methods;

Com. Sub. for H. B. 3338, Allow child witness testify remotely in situations deemed traumatic by judge;

Com. Sub. for H. B. 3440, Relating generally to removing and repealing obsolete provisions under the purview of the State Treasurer's Office;

Com. Sub. for H. B. 3429, Prequalifying consultants for WVDEP- Abandon Mine Lands;

Com. Sub. for H. B. 3444, Relating to inflammation of the eyes of newborns.;

H. B. 3492, Relating to municipal economic opportunity development districts. ;

H. B. 3503, Relating to regulation by counties, municipalities, and political subdivisions of commercial horticulture under the Water Pollution Control Act;

H. B. 3504, Relating to protecting critical infrastructure; and defining terms;

H. B. 3515, Relating to appointment of officers of the West Virginia State Police;

And,

H. B. 3517, Relating generally to fiscal emergencies of local governments.

These bills are presented to you on this day, April 22, 2025.

Respectfully submitted,



Lori Skull
Deputy Clerk of the House of Delegates

cc: The Honorable Lee Cassis
Clerk of the Senate

PRESENTED TO THE GOVERNOR

APR 22 2025

Time 12:00pm



Patrick Morrisey
Governor of West Virginia

April 24, 2025

The Honorable Kris 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 (1), which was presented to me on April 17, 2025.

Committee Substitute for Senate Bill No. Thirty-Five (35), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Fifty (50), which was presented to me on April 17, 2025.

Senate Bill No. Seventy-Five (75), which was presented to me on April 17, 2025.

Committee Substitute for Senate Bill No. One Hundred Two (102), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. One Hundred Ninety-Six (196), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. One Hundred Ninety-Eight (198), which was presented to me on April 14, 2025.

Senate Bill No. Two Hundred Fifty-Seven (257), which was presented to me on April 14, 2025.

Committee Substitute for Senate Bill No. Two Hundred Seventy-Five (275), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Four Hundred Twenty-Seven (427), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Four Hundred Forty-Nine (449), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Four Hundred Fifty-Nine (459), which was presented to me on April 9, 2025.

Committee Substitute for Committee Substitute for Senate Bill No. Four Hundred Sixty-Four (464), which was presented to me on April 14, 2025.

Senate Bill No. Four Hundred Ninety-Six (496), which was presented to me on April 14, 2025.

Committee Substitute for Senate Bill No. Five Hundred (500), which was presented to me on April 10, 2025.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Two (522), which was presented to me on April 8, 2025.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Five (525), which was presented to me on April 8, 2025.

Committee Substitute for Senate Bill No. Five Hundred Twenty-Six (526), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Five Hundred Seventy-Three (573), which was presented to me on April 9, 2025.

Committee Substitute for Senate Bill No. Five Hundred Eighty-One (581), which was presented to me on April 21, 2025.

Committee Substitute for Committee Substitute for Senate Bill No. Five Hundred Eighty-Seven (587), which was presented to me on April 21, 2025.

Senate Bill No. Six Hundred Fifteen (615), which was presented to me on April 10, 2025.

Committee Substitute for Senate Bill No. Six Hundred Seventeen (617), which was presented to me on April 14, 2025.

Committee Substitute for Senate Bill No. Six Hundred Twenty-Seven (627), which was presented to me on April 14, 2025.

Senate Bill No. Six Hundred Fifty (650), which was presented to me on April 14, 2025.

Committee Substitute for Committee Substitute for Senate Bill No. Six Hundred Fifty-Two (652), which was presented to me on April 17, 2025.

Committee Substitute for Senate Bill No. Seven Hundred Ten (710), which was presented to me on April 21, 2025.

Senate Bill No. Seven Hundred Twelve (712), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Seven Hundred Fifteen (715), which was presented to me on April 10, 2025.

Senate Bill No. Seven Hundred Sixteen (716), which was presented to me on April 10, 2025.

Senate Bill No. Seven Hundred Twenty-Seven (734), which was presented to me on April 14, 2025.

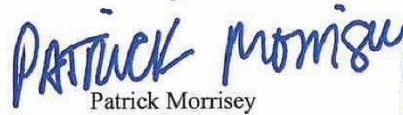
Committee Substitute for Senate Bill No. Seven Hundred Thirty-Six (736), which was presented to me on April 14, 2025.

Senate Bill No. Seven Hundred Thirty-Eight (738), which was presented to me on April 14, 2025.

Committee Substitute for Senate Bill No. Seven Hundred Ninety-Four (794), which was presented to me on April 21, 2025.

You will note that I have approved these bills on April 24, 2025.

Sincerely,



Patrick Morrissey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk
The Honorable Jeff Pack, Clerk



Patrick Morrissey
Office of the Governor

April 25, 2025

The Honorable Kris 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 Twenty-Eight (128), which was presented to me on April 17, 2025.

Committee Substitute for Senate Bill No. Two Hundred Sixty-Seven (267), which was presented to me on April 9, 2025.

Committee Substitute for Senate Bill No. Two Hundred Seventy (270), which was presented to me on April 14, 2025.

Senate Bill No. Seven Hundred Forty-Seven (747), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Eight Hundred (800), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Eight Hundred Twenty-Five (825), which was presented to me on April 21, 2025.

Senate Bill No. Eight Hundred Twenty-Eight (828), which was presented to me on April 9, 2025.

Committee Substitute for Senate Bill No. Eight Hundred Thirty-Three (833), which was presented to me on April 21, 2025.

Senate Bill No. Eight Hundred Thirty-Seven (837), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Eight Hundred Forty-Four (844), which was presented to me on April 14, 2025.

Senate Bill No. Eight Hundred Fifty-Six (856), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Eight Hundred Sixty-One (861), which was presented to me on April 14, 2025.

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Senate Bill No. Eight Hundred Sixty-Two (862), which was presented to me on April 14, 2025.

Senate Bill No. Eight Hundred Sixty-Three (863), which was presented to me on April 14, 2025.

Senate Bill No. Eight Hundred Seventy-Six (876), which was presented to me on April 14, 2025.

Committee Substitute for Senate Bill No. Eight Hundred Eighty-Three (883), which was presented to me on April 21, 2025.

Senate Bill No. Nine Hundred Seven (907), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Nine Hundred Twelve (912), which was presented to me on April 21, 2025.

Senate Bill No. Nine Hundred Forty-Two (942), which was presented to me on April 21, 2025.

Committee Substitute for House Bill No. Two Thousand Eight (2008), which was presented to me on April 22, 2025.

House Bill No. Two Thousand Nine (2009), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Thirteen (2013), which was presented to me on April 14, 2025.

Committee Substitute for House Bill No. Two Thousand Forty-Two (2042), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Two Thousand Sixty-Seven (2067), which was presented to me on April 14, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Twenty-Three (2123), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Fifty-Two (2152), which was presented to me on April 14, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Fifty-Seven (2157), which was presented to me on April 10, 2025.

House Bill No. Two Thousand One Hundred Sixty-Five (2165), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Sixty-Seven (2167), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Seventy-Two (2172), which was presented to me on April 10, 2025.

House Bill No. Two Thousand Two Hundred Seventeen (2217), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Two Thousand Two Hundred Thirty-Three (2233), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Two Thousand Three Hundred Thirty-One (2331), which was presented to me on April 10, 2025.

House Bill No. Two Thousand Three Hundred Forty-Four (2344), which was presented to me on April 22, 2025.

House Bill No. Two Thousand Three Hundred Fifty-Eight (2358), which was presented to me on April 15, 2025.

House Bill No. Two Thousand Three Hundred Sixty (2360), which was presented to me on April 10, 2025.

House Bill No. Two Thousand Three Hundred Ninety-Seven (2397), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Three Hundred Ninety-Nine (2399), which was presented to me on April 10, 2025.

House Bill No. Two Thousand Four Hundred Two (2402), which was presented to me on April 22, 2025.

House Bill No. Two Thousand Four Hundred Forty-Four (2444), which was presented to me on April 14, 2025.

House Bill No. Two Thousand Four Hundred Seventy-Nine (2479), which was presented to me on April 22, 2025.

House Bill No. Two Thousand Four Hundred Eighty-Four (2484), which was presented to me on April 14, 2025.

House Bill No. Two Thousand Six Hundred Seventy-Eight (2678), which was presented to me on April 22, 2025.

House Bill No. Two Thousand Seven Hundred Nine (2709), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Eleven (2711), which was presented to me on April 14, 2025.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Eighteen (2718), which was presented to me on April 15, 2025.

House Bill No. Two Thousand Seven Hundred Forty-Two (2742), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Fifty-Two (2752), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Sixty-One (2761), which was presented to me on April 14, 2025.

House Bill No. Two Thousand Seven Hundred Seventy-Three (2773), which was presented to me on April 15, 2025.

House Bill No. Two Thousand Eight Hundred Two (2802), which was presented to me on April 21, 2025.

House Bill No. Two Thousand Eight Hundred Sixty-Seven (2867), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Seventy-One (2871), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Ninety-Seven (2897), which was presented to me on April 14, 2025.

House Bill No. Two Thousand Nine Hundred Forty-Two (2942), which was presented to me on April 22, 2025.

House Bill No. Two Thousand Nine Hundred Forty-Three (2943), which was presented to me on April 14, 2025.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Sixty-Four (2964), which was presented to me on April 14, 2025.

House Bill No. Three Thousand Thirty (3030), which was presented to me on April 10, 2025.

House Bill No. Three Thousand Eighty (3080), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Eighty-Nine (3089), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Twenty-Five (3125), which was presented to me on April 22, 2025.

House Bill No. Three Thousand One Hundred Fifty-Six (3156), which was presented to me on April 15, 2025.

House Bill No. Three Thousand One Hundred Fifty-Seven (3157), which was presented to me on April 14, 2025.

House Bill No. Three Thousand One Hundred Eighty-Seven (3187), which was presented to me on April 21, 2025.

House Bill No. Three Thousand Three Hundred Thirteen (3313), which was presented to me on April 10, 2025.

Committee Substitute for House Bill No. Three Thousand Three Hundred Forty-Two (3342), which was presented to me on April 14, 2025.

Committee Substitute for House Bill No. Three Thousand Three Hundred Thirty-Six (3336), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Three Hundred Seventy-Three (3373), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Three Hundred Eighty-Nine (3389), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Four Hundred Thirty-Four (3434), which was presented to me on April 21, 2025.

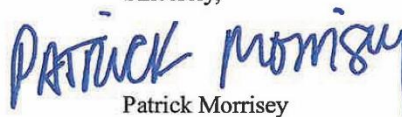
Committee Substitute for House Bill No. Three Thousand Four Hundred Forty (3440), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Five Hundred Thirteen (3513), which was presented to me on April 15, 2025.

House Bill No. Three Thousand Five Hundred Fifteen (3515), which was presented to me on April 22, 2025.

You will note that I have approved these bills on April 25, 2025.

Sincerely,



Patrick Morrissey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk
The Honorable Jeff Pack, Clerk



Patrick Morrissey
Office of the Governor

April 28, 2025

The Honorable Kris 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. Three Hundred Twenty-Five (325), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Five Hundred Seventy-Six (576), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Six Hundred Seventy-Seven (677), which was presented to me on April 21, 2025.

Senate Bill No. Nine Hundred Forty-One (941), which was presented to me on April 21, 2025.

Committee Substitute for House Bill No. Two Thousand Fifty-Four (2054), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Twenty-One (2121), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Two Hundred Sixty-Seven (2267), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Four Hundred Fifty-One (2451), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Four Hundred Ninety-One (2491), which was presented to me on April 21, 2025.

House Bill No. Two Thousand Five Hundred Eleven (2511), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Five Hundred Twenty-Eight (2528), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Six Hundred Ninety-Five (2695), which was presented to me on April 22, 2025.

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Committee Substitute for House Bill No. Two Thousand Seven Hundred Ninety-Seven (2797), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Thirty-Six (2836), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Sixty-Six (2866), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Sixty-One (2961), which was presented to me on April 21, 2025.

House Bill No. Three Thousand (3000), which was presented to me on April 21, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Thirty-Three (3133), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Fifty-Two (3152), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Sixty-Four (3164), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Eighty-One (3181), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand Two Hundred Nine (3209), which was presented to me on April 21, 2025.

House Bill No. Three Thousand Two Hundred Seventy-Two (3272), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Two Hundred Seventy-Four (3274), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Two Hundred Seventy-Five (3275), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Two Hundred Seventy-Seven (3277), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand Three Hundred Thirty-Eight (3338), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand Four Hundred Eleven (3411), which was presented to me on April 21, 2025.

House Bill No. Three Thousand Four Hundred Twenty-Four (3424), which was presented to me on April 21, 2025.

Committee Substitute for House Bill No. Three Thousand Four Hundred Twenty-Nine (3429), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Five Hundred Four (3504), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Four Hundred Fifty-Six (3456), which was presented to me on April 14, 2025.

You will note that I have approved these bills on April 28, 2025.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Morrisey". The signature is written in a cursive, slightly stylized font.

Patrick Morrisey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk
The Honorable Jeff Pack, Clerk



HOUSE OF DELEGATES
WEST VIRGINIA LEGISLATURE

BUILDING 1, ROOM M-212
1900 KANAWHA BLVD., EAST
CHARLESTON, WV 25305-0470
PHONE (304) 340-3200

April 28, 2025

The Honorable Patrick Morrisey
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Morrisey,

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. 3111, To provide pay increases to members of the judiciary.

This bill is presented to you on this day, April 28, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jeffrey Pack".

Jeffrey Pack
Clerk of the House of Delegates

cc: The Honorable Lee Cassis
Clerk of the Senate

PRESENTED TO THE GOVERNOR

APR 28 2025

Time 3:17 PM



Patrick Morrissey
Office of the Governor

April 29, 2025

The Honorable Kris 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 Twenty-Five (225), which was presented to me on April 21, 2025.

Senate Bill No. Two Hundred Eighty (280), which was presented to me on April 22, 2025.

Committee Substitute for Senate Bill No. Three Hundred Sixty-Nine (369), which was presented to me on April 9, 2025.

Committee Substitute for Committee Substitute for Senate Bill No. Five Hundred Eighty-Six (586), which was presented to me on April 21, 2025.

Committee Substitute for Senate Bill No. Nine Hundred Fourteen (914), which was presented to me on April 21, 2025.

House Bill No. Two Thousand Three (2003), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand Sixty-Six (2066), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand One Hundred Sixty-Four (2164), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Four Hundred Thirty-Four (2434), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Two Thousand Four Hundred Ninety-Nine (2499), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Eighty-Nine (2889), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Two Thousand Nine Hundred Sixty-Three (2963), which was presented to me on April 22, 2025.

Committee Substitute for House Bill No. Three Thousand Twelve (3012), which was presented to me on April 14, 2025.

House Bill No. Three Thousand One Hundred Sixty-Two (3162), which was presented to me on April 15, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Sixty-Six (3166), which was presented to me on April 21, 2025.

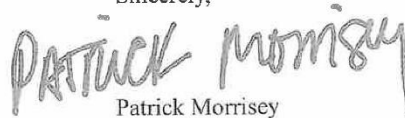
Committee Substitute for House Bill No. Three Thousand One Hundred Seventy-Nine (3179), which was presented to me on April 21, 2025.

House Bill No. Three Thousand Two Hundred Sixty-Three (3263), which was presented to me on April 22, 2025.

House Bill No. Three Thousand Five Hundred Three (3503), which was presented to me on April 22, 2025.

You will note that I have approved these bills on April 29, 2025.

Sincerely,

A handwritten signature in dark ink, reading "Patrick Morrisey". The signature is written in a cursive, slightly slanted style.

Patrick Morrisey
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk
The Honorable Jeff Pack, Clerk

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2164, To allow for public and private schools in West Virginia to employ security personnel.

The Committee on Finance moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

§15-2D-3. Duties and powers of the director and officers.

(a) The director is responsible for the control and supervision of the division. The director and any officer of the division may carry designated weapons and have the same powers of arrest and law enforcement in Kanawha County as members of the West Virginia State Police as set forth in §15-2-12(b) and §15-2-12(d) of this code. The director and any officer of the division shall also have such powers throughout the State of West Virginia in investigating and performing law-enforcement duties for offenses committed on the Capitol Complex or related to the division's security and protection duties at the Capitol Complex and throughout the state relating to offenses and activities occurring on any property owned, leased, or operated by the State of West Virginia when undertaken at the request of the agency occupying the property: *Provided*, That nothing in this article shall be construed as to obligate the director or the division to provide, or be responsible for providing, security at state facilities outside the Capitol Complex.

(b)(1) The director shall establish a School Safety Unit within the Division of Protective Services. Officers shall be assigned to the School Safety Unit at the discretion of the director. The officers assigned to the School Safety Unit shall primarily be charged to make school safety inspections and to make recommendations to appropriate county school superintendents, principals, or other school administrators, regarding school safety. The officers assigned to the School Safety Unit shall also be authorized to respond to and investigate all school safety matters, in consultation with county boards of education: *Provided*, That any officer of the School Safety Unit shall have statewide jurisdiction and powers of general law enforcement and arrest for violations of law committed in their presence.

(2) The director, in consultation with the Law Enforcement Professional Standards Subcommittee of the Governor's Committee on Crime, Delinquency and Correction, shall establish minimum recommendations for training for employment, job-entry, and in-service training curricula, and provide written certification, for school safety officers as described in §18-5-52, which training and certification shall be administered and provided in the manner approved by the director. Such training standards may include:

(A) Relevant state and federal laws;

(B) School and personal liability issues;

(C) Security awareness in the school environment;

(D) Mediation and conflict resolution, including de-escalation techniques such as a physical alternative to restraint;

(E) Disaster and emergency response;

(F) Working with students with disabilities, autism spectrum disorders, mental health needs, substance use disorders, and past traumatic experiences; and

(G) Student behavioral dynamics, including child and adolescent development and brain research. The Division of Protective Services School Safety Unit may establish an advisory committee consisting of local school board, public charter school, and private or religious school representatives and school security personnel to assist in the development of the standards and certification requirements in this subdivision.

(3) For purposes of this section, "school safety officer" means an individual who is employed by a local school board, public charter school, or private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board, public charter school, or private or religious school, and reasonably detaining any individual committing an offense that constitutes a breach of the peace, as defined in §18-5-52, on school property, school buses, or at school-sponsored events, and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

(c) Any officer of the division shall be certified as a law-enforcement officer by the Governor's Committee on Crime, Delinquency, and Correction or may be conditionally employed as a law-enforcement officer until certified in accordance with the provisions of §30-29-5 of this code.

(d) The director may:

(1) Employ necessary personnel, all of whom shall be classified exempt, assign them the duties necessary for the efficient management and operation of the division, and specify members who may carry, without license, weapons designated by the director;

(2) Contract for security and other services;

(3) Purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities. The provisions of §5A-3-3 of this code do not apply to purchases made pursuant to this subdivision;

(4) Establish and provide standard uniforms, arms, weapons, and other enforcement equipment authorized for use by members of the division and shall provide for the periodic inspection of the uniforms and equipment. All uniforms, arms, weapons, and other property furnished to members of the division by the State of West Virginia is and remains the property of the state;

(5) Appoint security officers to provide security on premises owned or leased by the State of West Virginia;

(6) Consistent with the provisions in §15-2D-5 of this code, provide security for the Speaker of the House of Delegates, the President of the Senate, the Governor, or a justice of the Supreme Court of Appeals;

(7) Gather information from a broad base of employees at and visitors to the Capitol Complex to determine their security needs and develop a comprehensive plan to maintain and improve security at the Capitol Complex based upon those needs;

(8) Assess safety and security needs and make recommendations for safety and security at any proposed or existing state facility as determined by the Secretary of the Department of Homeland Security, upon request of the secretary of the department to which the facility is or will be assigned: *Provided*, That records of such assessments, and any other records determined by the Secretary of the Department of Homeland Security to compromise the safety and security at any proposed or existing state facility, including primary and secondary schools, are not public records and are not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 *et seq.* of this code; and

(9) Enter into an interagency agreement with the Secretary of the Department of Homeland Security and the Secretary of the Department of Administration, which delineates their respective rights and authorities under any contracts or subcontracts for security personnel. A copy of the interagency agreement shall be delivered to the Governor, the President of the Senate, and the Speaker of the House of Delegates, and a copy shall be filed in the office of the Secretary of State and shall be a public record.

(e) The director shall:

(1) Propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code. The rules shall, at a minimum, establish ranks and the duties of officers within the membership of the division.

(2) Consistent with subsection (b) of this section, provide services to all public primary and secondary schools in furtherance of the purposes of the School Safety Unit: *Provided*, That the director may provide services to any private primary and secondary schools in the state upon request.

(3) Deliver a monthly status report to the Speaker of the House of Delegates and the President of the Senate.

(4) Require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol Complex, or who have access to sensitive or critical information, to have its employees submit to a fingerprint-based state and federal background inquiry through the state repository, and require a new employee who is employed to provide services on the grounds or in the building of the Capitol Complex to submit to an employment eligibility check through E-verify.

(i) After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol Complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol Complex for purposes of verifying compliance with this section.

(ii) All current service providers shall, within 90 days of the amendment and reenactment of this section by the 80th Legislature, ensure that all of its employees who are providing services on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or critical information submit to a fingerprint-based state and federal background inquiry through the state repository.

(iii) Any contract entered into, amended, or renewed by an agency or entity of state government with a service provider shall contain a provision reserving the right to prohibit specific employees thereof from accessing sensitive or critical information or to be present at the Capitol Complex based upon results addressed from a criminal background check.

(iv) For purposes of this section, the term "service provider" means any person or company that provides employees to a state agency or entity of state government to work on the grounds or in the buildings that make up the Capitol Complex or who have access to sensitive or critical information.

(v) In accordance with the provisions of Public Law 92-544 the criminal background check information will be released to the Director of the Division of Protective Services.

(5) Be required to provide his or her approval prior to the installation of any and all electronic security systems purchased by any state agency which are designed to connect to the division's command center.

(f) Effective July 1, 2017, the Director of Security and security officers of the Department of Arts, Culture, and History shall be made part of, and be under the supervision and direction of, the Division of Protective Services. Security for all Capitol Complex properties of the Department of Arts, Culture, and History shall be the responsibility of the Division of Protective Services.

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-52. School safety officers.

(a) Local school boards, public charter schools, and private or religious schools may employ school safety officers, as defined in §15-2D-3, or contract with private security services as set forth in §18-5-53 for the purposes set forth therein.

(b) School safety officers may carry a firearm in the performance of their duties if:

(1) Within 10 years immediately prior to being hired by the local school board or private or religious school he or she:

(A) Was a law-enforcement officer as defined in §30-29-1 in the state with ten years of aggregate years as a law enforcement officer; or

(B) Was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his or her duties were substantially similar to those of a law-enforcement officer as defined in §30-29-1.

(2) He or she retired or resigned from their position as a law-enforcement officer in good standing;

(3) He or she maintains the requirements of and status as an honorably separated or qualified retired law-enforcement officer within the meaning of the Law Enforcement Officers Safety Act of 2004, as amended, pursuant to 18 U.S.C. § 926C;

(4) He or she obtains and maintains any certification and training required by the Division of Protective Services School Safety Unit pursuant to subdivision §15-2D-3;

(5) Undergoes a background check at his or her expense as required by the Division of Protective Services to verify that the prospective school safety officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm, has been determined by the Director of the Division of Protective Services to be appropriate and capable of discharging the duties as a school safety officer as set forth in a written certification, and has provided the written certification of the Director of the Division of Protective Services to the local school board, public charter school, or private or religious school; and

(6) The local school board, public charter school, or private or religious school grants him or her the authority to carry a firearm in the performance of his duties.

(c) School safety officers may not arrest another person but may notify the appropriate law-enforcement agency and detain another person committing an act which constitutes a breach of the peace in a reasonable manner and for a reasonable period. The detention shall not constitute an arrest nor shall it render the local school board, public charter school, private or religious school, or school safety officer liable to the person detained: *Provided*, That the detention may be no longer than the time required for the earliest of either (1) The determination that no offense constituting a breach of the peace has been committed; or (2) the surrender of the person detained to a certified law-enforcement officer. School safety officers may not interrogate or question a detained minor without the knowledge and consent of the minor's parent, except in the instance of a perceived immediate danger to the health, safety, and welfare of others within the facility, when the parents are not present and/or when the minor attempts self-harm, the questioning is limited to the immediate danger, and the questioning will likely lead to the alleviation or elimination of the immediate danger, and if the person detained is a student and is under the age of 21, their parent or guardian is notified of the detention.

(d) The local school board, public charter school, or private or religious school shall be responsible for the costs of providing the necessary equipment for school safety officers to adequately perform their duties.

(e) For purposes of this section:

(1) "Breach of the peace" means:

(A) A felony;

(B) Any action or potential crime involving physical injury or a threat of physical injury to another person;

(C) Any action or potential crime involving destruction of school property or property located on the school premises; or

(D) Any act committed where the school safety officer has reason to believe that a person is likely to cause serious harm to himself, herself, or to others.

(2) "School safety officer" has the same meaning as that term is defined in §15-2D-3.

(f) A local school board and public charter school shall, and a private or religious school may, cooperate with the School Safety Unit established in §15-2D-3 to the fullest extent practicable to assist the unit in fulfilling its duties, including, but not limited to, providing data on all safety and security measures for school facilities.

(g) Nothing in this section shall be construed as limiting or superseding the provisions of §61-7-11a authorizing a private school to allow possession of a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds of the facility.

(h) A local school board, public charter school, or a private or religious school employing a school safety officer shall maintain insurance coverage which:

(1) Shall include adequate insurance for liability, property loss, and the personal injury of students and other personnel; and

(2) May include coverage from the Board of Risk and Insurance Management pursuant to §29-12-5a, if applicable.

(i) Eight hours of the mandatory 16 hours of in-service training for law enforcement officers may be credited when an individual is employed as a school safety officer pursuant to this section.

(j) All school safety officers hired are subject to the Law Enforcement Officers Safety Act ("LEOSA") based on §61-7-11a of this code, subdivision (b)(3) of this section, and subject to the provisions of §18 USC 926C(c).

(k) The liability and responsibility of a school safety officer shall be that of the respective county board of education where that officer is working, regardless of whether that officer is contracted by a third party.

(l) All school safety officers shall train annually with the local county sheriffs' department in the county in which the safety officer is working.

§18-5-53. Contracting with private security as a school safety officer.

(a) Purpose. — County boards of education, public charter schools, and private or religious schools may contract with a private security guard firm licensed pursuant to the provisions of §30-18-1 et seq. of this code to provide the services of a school safety officer as set forth in §18-5-52 of this code.

(b) Definitions. — For purposes of this section, the following words have the following meanings:

"Contract" means an agreement between a county board and a private security provider.

"County board" means the same as that term is defined in §18-1-1 and used in §18-5-1 et seq of this code.

"School safety officer" has the same meaning as that term is defined in §15-2D-3 of this code.

"Security guard firm" has the same meaning as that term is defined in §30-18-1 of this code

(c) Authority. — Notwithstanding the provisions of §61-7-11a or any applicable rule, an employee of a private security guard firm who has contracted with a county school board, public charter schools, or private or religious school may carry weapons upon meeting all the requirements of this section. An employee of a private security guard firm contracting with a county board, public charter school, or private or religious school is not law enforcement and has no authority to arrest. They are to provide services as a school safety officer as set forth in §18-5-52 of this code.

(d) Requirements for participation. — Prior to entering into a contract with a county board, public charter school, or private or religious school, a private security guard firm shall be licensed pursuant to the provisions of §30-18-1 et seq. of this code and is current in any obligation, including taxes, to the State of West Virginia. The county board, public charter school, or private or religious school shall require an applicant to provide proof that any employee of the private security guard firm intended to be used as a school safety officer:

(1) Is a citizen of the United States and the State of West Virginia;

(2) Has received a high school diploma or a high school equivalency diploma;

(3) Has met and passed all the requirements for a concealed carry permit as set forth in §61-7-4;

(4) Has completed and passed all the following training courses and/or examinations:

(A) The Law Enforcement Professional Standards program. The cost of this program is to be paid by the independent contractor;

(B) A fitness for duty examination which shall include a physical examination, vision examination, psychiatric examination, and a pre-employment drug screen within one year of beginning a contract with a county board, public charter school, or a private or religious school and upon initiating a new contract following the expiration of all contract extension options. The cost of these each shall be paid by the private security guard firm;

(C) A firearm and less than lethal use of force course. To maintain firearm proficiency, the independent contractor shall complete yearly training in firearm and less than lethal use of force course; and

(D) Training on crisis de-escalation techniques, disaster and emergency response, bomb threats, performing their duties in the presence of students with disabilities including, but not limited to, students with autism spectrum disorders, and cardiopulmonary resuscitation; and

(6) Any other requirements imposed by the county board, public charter school, or private or religious school which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county board, public charter school, or private or

religious school may also require a private security guard firm to carry appropriate liability insurance at his or her expense.

(e) Exclusions from participation. — Any of the following shall preclude an employee of private security guard firm from participation as a school safety officer:

(1) There is credible evidence of illegal drug use by the employee of the private security guard firm in the preceding five-year period; or

(3) A disqualifying criminal offense. These shall include, but are not limited to:

(A) Domestic violence as set forth in §61-2-28;

(B) Driving under the influence as set forth in §17C-5-2;

(C) Child abuse as set forth in §61-8D-1 et seq.;

(D) Unlawful manufacture, delivery, or possession with intent to deliver any controlled substance as set forth in §60A-4-1 et seq.; and

(E) Any other misdemeanor or felony conviction deemed exclusionary for contracting with the independent contractor by the county board.

(f) Insurance coverage. —

A county board, public school, or private or religious school contracting for the services of a private security guard firm shall maintain adequate insurance for liability, property loss, and the personal injury of students and other personnel to the extent permitted by the Board of Risk and Insurance Management pursuant to §29-12-5a in addition to any appropriate liability insurance coverage required by subdivision (d)(6) of this section.

(g) Miscellaneous. —

(1) In contracting for the services set forth in this section, county boards or public charter school is may not be subject to purchasing requirements set forth in §5A-3-1 et seq.

(2) Nothing in this section entitles any employee of a private security guard firm for participation in the public employee insurance plan, workers' compensation, additional state retirement credited to employment as a West Virginia Guardian, or any other state-sponsored or -offered state benefit plan.

(4) Notwithstanding any other provision of this code or federal law to the contrary, nothing in this section shall be construed to create an employer-and-employee relationship between a county school board, public charter school, or a private or public school.

§18-5-54. Public school West Virginia Guardian Program.

(a) Purpose. — County boards of education may contract with an independent contractor who is a former state trooper, former deputy sheriff, former state fire marshal, former Department of Natural Resources police officer, former municipal police officer, or former federal law-enforcement officer to provide West Virginia Guardian services as that term is defined in this section. The purpose of the contract is to provide public safety and/or security on public school

grounds and buildings. Any county board may contract with as many independent contractors as the board considers necessary.

(b) Definitions. — For purposes of this section, the following words have the following meanings:

"Contract" means an agreement between a county board and an independent contractor who has been certified by the county sheriff relating to the procurement of public safety or security services.

"County board" means the same as that term is defined in §18-1-1 and used in §18-5-1 et seq.

"Independent contractor" means the same as that term is used in §21-5I-4.

"Public safety or security" means the protection of students, faculty, and staff of a public school from violence, exposure to weapons, and threats on school grounds.

"Former deputy sheriff" means the same as that term is used in §7-14C-1, but who has retired from service.

"Former municipal police officer" means the same as that term is used in §8-22A-2 and includes officers who were members pursuant to the provisions of §8-22A-16, but who are retired from service.

"Former natural resources police officer" means the same as that term is used in §20-18-2, but who is retired from service.

"Former state fire marshal" means the same as that term is used in §15A-10-1 et seq., but who is retired from service.

"Former state trooper" means a state police officer employed pursuant to the provisions of §15-2-1 et seq., or §15-2A-1 et seq. and who has retired pursuant to the provisions of §15-2-27 or §15-2A-6 of this code.

"Former federal law-enforcement officer" means a federal law-enforcement officer employed pursuant to the provisions of §15-10-5(b), who was classified as a Criminal Investigation Series 1811 investigator, and who has retired from service.

"West Virginia Guardian" means an independent contractor certified by the county sheriff as meeting the qualifications set forth in this section and who is under contract to a county board for the purposes of providing public safety and/or security on school grounds. Persons contracted to provide these services shall include a retired state trooper, a retired state fire marshal, a retired Department of Natural Resources police officer, a former municipal police officer, a retired federal law-enforcement officer, or a retired deputy sheriff. A West Virginia Guardian is considered an authorized individual for purposes of the Gun-Free School Zones Act of 1990, 18 U.S.C. §921 and §922.

(c) Authority. — Notwithstanding the provisions of §61-7-11a or any applicable rule, an independent contractor acting as a West Virginia Guardian may carry weapons upon meeting all the requirements of this section. A West Virginia Guardian is not law enforcement and has no

authority to arrest. They are to provide public safety and/or security to protect life and property as set forth in this section. Guardians shall wear apparel that makes them readily identifiable as a Guardian while performing the duties as set forth in in this section.

(d) Requirements for participation. — Prior to entering into a contract with a West Virginia Guardian, the Guardian shall apply for a permit from the county sheriff of the county in which the Guardian will provide services to the county board and, at that time, pay a fee of \$50. The county sheriff shall require an applicant to provide proof that he or she:

(1) Is a citizen of the United States and the State of West Virginia;

(2) Has received a high school diploma or a high school equivalency diploma;

(3) Has met and passed all the requirements for a concealed carry permit as set forth in §61-7-4;

(4) Has completed and passed all the following training courses and/or examinations:

(A) The Law Enforcement Professional Standards program. The cost of this program is to be paid by the independent contractor;

(B) A fitness for duty examination which shall include a physical examination, vision examination, psychiatric examination, and a pre-employment drug screen within one year of beginning a contract with a county board and upon initiating a new contract following the expiration of all contract extension options. The cost of these each shall be paid by the independent contractor;

(C) A firearm and less than lethal use of force course. To maintain firearm proficiency, the independent contractor shall complete yearly training in firearm and less than lethal use of force course; and

(D) Training on crisis de-escalation techniques, disaster and emergency response, bomb threats, performing their duties in the presence of students with disabilities including, but not limited to, students with autism spectrum disorders, and cardiopulmonary resuscitation.

(5) Is retired from his or her employment as a state trooper, a deputy sheriff, a municipal officer, a Division of Natural Resources police officer, a State Fire Marshal, or federal law enforcement;

(6) Is current in any obligation, including taxes, to the State of West Virginia; and

(7) Any other requirements imposed by the county board which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county board may also require an independent contractor to carry appropriate liability insurance at his or her expense.

The permit application fee received by the sheriff shall be deposited by the sheriff into a guardian program fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this fund are to be expended by the sheriff to pay the costs associated with issuing Guardian permits. Any surplus in the fund on hand at the end of each fiscal year may be expended

for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

Meeting all of the requirements as set forth in this subsection does not guarantee a contract will be extended to the applicant. The county sheriff may, in his or her reasonable judgment, decline to certify to a county board a person as eligible for participation as a guardian.

(e) Exclusions from participation. — Any of the following shall preclude an independent contractor from participation as a West Virginia Guardian:

(1) Having not retired from either service to the State of West Virginia as a state trooper, a municipal police officer, a Department of Natural Resources police officer, a former State Fire Marshal, or a deputy sheriff or service as a federal law-enforcement officer;

(2) There is credible evidence of illegal drug use by the independent contractor in the preceding five-year period; or

(3) A disqualifying criminal offense. These shall include, but are not limited to:

(A) Domestic violence as set forth in §61-2-28;

(B) Driving under the influence as set forth in §17C-5-2;

(C) Child abuse as set forth in §61-8D-1 et seq.;

(D) Unlawful manufacture, delivery, or possession with intent to deliver any controlled substance as set forth in §60A-4-1 et seq.; and

(E) Any other misdemeanor or felony conviction deemed exclusionary for contracting with the independent contractor by the county board.

(f) Insurance coverage. —

A county board contracting for the services of a West Virginia Guardian shall maintain adequate insurance for liability, property loss, and the personal injury of students and other personnel to the extent permitted by the Board of Risk and Insurance Management pursuant to §29-12-5a in addition to any appropriate liability insurance coverage required by subdivision (d)(7) of this section.

(g) Miscellaneous. —

(1) In contracting for the services set forth in this section, county boards may not be subject to purchasing requirements set forth in §5A-3-1 et seq.

(2) Nothing in this section requires a county board to enter into a contract for guardian services. Participation by a county board is voluntary and subject to the availability of county funds. Any county board that opts to participate shall do so at its own expense and any additional funds provided by county entities or private donations. The provisions of this section place no obligation for the state to appropriate money for the purposes set forth in this section.

(3) As an independent contractor, a West Virginia Guardian is not eligible for participation in the public employee insurance plan, workers' compensation, additional state retirement credited

to employment as a West Virginia Guardian, or any other state-sponsored or -offered state benefit plan.

(4) Notwithstanding any other provision of this code or federal law to the contrary, nothing in this section shall be construed to create an employer-and-employee relationship.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring.

(2) This subsection does not apply to:

(A) ~~A- Any person currently employed as a law-enforcement officer, employed by a federal, state, county, or municipal law-enforcement agency chief executive, or pre-certified law-enforcement officer as those terms are defined in §30-29-1 of this code, whether on or off duty;~~

(B) Any probation officer appointed pursuant to §62-12-5 of this code or state juvenile probation officer appointed pursuant to §49-4-719 of this code, in the performance of his or her duties;

(C) Any home confinement supervisor employed by a county commission pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in performance of his or her official duties;

(E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. § 926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

(F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

(I) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

(J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

(K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle; ~~or~~

(ii) When he or she is not occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle; or

(L) A school safety officer as defined in §15-2D-3 authorized to carry a firearm and who meets the requirements set forth in §15-2D-3 and §18-5-52.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff, or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's 20th birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to

believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

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

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

Senator Grady moved to amend the Finance committee amendment to the bill on page 19, section 11a, after line 41, by inserting a new paragraph (l), to read as follows:

"(l) Air rifles and rimfire rifles possessed for the purpose of shooting teams to the extent permitted pursuant to §18-2-46;"

And,

By re-lettering the remaining paragraphs.

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

H. B. 2164 -- "A Bill to amend and reenact §15-2D-3 and §61-7-11a of the Code of West Virginia, 1931, as amended; and by adding thereto three new sections, designated §18-5-52, §18-5-53, and §18-5-54, relating to creating school safety officers; requiring the director of the Division of Protective Services to establish standards for school safety officers and issue a certificate; providing definitions; authorizing local school boards, public charter schools, and private or religious schools to employ school safety officers; providing standards for a school safety officer to carry a firearm on school grounds; requiring a background check; specifying the detention powers of a school safety officer and limitations on detention powers; requiring data sharing with the Division of Protective Services; specifying payment for equipment; requiring insurance for

schools employing a school safety officer; clarifying that the prohibitions on carry a firearm in a school zone do not apply to certified school safety officers; providing that all school safety officers are subject to the Law Enforcement Officers Safety Act ("LEOSA"); clarifying the liability and responsibility of school safety officers; providing for annual training in conjunction with the local county sheriffs' department; allowing county boards of education to contract with an independent contractor, known as a West Virginia guardian, who is a former state trooper, former deputy sheriff, former state fire marshal, former Department of Natural Resources police officer, former municipal police officer, or former federal law-enforcement officer to provide to provide public safety and/or security on school grounds to protect life and property; specifying the authority of independent contractors participating in the program and an apparel requirement; requiring the West Virginia guardian to apply for a permit from the county sheriff of the county in which the guardian will provide services; mandating the county sheriff to require an applicant to provide proof of meeting certain requirements; allowing county board to impose additional requirements; requiring permit application fee to be deposited into a guardian program fund; stating that meeting all of certain requirements does not guarantee a contract will be extended to the applicant; specifying instances in which an independent contractor is precluded from participation as a West Virginia guardian; providing certain liability insurance requirements; exempting West Virginia guardian contract from certain purchasing requirements; clarifying that county board participation is voluntary and subject to the availability of county funds; providing for exclusions from state benefit programs; and clarifying that an off duty law-enforcement officer is not prohibited from carrying a firearm on certain school grounds; allowing county boards, public charter schools, or private or religious schools to contract with a private security guard firm to provide school safety officer services; specifying the authority of the private security guard firm or its employees participating a a school safety officer; mandating the county board, public charter school, or private or religious school to require an applicant to provide proof of meeting certain requirements; allowing county board, public charter school, or private or religious school impose additional requirements; specifying instances in which a private security guard or it employees is precluded from participation as a school safety officer; providing certain liability insurance requirements; exempting contract from certain purchasing requirements; providing for exclusions from state benefit programs; clarifying that an employee of a private security guard firm acting as a school safety officer is not prohibited from carrying a firearm on certain school grounds; and permitting air rifles and rimfire rifles on certain school grounds for the purposes of shooting teams to the extent permitted by law."

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 563**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: McGeehan, Riley, Rohrbach and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2164) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2695, Raleigh and Mason Counties Economic Opportunity Development Districts.

The Chair asked and obtained unanimous consent by the House to postpone further consideration of the Senate message on Com. Sub. for H. B. 2695 until later in the day.

A message from the Senate, by

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

Com. Sub. for H. B. 3181, Allow all law enforcement officers to purchase gun upon retirement.

On motion of Delegate Kelly, the House refused to concur in the following amendment and title amendment of the bill by the Senate, and requested the Senate to recede therefrom:

The Committee on Government Organization moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-15. Purchase of service handgun by law-enforcement officers separating honorably.

(a) Every chief executive, law-enforcement officer, or law-enforcement official in the state who separates from his or her employing agency or ends his or her elected term of office shall be given the opportunity to purchase his or her issued service handgun at cost. The employing agency may sell the service handgun to the chief executive, law-enforcement officer, or law5 enforcement official, only upon determining that the chief executive, law-enforcement officer, or law-enforcement official is separating honorably and is not the subject of any pending disciplinary complaints, investigations, or actions by the employing agency or the subcommittee.

(b) Notwithstanding the provisions of subsection (a) of this section, the employing agency may not sell a service handgun to any chief executive, law-enforcement officer, or law10 enforcement official whom the employing agency:

- (1) Knows is prohibited from possessing a firearm by state or federal law;
- (2) Reasonably believes to be mentally incapacitated; or
- (3) Reasonably believes would constitute a danger to any person or the community.

(c) This section does not supersede, limit, or amend any specific provision of this code authorizing the award of a firearm to a law-enforcement officer of this state.

(d) For purposes of this section, "handgun" means a pistol or revolver as those terms are defined in §61-7-2 of this code.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.**§61-7-3. Carrying a deadly weapon without provisional license or other authorization by persons under twenty-one 18 years of age; penalties.**

(a) Any person under twenty-one 18 years of age and not otherwise prohibited from possessing firearms under section seven of this article who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in jail for not more than 12 months for the first offense; but upon conviction of a second or subsequent offense, he or she is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) The prosecuting attorney in all cases shall ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it is a second or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and may not be permitted to use discretion in introducing evidence to prove the same on the trial.

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns for persons at least eighteen years of age and fewer than twenty-one years of age; exemptions

Exemptions from licensing fees.

(a) The provisions in section three of this article do not apply to any person at least eighteen years of age and fewer than twenty-one years of age who is:

(1) Carrying a deadly weapon upon his or her own premises;

(2) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

(3) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(4) A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

(5) A law-enforcement officer or law-enforcement official or chief executive as defined in section one, article twenty-nine, chapter thirty of this code;

(6) An employee of the West Virginia Division of Corrections duly appointed pursuant to section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

(7) A member of the United States armed forces, reserve or National Guard;

(8) A resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in section six-a of this article;

(9) A federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

(10) A parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-two of this code in the performance of his or her duties.

(b) The following judicial officers and prosecutors and staff are exempt from paying any application fees or licensure fees required under this article. However, they shall make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in section four of this article:

(1) Any justice of the Supreme Court of Appeals of West Virginia;

(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney.

§61-7-7. Persons prohibited from possessing firearms; classifications; right of nonprohibited persons over twenty-one 18 years of age to carry concealed deadly weapons; offenses and penalties; reinstatement of rights to possess; offenses; penalties.

(a) Except as provided in this section, no person shall possess a firearm, as such is defined in §61-7-2 of this code, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is habitually addicted to alcohol;

(3) Is an unlawful user of or habitually addicted to any controlled substance;

(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of §27-1-1 *et seq.* of this code or in similar law of another jurisdiction: *Provided*, That once an individual has been adjudicated as a mental

defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession: Provided, however, That the mental hygiene commissioner or circuit judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of §61-2-28 of this code or the provisions of §61-2-9(b) or §61-2-9(c) of this code or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence. Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in the county jail for not less than 90 days nor more than one year, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in §60A-2-204, §60A-2-205, and §60A-2-206 of this code and who possesses a firearm as such is defined in section two of this article shall be guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than \$5,000, or both. The provisions of subsection (f) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:

- (1) At least twenty-one 18 years of age;
- (2) A United States citizen or legal resident thereof;
- (3) Not prohibited from possessing a firearm under the provisions of this section; and
- (4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. § 922(g) or (n).

(d) As a separate and additional offense to the offense provided for in subsection (a) of this section, and in addition to any other offenses outlined in this code, and except as provided by subsection (e) of this section, any person prohibited by subsection (a) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than three years or fined not more than \$5,000, or both.

(e) As a separate and additional offense to the offense described in subsection (b) of this section, and in addition to any other offenses outlined in this code, any person prohibited by subsection (b) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than 10 years or fined not more than \$10,000, or both.

(f) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm by the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to possess a firearm in accordance with the provisions of §61-7A-5 of this code.

(g) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section,

And,

On motion of Senator Rucker, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3181—A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §30-29-15; and to amend and reenact §61-7-3, §61-7-6, and §61-7-7 of said code, relating to modifying certain provisions regarding owning and carrying certain firearms; allowing certain executives, officers, and officials to purchase certain firearms under certain circumstances and with certain exceptions; clarifying that such purchase does not supersede certain other statutes; and removing the requirement for provisional firearm licensure for individuals of certain age.

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

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

Com. Sub. for H. B. 3294, Enacting the Bank Protections for Eligible Adults from Financial Exploitation Act.

On motion of Delegate Kelly, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 2C. BANKING AND FINANCIAL SERVICES PROVIDER PROTECTIONS
FOR ELIGIBLE ADULTS FROM FINANCIAL EXPLOITATION.**

§31A-2C-1. Short title.

- 1 This article may be cited as Banking and Financial Services Provider Protections for
- 2 Eligible Adults from Financial Exploitation.

§31A-2C-2. Legislative findings, purpose, and intent.

- 1 (a) The Legislature recognizes that depository institutions, broker-dealers, and investment
- 2 advisers have duties imposed by law and by contract to conduct customer-directed transactions
- 3 in a timely manner and in accordance with their customers' instructions.
- 4 (b) The Legislature recognizes that customers are increasingly being induced to authorize
- 5 transactions that are not in their interest.
- 6 (c) It is the intent of the Legislature to:
- 7 (1) Ensure that eligible adults have ready access to their funds;
- 8 (2) Provide depository institutions with the tools and protections to intervene in customer9 directed transactions when, in their discretion, the transaction presents potential significant risk
- 10 of harm to the customer, including providing broker-dealers and investment advisers acting in
- 11 accordance with actions traditionally associated with those committed by depository institutions,
- 12 and not in contradiction with any of the duties and protections described in §32-6-601 *et seq.* of
- 13 this code of those same tools; and

14 (3) Provide designated state agencies with the tools and information to investigate
15 potential financial exploitation.

16 (d) The Legislature does not intend to create a duty for depository institutions, broker¹⁷
dealers, and investment advisers to contravene the valid instructions of their customers and

18 nothing in this chapter creates such a duty.

§31A-2C-3. Definitions.

1 As used in this article, the following terms and phrases have the following meanings:

2 "Associated third party" means an individual:

3 (1) Who is a parent, spouse, adult child, sibling, or other family member of an eligible adult
4 whom a depository institution, broker-dealer, and/or investment adviser believes is closely
5 associated with the eligible adult;

6 (2) Whom an eligible adult authorizes the depository institution, broker-dealer, and/or
7 investment adviser to contact;

8 (3) Who is a co-owner, additional authorized signatory, or beneficiary on an eligible adult's
9 account or an agent under a power of attorney; or

10 (4) Who is an attorney, trustee, conservator, or other fiduciary whom a court or a
11 government agency selects to manage some or all of the financial affairs of the eligible
adult.

12 "Account" means any of the following:

13 (1) A contract of deposit of funds between the depositor and a depository institution and:

14 (A) The account is a consumer account owned by an eligible adult, whether individually or
15 with one or more other persons;

16 (B) An eligible adult is a beneficiary of the conservatorship account or guardianship
17 account; or

18 (C) The account is a line of credit owned by an eligible adult, whether individually or with
19 one or more other persons.

20 (2) Any account of a broker-dealer or investment adviser for which a client or customer

21 has the authority to transact business.

22 "Broker-dealer" has the same meaning as defined in §32-4-401 of this code.

23 "Depository institution" has the same meaning as defined in §31-17A-2 of this code.

24 "Designated state agency" means the entity responsible for receiving reports of alleged

25 or suspected maltreatment or financial exploitation of an eligible adult including the West
Virginia

26 Department of Human Services' Bureau for Social Services and the West Virginia Attorney

27 General.

28 "Eligible adult" means:

29 (1) A person 65 years of age or older or a person subject to §9-6-1 *et seq.* of this code; or

30 (2) A person 18 years or older who:

31 (A) Has a substantial mental or functional impairment that significantly interferes with his

32 or her ability to make financial decisions or for whom a conservator has been appointed
under

33 state law; and

34 (B) The depository institution, broker-dealer, and/or investment adviser has actual

35 knowledge that the person has an appointed guardian under state law.

36 "Financial exploitation" means:

37 (1) The wrongful or unauthorized taking, withholding, appropriation, expenditure, or use of
38 money, assets, or property owned by an eligible adult; or

39 (2) An act or omission taken by a person, including through the use of a power of attorney,
40 guardianship, trustee, or conservatorship of an eligible adult, to:

41 (A) Obtain control, through deception, intimidation, or undue influence, over the eligible

42 adult's money, assets, or property to deprive the eligible adult of the ownership, use,
benefit, or

43 possession of the eligible adult's money, assets, or property; or

44 (B) Convert money, assets, or property of the eligible adult to deprive the eligible adult of

45 the ownership, use, benefit, or possession of the eligible adult's money, assets, or property.

46 "Investment adviser" has the same meaning as defined in §32-4-401 of this code.

§31A-2C-4. Government disclosures.

1 (a) Any depository institution and/or its employees who believe that financial exploitation

2 of an eligible adult has occurred, may have been attempted, or is being attempted, shall promptly

3 notify a designated state agency; and

4 (b) Any broker-dealer or investment adviser, and/or their employees, acting in accordance

5 with actions traditionally associated with those committed by depository institutions, and not in

6 contradiction with any of the duties and protections described in §32-6-601 *et seq.* of this code

7 shall also promptly notify a designated state agency.

§31A-2C-5. Authority to delay, refuse, or prevent certain activities.

1 (a) When, based on information they have individually observed or information they have

2 received from a government agency or a law-enforcement agency, a depository institution, or a

3 broker-dealer or investment adviser acting in accordance with actions traditionally associated

4 with those committed by depository institutions, and not in contradiction with any of the duties and

5 protections described in §32-6-601 *et seq.* of this code and/or their employees, believe that

6 financial exploitation of an eligible adult may have occurred, has been attempted, is occurring, or

7 is being attempted, the depository institution, broker-dealer, investment adviser, and/or their

8 employees may, but are not required to:

9 (1) Delay or refuse one or more transactions with or involving the eligible adult;

10 (2) Delay or refuse to permit the withdrawal or disbursement of funds contained in the

11 eligible adult's account;

12 (3) Prevent a change in ownership of the eligible adult's account;

13 (4) Prevent a transfer of funds from the eligible adult's account to an account owned wholly

14 or partially by another person;

15 (5) Refuse to comply with instructions given to the depository institution, broker-dealer, or
16 investment adviser by an agent or a person acting for or with an agent under a power of
attorney

17 signed or purported to have been signed by the eligible adult; or

18 (6) Prevent the designation or change the designation of beneficiaries to receive any
19 property, benefit, or contract rights for an eligible adult at death.

20 (b) A depository institution, broker-dealer, investment adviser, and/or their employees are
21 not required to act under subsection (a) of this section when provided with information
alleging

22 that financial exploitation may have occurred, may have been attempted, is occurring, or
is being

23 attempted, but may use their sole discretion to determine whether or not to act under
subsection

24 (a) of this section based on the information available to them at the time.

25 (c) The authority to delay a transaction set forth in subsection (a) of this section expires
26 upon the sooner of:

27 (1) Fifteen business days after the date on which the depository institution, broker-dealer,
28 and/or investment adviser first acted under subsection (a) of this section;

29 (2) When the depository institution, broker-dealer, and/or investment adviser is satisfied
30 in its sole discretion that the transaction or act will not likely result in financial exploitation
of the

31 eligible adult; or

32 (3) Upon an order of a court of competent jurisdiction directing the release of funds.

33 (d) Notwithstanding any other law to the contrary, the refusal to engage in a transaction as
34 authorized under subsection (a) of this section may not constitute the wrongful dishonor of
an

35 item under §46-4-1 *et seq.* of this code.

36 (e) A reasonable belief that payment of a check will facilitate the financial exploitation of

37 an eligible adult constitutes reasonable grounds to doubt the collectability of the item for purposes

38 of the federal Check Clearing for the 21st Century Act, 12 U.S.C. § 5001 *et seq.*, the federal

39 Expedited Funds Availability Act, 12 U.S.C. § 4001 *et seq.*, and 12 C.F.R. part 229. Nothing

40 herein, however, requires depository institutions, broker-dealers, investment advisers, and/or

41 their employees, to review the checks of eligible adults.

42 (f) A delay or refusal to complete a funds transfer request as authorized under subsection (a) of

43 this section does not violate §46-4A-101 *et seq.* of this code: *Provided*, That if a transaction is

44 delayed under subsection (a) of this section, the payment order is not considered as received

45 until the hold is removed and the depository institution and/or broker-dealer submits the payment

46 order for processing. Funds transfer and payment order have the same meanings as defined in

47 §46-4A-101 *et seq.* of this code.

§31A-2C-6. Third-party notifications.

1 (a) A depository institution, broker-dealer, investment adviser, and/or their employees may

2 notify an associated third party, if any, if the depository institution, broker-dealer, investment

3 adviser, or their employees believe that the financial exploitation of the eligible adult is occurring,

4 has or may have occurred, is being attempted, or has been or may have been attempted.

5 (b) A depository institution, broker-dealer, investment adviser, and/or their employees,

6 may choose not to notify an associated third party as described in subsection (a) of this section,

7 if the depository institution, broker-dealer, investment adviser, or employees believe that the third

8 party is, may be, or may have been engaged in the financial exploitation of the eligible adult.

9 (c) When providing information under subsection (a) of this section, a depository

10 institution, broker-dealer, investment adviser, and/or their employees may limit the information

11 provided to disclosing their suspicion that the eligible adult may be a victim or target of financial

12 exploitation.

13 (d) Any disclosure under subsection (a) of this section is exempt from coverage by state

14 privacy laws and/or requirements.

§31A-2C-7. No private cause of action.

1 Compliance with this article shall not serve as the basis for a private cause of action

2 against any depository institution, broker-dealer, investment advisor, or their employees unless

3 there is clear and convincing evidence that these persons did not act in good faith.

And,

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. House Bill 3294—A Bill amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-2C-1, §31A-2C-2, §31A-2C-3, §31A-2C-4, §31A-2C-5, §31A-2C-6, and §31A-2C-7, relating to enacting banking and financial services provider protections for eligible adults from financial exploitation; providing findings, purpose, and intent; providing definitions; permitting disclosure of eligible persons financial information to certain third parties and designated government agencies; authorizing depository institutions, broker-dealers, and investment advisors to delay, refuse, or prevent certain activities and transactions to prevent financial exploitation of an eligible adult; and providing that this article shall not serve as the basis for any private cause of action against depository institutions, broker-dealers, or investment advisors, or their employees, acting in good faith.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3297, Establishing the Washington Center for Civics, Culture, and Statesmanship at West Virginia University.

On motion of Delegate Kelly, the House concurred in the following amendment and title amendment by the Senate, with further amendment:

Senator Stuart moved to amend the amendment on page 4, section (8), after line 88, by inserting a new subsection (j) to read as follows:

(j) Members of the legislature, during or up to two years after the termination of their service in the legislature, shall not:

(1) Be employed by the center in any capacity; or

(2) Serve as the director of the center.

And,

By re-lettering the remaining subsections.

And,

On motion of Senator Stuart the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3297— A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18B-11-8, relating to creating the Washington Center for Civics, Culture, and Statesmanship within West Virginia University; requiring the university to work with the center to provide the center with reasonable infrastructure, classroom space, and office space; stating the center's purposes and goals; stating the center's policies; permitting the appointment of at least five tenure-track faculty; authorizing the center in consultation with the university to offer courses and to develop various degrees for accreditation; providing for a director of the center reporting directly to the president, provost, and vice president of academic affairs of the university; providing for the director's appointment and the filling of vacancies; providing for an academic council; enumerating areas over which the director, under the direction of the provost, has control and authority; requiring the center to adhere to institutional policies and procedures; requiring approval of the curriculum by the West Virginia University by the Board of Governors; requiring faculty to meet the university's qualifications policy; providing for limitations on employment and service of legislators; and providing for an annual report.

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

Eng. Comm. Sub. for House Bill 3297 – “A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18B-11-8, relating to creating the Washington Center for Civics, Culture, and Statesmanship within West Virginia University; requiring the university to work with the center to provide the center with reasonable infrastructure, classroom space, and office space; stating the center's purposes and goals; stating the center's policies; permitting the appointment of at least five tenure-track faculty; authorizing the center in consultation with the university to offer courses and to develop various degrees for accreditation; providing for a director of the center reporting directly to the president, provost, and vice president of academic affairs of the university; providing for the director's appointment and the filling of vacancies; providing for an academic council; enumerating areas over which the director has authority; providing that the director's authority shall be exercised in consultation with the president and the provost; requiring the center to adhere to institutional policies and procedures; requiring approval of the curriculum by the West Virginia University by the Board of Governors; requiring faculty to meet the university's qualifications policy; providing for limitations on employment and service of legislators; and providing for an annual report.”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 564**), and there were--yeas 87, nays 7, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Lewis and Pushkin.

Absent and Not Voting: Maynor, McCormick, McGeehan, Riley, Rohrbach and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3297) passed.

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

At 9:43 a.m., on motion of Delegate Kelly, the House of Delegates recessed until 10:15 a.m.

Motions

The Chair asked and obtained unanimous consent by the House for restyling of the motions to include Delegate Kelly in Delegate McGeehan's absence.

Delegate Kelly asked and obtained unanimous consent to proceed to the Twelfth Order of business to consider bills on Third Reading.

Special Calendar

Third Reading

Com. Sub. for S. B. 128, Preventing courts from ordering services at higher rate than Medicaid; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 565**), and there were--yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Butler, Devault, Maynor, Mazzocchi, McGeehan, Petitto, Pinson and Rohrbach.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 128) passed.

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

S. B. 856, Removing certain reporting requirements to Joint Committee on Government and Finance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 566**), and there were--yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Butler, W. Clark, Devault, Mazzocchi, McGeehan, Petitto, Pinson, Pushkin and Rohrbach.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 856) passed.

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

Com. Sub. for S. B. 299, Modifying WV regulations on pubertal modulation, hormonal therapy, and gender reassignment; on third reading, coming up in regular order, was reported by the Clerk.

The Committee on Health and Human Resources moved to amend the bill on page 7, section 20, line 76, by striking subsections (d), (e), (f), (g) and (h);

And,

On page 10, section 20, line 44, by striking subsections (d), (e), (f), (g) and (h);

And,

On page 11, section 20, line 67, by inserting a new subsection to read as follows:

“(d) A physician assistant may elect to not participate in a gender reassignment surgery, and may not be disciplined by his or her employer for the decision.”

And,

On page 13, section 15f, line 44, by striking subsections (d), (e), (f), (g) and (h);

And,

On page 14, section 15f, line 67, by inserting a new subsection to read as follows:

“(d) An advanced practice registered nurse or registered nurse may elect to not participate in a gender reassignment surgery, and may not be disciplined by his or her employer for the decision.”

And,

On page 17, section 17, line 77, by striking subsections (d), (e), (f), (g) and (h).

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 567**), and there were-- yeas 26, nays 70, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Amos, Ellington, Fehrenbacher, Flanigan, Fluharty, Garcia, Hamilton, Hansen, Heckert, Hornbuckle, Hott, Kelly, Lewis, McCormick, Miller, Pushkin, Shamblin, D. Smith, Statler, Stephens, Toney, Vance, Williams, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Criss, McGeehan, Riley and Rohrbach.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

An amendment offered by Delegates Heckert and Fehrenbacher was reported by the Clerk.

Whereupon,

Delegate Heckert asked and obtained unanimous consent to withdraw the amendment.

Delegate Flanigan asked and obtained unanimous consent to reform the following amendment:

Delegate Flanigan moved to amend the bill on page 7, section 20, line 76, by striking subsection (d) and inserting a new subsection (d) to read as follows: “(d) The amendments made to this article during the 2025 regular session of the Legislature are effective on July 1, 2026, to permit down titration from gender altering medication.”

And,

On page 10, section 20, line 44, by striking subsection (d) and inserting a new subsection (d) to read as follow: “(d) The provisions of this section are effective on July 1, 2026, to permit down titration from gender altering medication.”

And,

On page 13, section 15f, line 45, by striking subsection (d) and inserting a new subsection (d) to read as follow: “(d) The provisions of this section are effective on July 1, 2026, to permit down titration from gender altering medication.”

And,

On page 16, section 20, line 78, by striking subsection (d) and inserting a new subsection (d) to read as follows: “(i) The amendments made to this article during the 2025 regular session of the Legislature are effective on July 1, 2026, to permit down titration from gender altering medication.”

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 568**), and there were-- yeas 28, nays 71, absent and not voting 1, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Amos, Anderson, Bridges, Canterbury, T. Clark, Cooper, Eldridge, Ellington, Flanigan, Fluharty, Garcia, Hall, Hamilton, Hansen, Heckert, Hornbuckle, Hott, Kelly, Lewis, Pushkin, Shamblin, B. Smith, Statler, Williams, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: McGeehan.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegate Sheedy demanded the previous question, which demand was sustained.

On adoption of the motion for the previous question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 569**), and there were-- yeas 60, nays 37, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Anderson, Bridges, Campbell, D. Cannon, Criss, Dean, Dittman, Eldridge, Ellington, Ferrell, Fluharty, Funkhouser, Garcia, Hamilton, Hansen, Heckert, Hornbuckle, G. Howell, Jeffries, Jennings, Kelly, Lewis, Maynor, Pinson, Pushkin, Riley, Roop, Shamblin, B. Smith, Statler, Toney, Vance, Williams, Worrell, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Hall, McGeehan and Street.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

The Clerk then read the bill a third time

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 570**), and there were--yeas 86, nays 12, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Ellington, Flanigan, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Statler, Williams and Young.

Absent and Not Voting: McGeehan and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 299) passed.

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2066, Creating a crime for the destruction of first responder equipment.

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-60. Damage, destruction, or theft of equipment used by emergency responders; criminal penalties.

(a) Any person who knowingly and willfully damages, destroys, or commits the larceny of any equipment, or personal property, owned or operated by the state, a county or a municipality of this state, a volunteer fire department of this state, or a private entity that has contracted with the state or a county or municipality of the state for the performance of emergency response duties, that is used by emergency responders in the performance of emergency response duties, whether that equipment or personal property is in use or maintained in a garage or other building, structure, or location, and that action thereby creates a substantial risk of bodily injury or actual bodily injury to another person, results in property loss to any person served by the emergency responder, or results in the interruption of service by emergency responders to the public, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned in a state correctional facility not less than one nor more than three years, or both fined and imprisoned.

(b) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.

(c) For purposes of this section:

(1) "Emergency responder" has the same meaning as that term is defined in §5H-1-2 of this code and shall additionally include any entity of a political subdivision of the state providing emergency services pursuant to the provisions of §15-5-8 of this code and any county commission, political subdivision, or county 911 public safety answering point.

(2) "Emergency response duties" has the same meaning as that term is defined in §5H-1-2 of this code and shall additionally include disaster response activities and emergency services as those terms are defined in §15-5-2 of this code and activities of a county commission, political subdivision, or county 911 public safety answering point in providing emergency responder services.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 572**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dillon, McGeehan and Street.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2066) passed.

Delegate Williams asked unanimous consent to address the House, but objection was heard.

Delegate Williams moved that he be granted consent to address the house.

A majority of members present having not voted in the affirmative, the Chair declared the motion lost.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2121, Deceased Disabled Veteran Real Property Exemption for Widowed Spouses.

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

The Committee on the Military moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.

§11-13MM-2. DEFINITIONS.

(a) *General.* — When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used.

(b) *Terms defined.* —

(1) "Ad valorem property tax" means and is limited to the West Virginia ad valorem property tax.

(2) "Business" means any activity taxable under article §11-12-1 *et seq.* of this code, which is engaged in by any person in this State.

(3) "Disabled veteran taxpayer" means a person given an honorable discharge ~~discharge~~ from any branch of the armed services of the United States and who is considered at least 90 percent totally and permanently disabled due solely to service-connected disabilities by the United States Department of Veterans Affairs.

(4) "Eligible motor vehicle" means a motor vehicle on which the ad valorem property tax has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined in this article.

(5) "Eligible widowed spouse" means the unmarried surviving spouse of a disabled veteran taxpayer who had previously received the disabled veteran real property tax credit authorized by §11-13MM-4 of this code.

(56) "Flow-through entity," "conduit entity," or "pass through entity" means an S Corporation, partnership, limited partnership, limited liability partnership, or limited liability company. The term "flow-through entity," "conduit entity," or "pass through entity" includes a publicly traded

partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 781: *Provided*, That a publicly traded partnership as defined in section 7704 of the Internal Revenue Code having equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 781, and any other person or entity that is treated as a C corporation for federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et seq.* of this code for purposes of this article.

(67) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this code: Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility terrain vehicles as defined in §20-15-2 of this code.

(78) "Person" means and includes an individual, a trust, estate, partnership, pass through entity, association, company, or corporation.

(89) "Personal property" shall have the same meaning as in §11-5-1 *et seq.* of this code: *Provided*: That, for the purposes of this article, the term "personal property" shall not include a working interest in any oil, natural gas, or natural gas liquid producing property or any property of a public service company.

(910) "Personal property taxes paid" means the aggregate of regular levies, excess levies, and bond levies extended against personal property that are paid during the calendar year and determined after any application of any discount for early payment of taxes. "Personal property taxes paid" does not include any untimely ad valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes, or any penalty or interest for late payment of property taxes.

(1011) "Public service company" means a corporation or other business entity which delivers services considered essential to the public interest that are regulated by the applicable federal or state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas, telecommunications, and water, and those transporting personal property or passengers, including, but not limited to, airlines, railroads, trucking, and bus companies, and which are centrally assessed by the state for property tax purposes.

(1112) "Real property taxes paid" means the aggregate of regular levies, excess levies, and bond levies that are paid during the calendar year and determined after any application of any discount for early payment of taxes. "Real property taxes paid" does not include any untimely ad valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes, or any penalty or interest for late payment of property taxes.

§11-13MM-4. Disabled veteran and eligible widowed spouse of a disabled veteran real property tax credit.

(a) *Credit allowed.* — ~~Disabled veterans~~ A disabled veteran taxpayer or eligible widowed spouse may receive a tax credit against the tax imposed under §11-21-1 *et seq.* of this code in the amount of West Virginia ad valorem property tax timely paid on his or her homestead during the personal income taxable year.

(b) *Amount of credit.* — Any ~~homeowner taxpayer~~ meeting the definition of a disabled veteran taxpayer or eligible widowed spouse under this article shall be allowed a refundable credit against

the taxes imposed by §11-21-1 *et seq.* of this code equal to the amount of West Virginia ad valorem real property taxes timely paid a county sheriff on a homestead which is used or occupied exclusively for residential purposes, as those terms are defined in §11-6B-2, during the personal income taxable year: *Provided*, That in no case shall any credit be allowed under this article for any untimely real property tax paid, or any payment of delinquent real property tax, or payment of "back tax" real property taxes.

(c) *Application of credit against personal income tax.* — The amount of credit allowed under this section shall be taken against the personal income tax liability, imposed by article §11-21-1 *et seq.* of this code, of the ~~eligible taxpayer~~ disabled veteran taxpayer or eligible widowed spouse.

(d) *Refundable portion of annual credit allowance.* — If ~~the~~ annual tax credit allowed under this article exceeds the amount of personal income tax subject to offset under this article in any taxable year, the ~~eligible taxpayer~~ disabled veteran taxpayer or eligible widowed spouse may claim, for that taxable year, the excess amount as a refundable tax credit.

(e) *Termination of tax credit.* — Any tax credit approved in accordance with the provisions of this section shall terminate immediately when any of the following events occur:

(1) The death of the ~~owner of the property~~ disabled veteran taxpayer for which the tax credit was authorized: *Provided*, That an eligible widowed spouse may continue to receive the tax credit until his or her death or remarriage;

(2) The sale of the property for which the tax credit was approved; or

(3) A determination by the assessor that the property for which the tax credit was approved no longer qualifies for the tax credit in accordance with the provisions of this section.

(f) *Forms and instructions.* — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section.

The Committee on the Military moved to amend the title of the bill to read as follows:

Eng. Com. Sub. for H. B. 2121—A Bill to amend and reenact §11-13MM-2 and §11-13MM-4 of the Code of West Virginia, 1931, as amended, relating to providing for a real property tax credit for eligible widowed spouses of disabled veteran taxpayers.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 571**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Lewis, McGeehan and Street.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2121) passed.

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

On motion of the Chair, the House returned to further consideration of **Com. Sub. for H. B. 2026**.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 572**), and there were-- yeas 97, nays 0, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dillon, McGeehan, and Street.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2026) passed.

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

At 1:04 p.m., on motion of Delegate Kelly, the House of Delegates recessed until 2:00 p.m.

A message from the Senate, by

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

Com. Sub. for H. B. 2695, Raleigh and Mason Counties Economic Opportunity Development Districts.

On motion of Delegate Kelly, the House concurred in the following amendment by the Senate, with further amendment:

Senator Jeffries moved to amend the amendment on page 3, section 9, line 50, by striking out "2053" and inserting in lieu thereof "2057";

And,

On page 3, section 9, line 52, by striking out "2053" and inserting in lieu thereof "2057";

And,

On page 5, after line 104, by striking out all of section 14.

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

Eng. House Bill 2695— "A Bill to amend and reenact §7-22-9 of the code of West Virginia, 1931, as amended, relating to county economic opportunity development districts; authorizing Raleigh County to levy a special district excise tax for the benefit of the Raleigh County Economic Opportunity Development District; authorizing Mason County to levy a special district excise tax for the benefit of the Town of Henderson Economic Opportunity District; and requiring Mason County and Raleigh County to comply with requirements to hold a public hearing, submit a certain application, and receive approval as required by law; and requiring jurisdictions authorized to levy special excise tax to file a detailed annual report."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 573**), and there were-- yeas 87, nays 8, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Anders, Coop-Gonzalez, Dillon, T. Howell, Kimble, Kump, Statler and White.

Absent and Not Voting: D. Cannon, Flanigan, Heckert, G. Howell and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2695) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2014, Certified Microgrid Program.

On motion of Delegate Riley, the House concurred in the following amendment and title amendment by the Senate, with further amendment:

Senator Rose moved to amend the amendment on page 3, section 21, lines 67 through 69, by striking out all of subdivision (7);

And,

On page 28, after line 40, by inserting a new section, designated section 21a, to read as follows:

§24-2-21a. Commission authority required when closing an electric generating plant and circumstances of closure in another jurisdiction.

(a) A public electric utility may not retire, abandon, close, or otherwise permanently render incapable of operating, any electric generating plant or unit without the prior consent and approval of the commission. No funds obtained from (1) the Grid Stabilization and Security Fund set forth in 5B-2N-2a, (2) an environmental control bond issued pursuant to 24-2-4(e), (3) a consumer rate relief bond issued pursuant to 24-2-4f, (4) or a utility consumer rate relief bond issued pursuant to 24-2-4h shall be used by a public utility to retire, abandon, close, or otherwise permanently render incapable of operating, any electric generating plant or unit.

(b) If an electric utility serving customers in both West Virginia and in an area not subject to the jurisdiction of the commission is ordered to cease operations of a generating plant or unit by the regulating authority of the other jurisdiction and the costs of the plant or unit had been shared through an allocation process for rate making purposes and after a commission proceeding and determination that a generating plant or unit should continue to operate, then the utility shall recover all of the capital, operating and maintenance costs of the electric generation plant or unit

from its West Virginia customers to the extent that such costs are no longer allocable to the other jurisdiction, and all of the associated capacity, energy, and environmental attributes shall be assigned to its customers and operations in West Virginia.

On motion of Senator Jeffries, the title of the bill was amended to read as follows:

Eng. House Bill 2014— A Bill to amend and reenact §5B-2-21, §24-2-1d, §24-2-1q, §24-2-4f, §24-2-15, §24-2-19, and §24-2-21a of the Code of West Virginia, 1931, as amended; to amend the code by adding four new sections, designated §5B-2-21a, §5B-2-21b, §5B-2N-2a, and §11B-2-33, and to amend the code by adding a new article, designated §11-6N-1, §11-6N-2, §11-6N-3, §11-6N-4, and §11-6N-5, and to repeal §11-8-6e of said code, all relating to the generation and consumption of power; establishing the certified microgrid development program; providing for microgrid certification requirements; providing for microgrid electric service requirements; providing for microgrid customer eligibility; providing for microgrid special contracts; prohibiting microgrids from participating in Pilot and tax increment financing programs; defining microgrid property subject to property tax; providing for microgrid letter of intent, notice period and negotiation; providing for microgrid special contracts; establishing the high impact data center program; providing for notification, certification, and recordkeeping; authorizing certain agencies to assist certified microgrid districts and certified high impact data centers; prohibiting local jurisdiction regulation of microgrid districts and high impact data centers; providing for payment of certain fees and taxes; providing for certain services to microgrid districts and certified high impact data centers; establishing the electronic grid stabilization and security fund and its purpose; creating new article relating to special method for valuation of certain high technology property; defining terms; providing for microgrid districts and certified high impact data centers property returns to be filed with Board of Public Works; providing for special rules for tax distribution; establishing certain funds to receive distributions; terminating article; establishing the personal income tax reduction fund and providing for purpose; providing for additional duties of public service commission relating to future electric generating capacity, base fuel coal supply for electric grid resiliency, consumer rate relief bonds, and automatic adjustment clauses, price indexes, or fuel adjustment; providing for rulemaking; providing that certain funds may not be used by a public utility to close or cease operations at an electric generating plant; and relating to repeal of the effect on regular levy rate when appraisal results in tax increase.

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

Eng. House Bill 2014— A Bill to amend and reenact §5B-2-21, §24-2-1d, §24-2-1q, §24-2-15, §24-2-19, and §24-2-21a of the Code of West Virginia, 1931, as amended; to amend the code by adding four new sections, designated §5B-2-21a, §5B-2-21b, §5B-2N-2a, and §11B-2-33, and to amend the code by adding a new article, designated §11-6N-1, §11-6N-2, §11-6N-3, §11-6N-4, and §11-6N-5, all relating to the generation and consumption of electric power; establishing the certified microgrid development program; providing for microgrid certification requirements; providing for microgrid electric service requirements; providing for microgrid customer eligibility; providing for microgrid special contracts; prohibiting microgrids from participating in Pilot and tax increment financing programs; defining microgrid property subject to property tax; providing for microgrid letter of intent, notice period and negotiation; providing for microgrid special contracts; establishing the high impact data center program; providing for notification, certification, and recordkeeping; authorizing certain agencies to assist certified microgrid districts and certified high impact data centers; prohibiting local jurisdiction regulation of microgrid districts and high impact data centers; providing for payment of certain fees and taxes; providing for certain services to microgrid districts and certified high impact data centers; establishing the electric grid stabilization and security fund and its purpose; creating new article relating to special method for valuation of

certain high technology property; defining terms; providing for microgrid districts and certified high impact data centers property returns to be filed with Board of Public Works; providing for special rules for tax distribution; establishing certain funds to receive distributions; terminating article; establishing the personal income tax reduction fund and providing for purpose; providing for additional duties of public service commission relating to future electric generating capacity, base fuel coal supply for electric grid resiliency, consumer rate relief bonds, and automatic adjustment clauses, price indexes, or fuel adjustment; providing for rulemaking; providing that certain funds may not be used by a public utility to close or cease operations at an electric generating plant; and relating to repeal of the effect on regular levy rate when appraisal results in tax increase.

Delegate Brooks demanded the previous question be ordered on the motion by Delegate Riley. Demand was sustained and the motion prevailed. The Chair declared the previous question ordered on the motion.

Delegate Williams moved to reconsider the motion for the previous question. Less than a majority of the members present having voted in the affirmative, the Chair declared that motion rejected.

Delegate Coop-Gonzalez demanded the previous question be ordered. Demand was sustained, and roll call was requested and sustained.

On the motion for the previous question, the yeas and nays were taken (**Roll No. 574**), and there were--yeas 67, nays 31, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Akers, Anders, Anderson, Bridges, D. Cannon, Dean, Fluharty, Funkhouser, Garcia, Gearheart, Hamilton, Hansen, Holstein, Hornbuckle, Hornby, Hott, G. Howell, Jennings, Kelly, Kimble, Lewis, Linville, Maynor, Pinson, Shamblin, Statler, Toney, Vance, Worrell, Young, and Hanshaw (Speaker).

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members having voted in the affirmative, the Speaker declared the motion to the previous question adopted.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 575**), and there were--yeas 82, nays 16, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Anders, Bridges, Fluharty, Funkhouser, Garcia, Gearheart, Hamilton, Hansen, Hornbuckle, Jennings, Kimble, Lewis, Pushkin, Street, Williams and Young.

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2014) passed.

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

A message from the Senate, by

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

H. B. 2358, Relating to postmortem examinations.

On motion of Delegate Kelly, the House concurred in the following amendment and title amendment of the bill by the Senate:

The Committee on Government Organization moved to amend the bill on page 1, section 10, line 9, by striking out “request” and inserting the word “decedent”.

On motion of Senator Rucker, the title of the bill was amended to read as follows:

Eng. House Bill 2358—A Bill to amend and reenact §61-12-10 of the Code of West Virginia, 1931, as amended, relating to postmortem examinations; establishing time periods for conducting autopsy; and setting time period for providing report of autopsy to certain individuals.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 576**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2358) passed.

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

A message from the Senate, by

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

H. B. 2575, Relating to the establishment of a full-time Dementia Services Director position.

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

The Committee on Health and Human Resources moved to amend the bill on page 1, section 9, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision (3), to read as follows:

(3) Evaluate all applicable state government services and make recommendations to increase efficiency and improve the quality of care in residential and home and community-based settings;

And,

On page 1, section 9, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision (5), to read as follows:

(5) Evaluate information and resources affecting West Virginians living with dementia and their caregivers, including:

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 577)**, and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Fluharty and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2575) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2718, Relating to creating a State Advisory Council on Establishing a Military College.

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

Senator Weld moved to amend the bill on page 2, section 12, line 23, after the word "following" by striking out the word "three" and inserting in lieu thereof the word "four";

And,

On page 2, section 12, line 25, after the word "designee;" by striking out the word "and";

And,

On page 2, section 12, line 26, after the word "designee" by inserting the following: "; and (4) A representative of a West Virginia, private, not-for-profit higher education institution."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 578)**, and there were--yeas 94, nays 2, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Kump and Lewis.

Absent and Not Voting: Flanigan, Fluharty, McGeehan and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2718) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2755, To provide that the West Virginia Board of Education may promulgate rules or policies to be submitted to the Legislature for review.

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

Senator Stuart moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3B. STATE BOARD OF EDUCATION RULEMAKING.

§29A-3B-1. Findings; definitions.

(a) The Legislature finds:

(1) That section one, article twelve of the West Virginia Constitution, titled "Education", states in relevant part "The Legislature shall provide", which language gives the Legislature primacy of authority over education in the State;

(2) That section one, article twelve of the West Virginia Constitution remains identical today as it was when the constitution was adopted in 1872, where the Legislature exercising its authority under section one, article twelve of "Education", created the four-member West Virginia Board of Examiners in 1905. This was followed by the West Virginia Board of Education in 1908, and then the Legislature abolished that board and created a new State Board of Education in 1919;

(3) That the constitutional amendment of 1958 transferred the already established authority from the elected state superintendent to the West Virginia Board of Education with the same responsibilities for "general supervision" of free schools, and "performing such duties as may be prescribed by law". The amendment kept the same authoritative language of responsibilities as had previously existed for the elected state superintendent under section two, article twelve of the West Virginia Constitution, without adding additional authoritative responsibility in the amendment;

(4) That section one, article twelve of the West Virginia Constitution does not entail the exclusive delegation of rule-making functions to the Legislature, but it does establish the Legislature as the ultimate authority to approve, amend, or reject rules promulgated by the West Virginia Board of Education under section two, article twelve of the West Virginia Constitution;

(5) That pursuant to section one, article five of the West Virginia Constitution, there are only three branches of government; and

(6) That the Legislature exercises authority over the West Virginia Board of Education pursuant to §18-2-5 of this code.

(b) As used in this article,

~~(a) "Commission" means the Legislative Oversight commission on education accountability created in section eleven, article three-a of this chapter.~~

~~(b)~~ "board" means the West Virginia Board of Education.

§29A-3B-8. Adoption of rules.

A rule shall be considered by the board for adoption not later than six months after the close of public comment and a notice of withdrawal or adoption shall be filed in the State Register within that period. Failure to file such notice shall constitute withdrawal and the Secretary of State shall note such failure in the State Register immediately upon the expiration of the six-month period.

A rule may be amended by the board prior to final adoption without further hearing or public comment. No such amendment may change the main purpose of the rule. If the fiscal implications have changed since the rule was proposed, a new fiscal note shall be attached to the notice of filing. Upon adoption of the rule (including any such amendment), the board shall file the text of the adopted rule with its notice of adoption in the State Register. ~~and the same shall be effective on the date specified in the rule or thirty days after such filing, whichever is later.~~

§29A-3B-9. ~~Submission of legislative rules to the Legislative Oversight Commission on Education Accountability.~~ State Board of Education to promulgate rules; submission of legislative rules to the Legislative Oversight Commission on Education Accountability; submission of legislative rules, findings, and recommendations to the Legislature.

(a) Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies, and any new rule so promulgated shall be submitted to the Legislature for its review and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law, and pursuant to this section.

(b) If, within 15 months, the Legislature does not review and approve, or reject, in whole or in part, the rule as promulgated or amended in the manner prescribed by general law, and pursuant to this section, the rule shall become effective as initially promulgated by the West Virginia Board of Education.

~~(a)~~ (c) When the board proposes a legislative rule it has adopted, the board shall submit the following to the Legislative Oversight Commission on Education Accountability: (1) The full text of the legislative rule as proposed by the board and filed with the office of the Secretary of State, with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible; (2) a brief summary of the content of the legislative rule and a description and a copy of any existing rule which the agency proposes to amend or repeal; (3) a statement of the circumstances which require the rule; (4) a fiscal note containing all information included in a fiscal note for either chamber of the Legislature and a statement of the economic impact of the rule on the state or its residents; and (5) any other information which the commission may request or which may be required by law.

~~(b)~~ (d) At its discretion, the board may meet the filing requirement of subsection ~~(a)~~ (c) of this section using either of the following methods:

(1) By submitting ~~twenty~~ 20 copies of the proposed rule to the Legislative Oversight Commission on Education Accountability at its offices or at a regular meeting of the commission; or

(2) By submitting the proposed rule electronically to Legislative Oversight Commission on Education Accountability. Proposed rules submitted electronically shall be transmitted in a timely manner, shall contain all required information, and shall be compatible with computer applications in use by the Legislative Oversight Commission on Education Accountability.

~~(c)~~ (e) The ~~commission~~ Legislative Oversight Commission on Education Accountability shall review each proposed legislative rule and, in its discretion, may hold public hearings thereon. Such review shall include, but not be limited to, a determination of:

(1) Whether the board has exceeded the scope of its statutory authority in approving the proposed legislative rule;

(2) Whether the proposed legislative rule is in conformity with the legislative intent of the statute which the rule is intended to implement, extend, apply, interpret, or make specific;

(3) Whether the proposed legislative rule conflicts with any other provision of this code or with any other rule adopted by the same or a different agency;

(4) Whether the proposed legislative rule is necessary to fully accomplish the objectives of the statute under which the proposed rule was promulgated;

(5) Whether the proposed legislative rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;

(6) Whether the proposed legislative rule could be made less complex or more readily understandable by the general public; and

(7) Whether the proposed legislative rule was promulgated in compliance with the requirements of this article and with any requirements imposed by any other provision of this code.

~~(d) After reviewing the legislative rule, the commission may recommend to the board any changes needed to comply with the legislative intent of the statute upon which the rule is based or otherwise to modify the activity subject to the rule, or may make any other recommendations to the board as it considers appropriate.~~

~~(e) When the board finally adopts a legislative rule, the board shall submit to the Legislative Oversight Commission on Education Accountability at its offices or at a regular meeting of the commission six copies of the rule as adopted by the board. The board, at its discretion, may meet the filing requirement contained in this subsection by submitting the legislative rule in electronic format to the Legislative Oversight Commission on Education Accountability. Rules submitted electronically shall be transmitted in a timely manner and shall be compatible with computer applications in use by the Legislative Oversight Commission on Education Accountability.~~

(f) After reviewing the legislative rule, the Legislative Oversight Commission on Education Accountability ~~may shall~~ recommend to ~~that~~ the Legislature: ~~any statutory changes needed to clarify the legislative intent of the statute upon which the rule is based or may make any other recommendations to the Legislature as it considers appropriate.~~

- (1) Authorize the promulgation of the legislative rule;
- (2) Authorize the promulgation of part of the legislative rule;
- (3) Authorize the promulgation of the legislative rule with certain amendments;
- (4) Recommend that the proposed rule be withdrawn; or
- (5) Reject the proposed rule.

(g) The Legislative Oversight Commission on Education Accountability's submission of legislative rules submitted to them by the West Virginia Board of Education, alongside their findings and recommendations, shall be done in accordance with the procedures, but not the underlying delegating authority of §29A-3-1 et seq. of this code.

§29A-3B-10. Emergency legislative rules; procedure for promulgation; definition.

(a) The ~~board~~ West Virginia Board of Education may, without hearing, find that an emergency exists requiring that emergency rules be promulgated and promulgate the same in accordance with this section. Such emergency rules, together with a statement of the facts and circumstances constituting the emergency, shall be filed in the State Register and shall become effective immediately upon such filing. Such emergency rules may adopt, amend, or repeal any legislative rule, but the circumstances constituting the emergency requiring such adoption, amendment, or repeal shall be stated with particularity and be subject to de novo review by any court having original jurisdiction of an action challenging their validity.

(b) The board shall file ten copies of the rules and of the required statement with the Legislative Oversight Commission on Education Accountability. At its discretion, the board may meet the filing requirement contained in this subsection by submitting the emergency rule electronically to the Legislative Oversight Commission on Education Accountability. Proposed rules submitted electronically shall be transmitted in a timely manner, shall contain all required information and shall be compatible with computer applications in use by the Legislative Oversight Commission on Education Accountability.

(c) An emergency rule shall be effective for not more than ~~fifteen~~ 15 months and shall expire earlier if any of the following occurs:

(1) The board has not previously filed and fails to file a notice of public hearing on the proposed rule within ~~sixty~~ 60 days of the date the proposed rule was filed as an emergency rule; in which case the emergency rule expires on the sixty-first day.

(2) The board has not previously filed and fails to file the proposed rule with the Legislative Oversight Commission on Education Accountability within ~~one hundred eighty~~ 30 days of the date the proposed rule was filed as an emergency rule; in which case the emergency rule expires on the ~~one hundred eighty-first~~ thirty-first day.

(3) The board adopts a legislative rule dealing with substantially the same subject matter since such emergency rule was first promulgated and in which case the emergency rule expires on the date the authorized rule is made effective.

(d) Any amendment to an emergency rule made by the board shall be filed in the State Register and does not constitute a new emergency rule for the purpose of acquiring additional time or avoiding the expiration dates in subdivision (1), (2), or (3), subsection (c) of this section.

(e) Once an emergency rule expires due to the conclusion of 15 months or due to the effect of subdivision (1), (2), or (3), subsection (c) of this section, the board may not refile the same or similar rule as an emergency rule.

(f) Emergency legislative rules currently in effect under the prior provisions of this section may be refiled under the provisions of this section.

(g) The provision of this section shall not be used to avoid or evade any provision of this article or any other provisions of this code, including any provisions for legislative review of proposed rules. Any emergency rule promulgated for any such purpose may be contested in a judicial proceeding before a court of competent jurisdiction.

(h) ~~The Legislative Oversight Commission on Education Accountability~~ Within 15 months, the Legislative Oversight Commission on Education Accountability may shall review any emergency rule to determine: (1) Whether the board has exceeded the scope of its statutory authority in promulgating the emergency rule; (2) whether there exists an emergency justifying the promulgation of such rule; and (3) whether the rule was promulgated in compliance with the requirements and prohibitions contained in this section. The commission may recommend to the board, the Legislature, or the Secretary of State such action as it may deem proper.

§29A-3B-11. Legislative review of procedural rules, interpretive rules, and existing legislative rules.

The Legislative Oversight Commission on Education Accountability may review any procedural rules, interpretive rules, or existing legislative rules and may make recommendations concerning such rules to the Legislature, or to the board, or to both the Legislature and the board.

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. House Bill 2755 - A BILL to amend and reenact §29A-3B-1, §29A-3B-8, § 29A-3B-9, §29A-3B-10, and §29A-3B-11 Code of West Virginia, 1931, as amended, relating to requiring the State Board of Education to submit newly promulgated rules to the Legislature through the Legislative Oversight Commission on Education Accountability; allowing the Legislature to approve, amend, or reject, in whole or in part, these rules in a manner prescribed by general law and pursuant to this article; adjusting the time frames for the State Board of Education to submit emergency rules to the Legislative Oversight Commission on Education Accountability; and providing for the expiration of those emergency rules if notice is not timely filed with the committee.

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

Delegate Pritt demanded the previous question, which demand was sustained.

On adoption of the motion for the previous question, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 579**), and there were--yeas 48, nays 49, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Amos, Anders, Barnhart, Brooks, Browning, Burkhammer, Butler, J. Cannon, T. Clark, W. Clark, Clay, Cooper, Coop-Gonzalez, Crouse, Devault, Dillon, Ellington, Fehrenbacher, Foggin, Funkhouser, Hall, Hornby, Horst, T. Howell, Jennings, Kyle, Leavitt, Mallow, Marple, Martin, Masters, Mazzocchi, McCormick, Miller, Moore, Petitto, Phillips, Pritt, Ridenour, Rohrbach, Roop, Sheedy, B. Smith, D. Smith, Steele, Stephens, Ward and White.

Absent and Not Voting: Flanigan, Hillenbrand and McGeehan.

So, the majority of members present having not voted in the affirmative, the motion was rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 580**), and there were--yeas 66, nays 32, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Nays: Adkins, Anderson, Bridges, Campbell, T. Clark, Clay, Criss, Dean, Dittman, Eldridge, Fehrenbacher, Fluharty, Garcia, Hall, Hamilton, Hansen, Heckert, Hornbuckle, Kump, Lewis, Lucas, McCormick, Parsons, Pushkin, Shamblyn, Sheedy, B. Smith, Toney, Vance, Williams, Young and Zatezalo.

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2755) passed.

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

A message from the Senate, by

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

H. B. 3492, Relating to municipal economic opportunity development districts.

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

The Committee on Economic Development moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 38. MUNICIPAL ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

§8-38-9. AUTHORIZATION TO LEVY SPECIAL DISTRICT EXCISE TAX.

(a) *General*. — Municipalities have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended,

and intends by this article to exercise certain relevant powers expressed in section six-a, article X of the Constitution of this state as follows:

(1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the state, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; and

(2) the Legislature may impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe.

Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the General Revenue Fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the General Revenue Fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a municipality until after the Legislature expressly authorizes the municipality to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.

(b) *Authorizations.* — The Legislature authorizes the following municipalities to levy special district excise taxes on sales of tangible personal property and services made from business locations in the following economic opportunity development districts-;

(1) The City of South Charleston may levy a special district excise tax for the benefit of the South Charleston Park Place Economic Opportunity Development District which comprises up to two thousand one hundred contiguous acres of land.

(2) The City of Huntington may levy a special district excise tax for the benefit of the City of Huntington Economic Opportunity Development District which comprises 146 acres of land, subject to holding public hearing as provided in §8-38-6 of this code, submitting the application required by §8-38-6 and §8-38-7 of this code, and obtaining the approval of the West Virginia Division of Economic Development as provided in §8-38-7 of this code.

(c) *Annual Reports.* -- Notwithstanding any other provision of this code to the contrary, any jurisdiction that imposes a special district excise tax shall compile and issue an annual report for each fiscal year of operation, such year beginning on July 1 and ending on June 30. The annual report shall be issued on or before the next succeeding December 31 after the close of each fiscal year.

(1) The annual report shall be filed with the Governor, the Secretary of Commerce, the Secretary of Revenue, and the Joint Committee on Government and Finance.

(2) The annual report shall set forth in detail the following information:

(A) The amount of special district excise tax collected during the fiscal year.

(B) The total assessed value of all property located in the district at the inception of the district;

(C) The total assessed value of all property for the most recent property tax year in the district;

(D) A list of all businesses operating in the special district during the report year;

(E) The amount of indebtedness attributed to the sales tax increment financing project;

(F) The date of maturity for debts and annual amortization payment schedules for debt financed with the sales tax increment financing project;

(G) The projected date for retirement of all debt financed with the sales tax increment financing project;

(H) The projected date of dissolution of the special district.

The Committee on Economic Development moved to amend the title of the bill to read as follows:

Eng. House Bill 3492—A Bill to amend and reenact §8-38-9 of the Code of West Virginia, 1931, as amended, relating to authorizing the City of Huntington to levy a special district excise tax for the benefit of the City of Huntington Economic Opportunity Development District; requiring City of Huntington to comply with requirements to hold a public hearing, submit a certain application, and receive approval as required by law; and requiring jurisdictions authorized to levy special excise tax to file a detailed annual report.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 581)**, and there were--yeas 86, nays 12, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Anders, Coop-Gonzalez, Dillon, Horst, T. Howell, Jennings, Kimble, Kump, Martin, Ridenour, Ward and White.

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3492) passed.

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

A message from the Senate, by

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

H. B. 3503, Relating to regulation by counties, municipalities, and political subdivisions of commercial horticulture under the Water Pollution Control Act.

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

Senator Rucker moved to amend the bill on page 1, section 31, after line 12, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Any political subdivision of this state may not enact an ordinance within the subject matter of said Water Pollution Control Act that is more stringent than any federal or state rule, regulation, program, or permitting regime.

On motion of Senator Rucker, the title of the bill was amended to read as follows:

Eng. House Bill 3503—A Bill to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-11-31, relating to prohibiting the regulation by any county, municipality, or political subdivision of commercial horticulture within the subject matter of the Water Pollution Control Act; providing that such regulations are invalid and unenforceable; prohibiting any county, municipality, or political subdivision from bringing a cause of action within the subject matter of the Water Pollution Control Act against any commercial horticulture operation; and providing that any political subdivision may not enact an ordinance within the subject matter of the Water Pollution Control Act that is more stringent than any federal or state rule, regulation, program, or permitting regime.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 582**), and there were--yeas 84, nays 13, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Funkhouser, Garcia, Hamilton, Hansen, Hornbuckle, Horst, Lewis, Pritt, Pushkin, Williams, Young and Zatezalo.

Absent and Not Voting: Flanigan, McGeehan and Shamblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3503) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2267, Authorizing Department of Revenue to Promulgate Legislative Rules.

Delegate Gearheart moved to reconsider the rejection of the motion to concur with Senate amendments to the bill (Com. Sub. for H. B. 2267).

The motion was adopted.

Delegate Ward demanded the previous question, which demand was sustained.

On adopted of the motion for the previous question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 583**), and there were-- yeas 68, nays 26, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Bridges, Criss, Dean, Eldridge, Fluharty, Funkhouser, Garcia, Hamilton, Hansen, Heckert, Hornbuckle, Hott, Jennings, Kelly, Kimble, Lewis, Pinson, Pushkin, Riley, Shamblin, Statler, Toney, Vance, Williams, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Flanigan, Linville, Maynor, McGeehan and Worrell.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

On motion of Delegate Kelly, the House concurred in the following amendment by the Senate, with further amendment:

Senator Barrett moved to amend the bill on page 2, section 1, after line 3, by adding the following:

On page 13, paragraph 2.30.9, after the words "(iv) canned or packaged food valued at least" by deleting "\$100" and inserting in lieu thereof "\$50".

And,

On page 24, by striking out all of paragraph 3.2.1.a., and inserting in lieu thereof a new paragraph 3.2.1.a. to read as follows:

3.2.1.a. That is located on any college campus, state university campus, or branch thereof, unless it is located in an on-campus structure listed on the National Register of Historic Places located within a designated National Historic Landmark District or such private club type is located upon the premises of a National Collegiate Athletic Association, or its successor, approved Division I, II, or III sports stadium used for revenue generating sports by a college or university on its campus and no classes are held at the sports stadium or at a private college sports stadium.

And,

On page 34, subparagraph 3.4.7.c by striking out "2.22.5" and inserting in lieu thereof "2.25.5".

And,

On page 37, subsection 3.4.12.e, line six, following the words "commissioner's requirements" and the period, by inserting a new sentence to read as follows: "Furthermore, where a municipality has authorized sidewalk dining areas by ordinance, a qualified permit holder has

obtained a sidewalk dining permit from the municipality and the Commissioner, and additionally the municipality has authorized by ordinance that a qualified permit holder in the PODA may provide for the lawful sale, service, and tendering of alcohol (such alcohol as authorized for sale by the licensee's license) from an approved sidewalk dining area in approved PODA cups to patrons, and the qualified permit holder has added the sidewalk dining area or areas as a part of its WVABCA floorplan comprising its licensed premises, then such qualified permit holder may conduct such lawful sales, service, and tendering of alcohol (such alcohol as authorized for sale by the licensee's license) from the sidewalk dining area or areas without the dining requirement for such to-go alcoholic beverage sales."

And.

On page 39, paragraph 4.2.3, after the word "A" by inserting the word "valid".

And,

On page 39, paragraph 4.2.3 by deleting the word "card".

And,

On page 39, paragraph 4.2.4, after the word "A" by inserting the word "valid".

And,

On page 39, paragraph 4.5.5 by striking out the word "The" and inserting in lieu thereof the words "In each public restroom the".

And,

On page 40, subsection 4.8, after the words "cleared of all members and guests" by inserting the words "one hour and".

And,

On page 48, subparagraph 5.1.1.h by striking out the words "in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;" and inserting in lieu thereof the words "in any capacity that includes, even incidentally, the selling, furnishing, tendering, serving, or giving of nonintoxicating beer, wine, or alcoholic liquors to any person;".

Delegates Kelly and Criss move to move to concur in the Senate amendment to the bill with further amendment on page two, by striking out the words:

"On page 40, subsection 4.8, after the words "cleared of all members and guests" by inserting the words "one hour and".

And,".

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 584**), and there were--yeas 65, nays 29, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Anders, Barnhart, Brooks, Burkhammer, Butler, T. Clark, Coop-Gonzalez, Dillon, Dittman, Ferrell, Garcia, Green, Holstein, T. Howell, Jeffries, Jennings, Kump, Lewis, Martin, Miller, Parsons, Pinson, Pritt, Steele, Street, Toney, Vance, Ward and White.

Absent and Not Voting: Cooper, Flanigan, Linville, Maynor, McGeehan and Worrell.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) passed.

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

Delegate Martin moved to amend the effective date by striking the words "in passage" from the primary amendment, and to insert "July 1, 2025."

A majority of members present having not voted in the affirmative, the Chair declared the amendment lost.

On this question, the yeas and nays were taken (**Roll No. 585**), and there were--yeas 71, nays 24, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, T. Clark, Coop-Gonzalez, Devault, Dillon, Ferrell, Hall, T. Howell, Jeffries, Jennings, Kump, Lewis, Martin, Miller, Parsons, Pinson, Pritt, Steele, Street, Toney, Vance and Ward.

Absent and Not Voting: Anders, Cooper, Flanigan, McGeehan and White.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 2344, Relating generally to traffic safety.

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

The Committee on Transportation and Infrastructure moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-9A. APPROACHING ~~AUTHORIZED EMERGENCY~~ STATIONARY VEHICLES; PENALTIES.

(a) The driver of any vehicle approaching a stationary ~~authorized emergency~~ vehicle, when the ~~authorized emergency~~ stationary vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights or amber or yellow warning lights, emergency flashers or hazard lights, flares, or retroreflective warning sign shall:

(1) Proceed with due caution, yield the right-of-way by making a lane change not adjacent to that of the ~~authorized emergency~~ stationary vehicle, if possible with regard to safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle and reduce speed to a safe level for road conditions; or

(2) Proceed with due caution, reduce the speed of the vehicle, maintaining a safe speed not to exceed 15 miles per hour on any nondivided highway or street and 25 miles per hour on any divided highway depending on road conditions, if changing lanes would be impossible or unsafe.

(b) (1) Any person who violates any subsection of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in the county or regional jail not more than 60 days, or both fined and ~~imprisoned~~ confined.

(2) If violation of this section results in property damage in addition to any other penalty imposed, driving privileges of the persons causing the property damage shall be suspended for 90 days.

(3) If violation of this section results in injury to another person in addition to any other penalty imposed, the driving privileges of the person causing the injury shall be suspended for six months.

(4) If violation of this section results in the death of another person in addition to any other penalty imposed, the driving privileges of the person causing the death shall be suspended for two years.

(5) Any person who violates any provision of this section and while doing so also violates §17C-5-2 of this code is guilty of a misdemeanor and, upon conviction thereof, shall, in addition to the penalties set out in §17C-5-2 of this code and this section, be fined not less than \$1,000 nor more than \$5,000, or confined in ~~the county or regional~~ jail for a period not more than six months, or both fined and ~~imprisoned~~ confined.

The Committee on Transportation and Infrastructure moved to amend the title of the bill to read as follows:

Eng. House Bill 2344—A Bill to amend and reenact §17C-14-9a of the Code of West Virginia, 1931, as amended, relating to requiring drivers take certain actions when approaching stationary vehicles that display a warning signal; providing for fine, confinement, and suspension of driving privileges.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 586**), and there were--yeas 74, nays 18, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Bridges, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Horst, Jennings, Kimble, Kump, Lewis, Masters, Steele, Toney, Vance, Ward, Williams and Young.

Absent and Not Voting: Anders, Clay, Flanigan, Green, McGeehan, Pushkin, Street and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2344) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2025, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2351, Relating to compensation for panel attorneys.

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

The Committee on Health and Human Resources moved to amend the bill on page 3, section 13a, line 65, by striking out “§29-21-6(h)” and inserting in lieu thereof “§29-21-6(i)”;

And,

On page 6, section 13a, line 131, by striking out “§12-8-11” and inserting in lieu thereof “§12-3-11”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 587**), and there were--yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Anders, Clay, Flanigan, Green, Martin, McGeehan, Street and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2351) passed.

Delegate Kelly moved that the bill take effect July 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 588**), and there were--yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Clay, Flanigan, Green, Martin, McGeehan, Steele, Street and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2351) takes effect July 1, 2025.

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

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

H. B. 2402, Relating to providing access to medical records; providing access to a minor's medical record.

On motion of Delegate Kelly, the House concurred in the following amendment and title amendment of the bill by the Senate:

Senator Chapman moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29. HEALTH CARE RECORDS.

§16-29-1. Copies of health care records to be furnished to patients.

(a) ~~Any licensed, certified or registered~~ A health care provider so licensed, certified or registered under the laws of this state shall, upon the written request of a patient, his or her personal representative, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and any rules promulgated pursuant to the act, and his or her authorized agent or authorized representative, within no more than thirty days from the receipt of the request, furnish a copy, in the form of a paper copy or, if requested and if the provider routinely stores records electronically and has the ability to so provide, a copy in an electronic format including, but not limited to, a downloadable format through a secure web portal, a copy saved upon a computer disc, an electronically mailed copy or a copy saved upon a portable memory device of all or a portion of the patient's record to the patient, his or her personal representative, or authorized agent or authorized representative subject to the following exceptions:

(1) In the case of a patient receiving treatment, ~~for psychiatric or psychological problems,~~ a summary of the record shall be made available to the patient, personal representative, or his or her authorized agent or authorized representative following termination of the treatment. ~~program.~~

(2) The furnishing of a copy, as requested, of the reports of x-ray examinations, electrocardiograms and other diagnostic procedures shall be deemed to comply with the provisions of this article.

~~(b) Nothing in this article shall be construed to require a health care provider responsible for diagnosis, treatment or administering health care services in the case of minors for birth control, prenatal care, drug rehabilitation or related services or venereal disease according to any provision of this code, to release patient records of such diagnosis, treatment or provision of health care as aforesaid to a parent or guardian, without prior written consent therefor from the patient, nor shall anything in this article be construed to apply to persons regulated under the provisions of chapter eighteen of this code or the rules and regulations established thereunder.~~

~~(c)~~ This article does not apply to records subpoenaed or otherwise requested through court process, except for the fee provisions in §16-29-2 of this code, which do apply to subpoenaed records.

~~(d) (c)~~ The provisions of this article may be enforced by a patient, personal representative, authorized agent or authorized representative. ~~and any~~ A health care provider found to be in violation of this article shall pay any attorney fees and costs, including court costs incurred in the course of such enforcement.

~~(e) Nothing in this article shall be construed to apply to health care records maintained by health care providers governed by the AIDS-related Medical Testing and Records Confidentiality Act under the provisions of article three-c of this chapter.~~

§16-29-3. Access to minor's records.

(a) A parent, guardian, foster parent or kinship placement may not be denied access to the health records of their minor child unless otherwise ordered by a court or pursuant to subsection (b) of this section.

(b) A parent is not permitted to access the health records of that parent's minor child if:

(1) The minor child has graduated high school or equivalent;

(2) The minor child is emancipated; or

(3) The minor child is married.

(c) Except as provided in subsection (b) of this section, no release, authorization, nor any form of permission from or by the minor child shall be required or requested as a prerequisite for the parent or legal guardian to obtain the medical records.

On motion of Senator Chapman, the title of the bill was amended to read as follows:

Eng. House Bill 2402—A Bill to amend and reenact §16-29-1 of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §16-29-3, relating to providing access to medical records; providing access to a summary of medical records; providing access to a minor's medical records; removing exemptions for records governed by the AIDS related Medical Testing and Records Confidentiality Act; and providing exemptions for access to a minor's medical records.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 589)**, and there were--yeas 83, nays 9, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Williams and Young.

Absent and Not Voting: Clay, Flanigan, Green, McGeehan, Miller, Street, Vance and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2402) passed.

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

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

Com. Sub. for H. B. 2451, To facilitate the creation of home-based businesses.

Delegate White demanded the previous question, which demand was sustained.

On adoption of the motion for the previous question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 590**), and there were--yeas 59, nays 35, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Nays: Adkins, Akers, Bridges, Criss, Dean, Eldridge, Ferrell, Flanigan, Fluharty, Funkhouser, Garcia, Gearheart, Green, Hall, Hamilton, Hansen, Heckert, Hornbuckle, Kelly, Kimble, Lewis, Linville, Maynor, Petitto, Pushkin, Riley, Rohrbach, Shamblin, Statler, Stephens, Vance, Williams, Worrell, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: G. Howell, Jennings, McGeehan, Pinson, Pritt and Toney.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

Delegate Kelly moved that the House concur in the amendment and title amendment of the bill by the Senate.

On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 591**), and there were--yeas 37, nays 58, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Anders, Anderson, Brooks, Burkhammer, Butler, J. Cannon, Chiarelli, Coop-Gonzalez, Crouse, Dillon, Ellington, Funkhouser, Gearheart, Hillenbrand, Hite, Hornby, Hott, Jeffries, Kelly, Kump, Kyle, Linville, Lucas, Martin, Masters, Maynor, Mazzocchi, Miller, Phillips, Ridenour, D. Smith, Steele, Street, Willis, Worrell, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: G. Howell, Jennings, McGeehan, Pinson and Pritt.

So, a majority of the members present having not voted in the affirmative, the motion was rejected.

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

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

H. B. 2479, Relating to Management and control of county authority vested in board.

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

On motion of Senator Rucker, the title of the bill was amended to read as follows:

Eng. House Bill 2479—A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to management and control of county authority vested in a board; and reducing minimum number of members of county economic development authority.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 592**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: G. Howell, Jennings, McGeehan, Pinson and Pritt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2479) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3016, Photo voter ID.

Delegate Chiarelli moved to limit debate on the bill (Com. Sub. for H. B. 3016) to five minutes.

On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 593**), and there were--yeas 76, nays 19, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dittman, Flanigan, Fluharty, Funkhouser, Garcia, Gearheart, Hamilton, Hansen, Hornbuckle, Kelly, Kimble, Lewis, Lucas, Pushkin, Shamblin, Williams, Worrell, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Hall, G. Howell, McGeehan, Pinson and Pritt.

So, a majority of the members present having voted in the affirmative, the motion was adopted.

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

The Committee on Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**§3-1-34. Voting procedures generally; identification; assistance to voters; voting records; penalties.**

(a) A person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the ~~same person's name and residence~~ in a clear and distinct tone of voice. ~~For elections occurring on or after January 1, 2018, the~~ The person desiring to vote shall present to one of the poll clerks a valid identifying document meeting the requirements of ~~subdivisions (1) or (2) of this subsection §3-1-34(a)(1) or §3-1-34(a)(2) of this code~~, and the poll clerk shall inspect and confirm that the name on the valid identifying document conforms to the name in the individual's voter registration record and that, if the valid identifying document contains a photograph, the image displayed is truly an image of the person presenting the document. If that person is found to be duly registered as a voter at that precinct, he or she shall sign his or her name in the designated location provided at the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under the affixation. ~~No~~ A ballot may not be given to the person until he or she signs his or her name on the designated location or his or her signature is affixed thereon.

(1) A document ~~shall be deemed to be~~ is a valid identifying document if it:

(A) Has been issued either by the State of West Virginia, ~~or one of its subsidiaries~~ political subdivisions or instrumentalities, or by the United States Government; ~~and~~

(B) Contains the name of the person desiring to vote; and

(C) Contains a photograph of the person desiring to vote: *Provided*, That a driver's license or identification card issued in accordance with §17B-2-1(f)(4) of this code that does not contain a photograph of the person desiring to vote is a valid identifying document.

(2) Notwithstanding the provisions of ~~subdivision (1) of this subsection~~ §3-1-34(a)(1) of this code, the following documents, if they contain the voter's name, shall be considered valid identifying documents, and a person desiring to vote may produce any of the following:

(A) A valid West Virginia driver's license or valid West Virginia identification card issued by the West Virginia Division of Motor Vehicles, including a driver's license or identification card issued in accordance with §17B-2-1(f)(4) of this code.

(B) A valid driver's license issued by a state other than the State of West Virginia;

(C) A valid United States passport or passport card;

(D) A valid employee identification card with a photograph of the eligible voter issued by any branch, department, agency, or entity of the United States Government or of the State of West Virginia, or by any county, municipality, board, authority, or other political subdivision of West Virginia;

(E) A valid student identification card with a photograph of the eligible voter issued by an institution of higher education in West Virginia, or a valid high school identification card issued by a West Virginia high school;

(F) A valid military identification card issued by the United States with a photograph of the person desiring to vote; or

~~(G) A valid concealed carry (pistol/revolver) permit issued by the sheriff of the county with a photograph of the person desiring to vote;~~

~~(H) A valid Medicare card or Social Security card;~~

~~(I) A valid birth certificate;~~

~~(J)~~ (G) A valid voter registration card that includes the voter's photograph issued by a county clerk in the State of West Virginia or the Secretary of State. The county clerk or the Secretary of State may not charge or collect a fee for the application or issuance of a voter registration card that includes the voter's photograph.

~~(K) A valid hunting or fishing license issued by the State of West Virginia;~~

~~(L) A valid identification card issued to the voter by the West Virginia Supplemental Nutrition Assistance (SNAP) program;~~

~~(M) A valid identification card issued to the voter by the West Virginia Temporary Assistance for Needy Families (TANF) program;~~

~~(N) A valid identification card issued to the voter by West Virginia Medicaid;~~

~~(O) A valid bank card or valid debit card;~~

~~(P) A valid utility bill issued within six months of the date of the election;~~

~~(Q) A valid bank statement issued within six months of the date of the election; or~~

~~(R) A valid health insurance card issued to the voter.~~

(3) Any expired document identified in §3-1-34(a)(2) of this code is a valid identifying document if presented by a registered voter 65 years of age or older: *Provided, That the identifying document was not expired on the registered voter's 65th birthday.*

~~(3)~~ (4) In lieu of providing a valid identifying document, as required by this section, a registered voter may be accompanied at the polling place by an adult known to the registered voter for at least six months. That adult may sign an affidavit on a form provided to clerks and poll workers by the Secretary of State, which states under oath or affirmation that the adult has known the registered voter for at least six months, and that in fact the registered voter is the same person who is present for the purpose of voting. For the affidavit to be considered valid, the adult shall present a valid identifying document with his or her name, address, and photograph.

~~(4)~~ (5) A poll worker may allow a voter, whom the poll worker has known for at least six months, to vote without presenting a valid identifying document.

~~(5)~~ (6) If the person desiring to vote is unable to furnish a valid identifying document, or if the poll clerk determines that the proof of identification presented by the voter does not qualify as a valid identifying document, the person desiring to vote shall be permitted to cast a provisional ballot after executing an affidavit affirming his or her identity pursuant to ~~paragraph (B) of this subdivision~~ §3-1-34(a)(6)(B) of this code.

(A) The provisional ballot ~~is entitled to~~ may be counted once the election authority verifies the identity of the individual by comparing that individual's signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

(B) The affidavit to be used for voting shall be substantially in the following form:

"State of West Virginia

County of.....

I do solemnly swear (or affirm) that my name is.....; that I reside at.....; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this..... day of....., 20....

.....

Name of Election Official

.....

Signature of Election Official".

~~(6)~~ (7) A voter who votes in person at a precinct polling place that is located in a building which is part of a state licensed care facility where the voter is a resident is not required to provide proof of identification as a condition before voting in an election.

~~(7)~~ (8) The person entering voter information into the centralized voter registration database shall cause the records to indicate when a voter has not presented a valid identifying document and has executed a voter identity affidavit.

~~(8)~~ (9) If a voter participating in the Address Confidentiality Program established by §48-28A-103 of this code, executes a voter identity affidavit, the program participant's residential or mailing address is subject to the confidentiality provisions of §48-28A-108 of this code and shall be used only for those statutory and administrative purposes authorized by this section.

~~(9) (10) Prior to the primary and general elections to be held in calendar year 2018,~~ The Secretary of State shall educate voters about the requirement to present a valid identifying document and develop a program to help ensure that all eligible voters are able to obtain a valid identifying document.

(b) The clerk of the county commission ~~is authorized~~ may, upon verification that the precinct at which a handicapped person is registered to vote is not handicap accessible, ~~to~~ transfer that person's registration to the nearest polling place in the county which is handicap accessible. A request by a handicapped person for a transfer of registration must be received by the county clerk no later than 30 days prior to the date of the election. A handicapped person who has not made a request for a transfer of registration at least 30 days prior to the date of the election may vote a provisional ballot at a handicap accessible polling place in the county of his or her registration. If during the canvass the county commission determines that the person had been registered in a precinct that is not handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped person may vote in the precinct to which the registration was transferred only as long as the disability exists or the precinct from which the handicapped person was transferred remains inaccessible to the handicapped. To ensure confidentiality of the transferred ballot, the county clerk processing the ballot shall provide the voter with an unmarked envelope and an outer envelope designated "provisional ballot/handicapped voter". After validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed with other approved provisional ballots prior to removal of the ballot from the unmarked envelope.

(c) When the voter's signature is properly marked and the voter has presented a valid identifying document, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side. The voter shall ~~thereupon~~ then retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in §3-6-5 of this code.

(d) ~~It is the duty of a~~ A poll clerk shall, in the presence of the other poll clerk, ~~to~~ indicate by a check mark, or by other means, inserted in the appropriate place on the registration record of each voter the fact that the voter voted in the election. In primary elections the clerk shall also insert on the registration record of each voter a distinguishing initial or initials of the political party for whose candidates the voter voted. If a person is challenged at the polls, the challenge shall be indicated by the poll clerks on the registration record, together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county commission.

(e) (1) ~~No~~ A voter may not receive any assistance in voting unless, by reason of blindness, disability, advanced age, or inability to read and write, that voter is unable to vote without assistance. Any voter ~~se~~ qualified to receive assistance in voting may:

(A) Declare his or her choice of candidates to an Election Commissioner of each political party who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner provided in this section and, on request, shall read to the voter the names of the candidates selected on the ballot;

(B) Require the Election Commissioners to indicate to him or her the relative position of the names of the candidates on the ballot. ~~the~~ The voter shall then retire to one of the booths or compartments to prepare his or her ballot in the manner provided in this section;

(C) Be assisted by any person of the voter's choice, other than the voter's present or former employer or agent of that employer, the officer or agent of a labor union of which the voter is a past or present member or a candidate on the ballot or an official write-in candidate; or

(D) If he or she is handicapped, vote from an automobile outside the polling place or precinct by the absentee balloting method provided in §3-3-5(e) of this code in the presence of an Election Commissioner of each political party if all of the following conditions are met:

(i) The polling place is not handicap accessible; and

(ii) ~~No voters are~~ Voters are not voting or waiting to vote inside the polling place.

(2) The voted ballot shall then be returned to the precinct officials and secured in a sealed envelope to be returned to the clerk of the county commission with all other election materials. The ballot shall then be tabulated using the appropriate method provided in §3-1-8 of this code as it relates to the specific voting system in use.

(3) A voter who requests assistance in voting but who is believed not to be qualified for assistance under the provisions of this section shall ~~nevertheless~~ be permitted to vote a provisional ballot with the assistance of any person ~~herein~~ authorized in this section to render assistance.

(4) One or more of the Election Commissioners or poll clerks in the precinct may challenge the ballot on the ground that the voter received assistance in voting ~~if~~ if when in his, her or their opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such advanced age as to have been unable to vote without assistance. The Election Commissioner or poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and the reason for such challenge on the form and in the manner prescribed or authorized by §3-3-1 *et seq.* of this code.

(5) An Election Commissioner or other person who assists a voter in voting:

(A) May not in any manner request or seek to persuade or induce the voter to vote a particular ticket or for a particular candidate or for or against any public question and ~~must~~ shall not keep or make any memorandum or entry of anything occurring within the voting booth or compartment and ~~must~~ shall not, directly or indirectly, reveal to any person the name of a candidate voted for by the voter, which ticket he or she had voted, ~~or~~ how he or she had voted on any public question, or anything occurring within the voting booth, compartment, or voting machine booth except when required by law to give testimony as to the matter in a judicial proceeding; and

(B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed by the Secretary of State stating that he or she will not override the actual preference of the voter being assisted, attempt to influence the voter's choice, or mislead the voter into voting for someone other than the candidate of voter's choice. The person assisting the voter shall also swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation. ~~No~~ There is no requirement that a person providing assistance to a voter is required to sign an oath or affirmation where the reason for requesting assistance is the voter's inability to vote

without assistance because of blindness as defined in §5-15-3 of this code and the inability to vote without assistance because of blindness is certified in writing by a physician of the voter's choice and is on file in the office of the clerk of the county commission.

(6) In accordance with instructions issued by the Secretary of State, the clerk of the county commission shall provide a form entitled "list of assisted voters", on a form as prescribed by the Secretary of State. The commissioners shall enter the name of each voter receiving assistance in voting the ballot, together with the poll slip number of that voter and the signature of the person or the commissioner from each party who assisted the voter. If no voter has been assisted in voting, the commissioners shall make and subscribe to an oath of that fact on the list.

(f) After preparing the ballot, the voter shall fold the ballot so that the face is not exposed and the names of the poll clerks on it are seen. The voter shall announce his or her name and present his or her ballot to one of the commissioners who shall hand the ~~same~~ ballot to another commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the official one and properly signed. The Commissioner of Election may inspect every ballot before it is deposited in the ballot box to ascertain whether it is single, but without unfolding or unrolling it so as to disclose its content. When the voter has voted, he or she shall retire immediately from the election room and beyond the ~~sixty-foot~~ 60-foot limit and not return except by permission of the commissioners.

(g) Following the election, the oaths or affirmations required by this section from those assisting voters, together with the "list of assisted voters", shall be returned by the Election Commissioners to the clerk of the county commission along with the election supplies, records, and returns. The clerk of the county commission shall make the oaths, affirmations, and list available for public inspection and preserve them for a period of 22 months or until disposition is authorized or directed by the Secretary of State or court of record. The clerk may use these records to update the voter registration records in accordance with §3-2-18(d) of this code.

(h) Any person making an oath or affirmation required under the provisions of this section who knowingly swears falsely or any person who counsels, advises, aids, or abets another in the commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one year, or both fined and confined.

(i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to require assistance in voting, 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 a period of not less than one year nor more than five years, or both fined and imprisoned.

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3016—A Bill to amend and reenact §3-1-34 of the Code of West Virginia, 1931, as amended, all relating to identification required for voting; modifying the types of valid identifying documents by requiring a photograph on the identification presented by the voter; providing exception to requirement that valid identifying document contain photograph; eliminating certain types of identification as a valid identifying document for purposes of voting; and permitting use of an expired identifying document under certain circumstances.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 594**), and there were--yeas 88, nays 10, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Flanigan, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Williams and Young.

Absent and Not Voting: McGeehan and Pinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3016) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3152, Claims Bill.

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

The Committee on Finance moved to amend the bill on page two, preceding (c) by inserting a new (c) to read as follows:

(c) Claims against Department of Administration, General Services Division:

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) Progressive Electric, Inc.....\$523,283.50

And,

By relettering the remaining sections.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 595**), and there were--yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Canterbury, Flanigan, Gearheart and Linville.

Absent and Not Voting: Mallow, Maynor, McGeehan, Pinson and D. Smith.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3152) passed.

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

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

H. B. 3272, Relating to eviction proceedings.

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3A. REMEDIES FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.

§55-3A-1. PETITION FOR SUMMARY RELIEF FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.

(a) A person desiring to remove a tenant from residential rental property may apply for ~~such~~ relief to the magistrate court or the circuit court of the county in which ~~such~~ the property is located, by verified petition, setting forth the following:

(1) That he or she is the owner or agent of the owner and as such has a right to recover possession of the property;

(2) A brief description of the property sufficient to identify it;

(3) That the tenant is wrongfully occupying ~~such~~ the property in that the tenant is in arrears in the payment of rent, has breached a warranty or a leasehold covenant, or has deliberately or negligently damaged the property or knowingly permitted another person to do so, and describing ~~such~~ the arrearage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) ~~Previous to the filing of the petition the person shall request from the court the time and place at which the petitioner shall be heard. The~~ Upon filing the petition, the court shall fix a time for ~~such~~ schedule a hearing, which time shall may not be less than five nor more than 10 judicial days following ~~such request~~ the filing of the petition.

(c) Immediately upon being apprised of the time and place for hearing the petitioner shall cause a notice of the ~~same~~ hearing to be served upon the tenant in accordance with the provisions of Rule 4 of the West Virginia ~~rules of civil procedure~~ Rules of Civil Procedure or by certified mail, return receipt requested. ~~Such~~ The notice shall inform the tenant that any written defense to the petition ~~must~~ may be ~~submitted in writing to~~ filed and served upon the petitioner within five days of the receipt by the tenant of the notice, ~~and in no case later than the fifth day next preceding the date of hearing.~~ Upon receipt of the return of service or the return receipt as the case may be, evidencing service upon the tenant, the petitioner shall file with the court his or her petition and ~~such~~ the proof of service.

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. House Bill 3272—A Bill to amend and reenact §55-3A-1 of the Code of West Virginia, 1931, as amended, relating to eviction proceedings; requiring hearing to be scheduled upon filing the petition; permitting tenants to file and serve written defense to eviction petition within five days of the tenant's receipt of notice of petition; and providing that the hearing shall be scheduled five to 10 judicial days following filing of the petition.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 596**), and there were--yeas 87, nays 8, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin and Williams.

Absent and Not Voting: Devault, McGeehan, Pinson, D. Smith and Willis.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3272) passed.

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

Delegate Kelly asked and received unanimous consent to return to **H. B. 3152** for the purpose of setting an effective date.

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

On this question, the yeas and nays were taken (**Roll No. 597**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Devault, McGeehan, Pinson, D. Smith and Willis.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3152) takes effect from its passage.

A message from the Senate, by

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

Com. Sub. for H. B. 3279, Relating to requirements for WVU and WVSU Board of Governors.

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

The Committee on Government Organization moved to amend the bill on page 7, section 2, lines 1 through 7, by striking out all of subsection (a) and inserting the following:

(a) The boards of Governors shall hold at least six meetings in every fiscal year, including an annual meeting each June for the purpose of electing officers.

(b) One more than half the number of voting members currently serving on an institutional board of Governors shall constitute a quorum. A quorum being present, a majority vote shall be necessary to pass upon matters properly before the institutional board of Governors.;

And,

By relettering the remaining subsection.

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

On motion of Delegate Kelly, the House concurred with the Senate title amendment.

The question being on the passage of the bill as amended with the Senate title amendment, the yeas and nays were taken (**Roll No. 599**), and there were--yeas 68, nays 29, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Adkins, Akers, Barnhart, Bridges, Campbell, J. Cannon, Canterbury, Chiarelli, T. Clark, Dean, Dittman, Eldridge, Flanigan, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Jennings, Kimble, Lewis, Lucas, McCormick, Parsons, Phillips, Pushkin, B. Smith, Williams, and Young.

Absent and Not Voting: Ferrell, McGeehan, and Pinson.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3279) with Senate title amendment passed.

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

On this question, the yeas and nays were taken (**Roll No. 600**), and there were--yeas 77, nays 20, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Adkins, Campbell, Canterbury, T. Clark, Dean, Eldridge, Flanigan, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Kimble, Lewis, Lucas, McCormick, Parsons, Pushkin, Williams and Young.

Absent and Not Voting: Ferrell, McGeehan and Pinson.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3279) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3429, Prequalifying consultants for WVDEP- Abandon Mine Lands.

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

The Committee on Energy, Industry and Mining moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.

§22-2-11. Prequalification process for consultants; project assignments.

(a) For purposes of this section, "professional services" means engineering services provided by firms and includes those professional services of an engineering nature as well as incidental services that members of those professions and those in their employ may logically or justifiably perform.

(b) The secretary shall publish a Class II legal advertisement to solicit letters of interest for professional services used in engineering procurement. The advertisement:

(1) Shall comply with the Class II legal advertisement provisions of §59-3-1 *et seq.* of this code;

(2) State a time and place for submitting letters of interest and a description of the services required;

(3) Specify the secretary's right to reject any letter of interest; and

(4) Shall be published at least once in at least one daily newspaper published in the city of Charleston and in other journals or magazines as the secretary determines is advisable.

(c) The department shall evaluate any letter of interest received and generate from the letters received a list of all qualified firms, designated the "Prequalified List of Firms".

(d) Upon the department's recommendation, the Purchasing Division shall enter into a prequalification agreement with the qualified firms pursuant to §5A-3-10e of this code. The agreement shall cover the services defined in the letters of interest and have a one-year term, with an optional two-year extension if requested by the department.

(e) For all project assignments:

(1) The department shall issue an expression of interest for any project that needs to be solicited and deliver it to those prequalified firms with which the Purchasing Division has an active prequalification agreement;

(2) The department may review and consider responses only from prequalified consultants with active prequalification agreements;

(3) The department shall conduct discussions with three or more professional services firms solicited on the basis of known or submitted qualifications for the project prior to awarding a contract. If the secretary determines that special circumstances exist such that seeking competition is not practical, the department may, with the Director of Purchasing's prior approval, select a professional services firm on the basis of previous satisfactory performance and knowledge of the department's facilities and needs. After selection, the department and firm shall develop the scope of services required and negotiate a contract;

(4) The department shall notify its procurement division and the Division of Purchasing of the firm that it selected;

(5) The department shall schedule and conduct a scope of work meeting with the selected firm within 45 days of selection;

(6) Within 60 days of selection, unless an extension is requested by both parties, the department and firm shall complete cost negotiations;

(7) The department shall provide to its own procurement division and the Purchasing Division information regarding the agreed upon costs and all required forms necessary to initiate a contract; and

(8) The department may issue an advanced notice to proceed, if requested by the firm.

And,

The Committee on Energy, Industry, and Mining moved to amend the title of the bill to read as follows:

Eng. Com. Sub. for House Bill 3429—A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section designated §22-2-11, relating to providing engineering services under the abandoned mine lands and reclamation act; requiring certain advertisements; establishing a prequalification process for hiring engineering firms; providing prequalification agreement requirements; and providing directives for project assignments.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 601**), and there were--yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Pritt.

Absent and Not Voting: T. Clark, Ferrell, McGeehan and Pinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3429) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to:

Com. Sub. for S. B. 765, Establishing Troops-to-Teachers Program.

Delegate Kelly moved that the House recede from the House amendment that was rejected by the Senate.

The yeas and nays having been ordered, they were taken (**Roll No. 602**), and there were-- yeas 59, nays 39, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Adkins, Akers, Bridges, Burkhammer, J. Cannon, T. Clark, Clay, Crouse, Dean, Dillon, Eldridge, Flanigan, Fluharty, Funkhouser, Garcia, Green, Hall, Hamilton, Hansen, Heckert, Hillenbrand, Holstein, Hornbuckle, G. Howell, Kump, Lewis, Linville, Masters, Miller, Moore, Pritt, Pushkin, Roop, Sheedy, B. Smith, Steele, Vance, Williams and Young.

Absent and Not Voting: Ferrell and McGeehan.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

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

At 4:49 p.m., on motion of Delegate Kelly, the House of Delegates recessed until 5:30 p.m.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur and requested the House recede on a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2267, Authorizing Department of Revenue to Promulgate Legislative Rules.

On motion of Delegate Kelly, the House refused to recede from its position, and the Speaker was authorized to appoint three members to Committee of Conference on the differing votes of the two houses. To this committee, the Speaker appointed Delegates Hornby, Smith, and Garcia.

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

The Chair demanded to return to further consideration of a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2014, Certified Microgrid Program.

On motion of Delegate Kelly, the House reconsidered its action on the vote adopting the title amendment on the bill (Com. Sub. for H. B. 2014).

On motion of Delegate Kelly, the House adopted the following revised title amendment:

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

Eng. House Bill 2014— A Bill to amend and reenact §5B-2-21, §24-2-1d, §24-2-1q, §24-2-15, §24-2-19, and §24-2-21a of the Code of West Virginia, 1931, as amended; to amend the code by adding four new sections, designated §5B-2-21a, §5B-2-21b, §5B-2N-2a, and §11B-2-33, and to amend the code by adding a new article, designated §11-6N-1, §11-6N-2, §11-6N-3, §11-6N-4, and §11-6N-5, all relating to the generation and consumption of electric power; establishing the certified microgrid development program; providing for microgrid certification requirements; providing for microgrid electric service requirements; providing for microgrid customer eligibility;

providing for microgrid special contracts; prohibiting microgrids from participating in Pilot and tax increment financing programs; defining microgrid property subject to property tax; providing for microgrid letter of intent, notice period and negotiation; providing for microgrid special contracts; establishing the high impact data center program; providing for notification, certification, and recordkeeping; authorizing certain agencies to assist certified microgrid districts and certified high impact data centers; prohibiting local jurisdiction regulation of microgrid districts and high impact data centers; providing for payment of certain fees and taxes; providing for certain services to microgrid districts and certified high impact data centers; establishing the electric grid stabilization and security fund and its purpose; creating new article relating to special method for valuation of certain high technology property; defining terms; providing for microgrid districts and certified high impact data centers property returns to be filed with Board of Public Works; providing for special rules for tax distribution; establishing certain funds to receive distributions; terminating article; establishing the personal income tax reduction fund and providing for purpose; providing for additional duties of public service commission relating to future electric generating capacity, base fuel coal supply for electric grid resiliency, consumer rate relief bonds, and automatic adjustment clauses, price indexes, or fuel adjustment; providing for rulemaking; and providing that certain funds may not be used by a public utility to close or cease operations at an electric generating plant.

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

A message from the Senate, by

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

H. B. 2511, Relating to charitable bingo and alcohol sales and consumption while such bingo is taking places.

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 20. CHARITABLE BINGO.

§47-20-2. DEFINITIONS.

For purposes of this article, unless specified otherwise:

(a) "Bingo" means the game wherein participants pay consideration for the use of one or more paper or virtual cards bearing several rows of numbers in which no two cards played in any one game contain the same sequence or pattern. When the game commences, numbers are selected by chance, one by one, and announced. The players cover or mark those numbers announced as they appear on the card or cards which they are using. The player who first announces that he or she has covered a predetermined sequence or pattern which had been preannounced for that game is, upon verification that he or she has covered the predetermined sequence or pattern, declared the winner of that game. Bingo, as authorized by this article, may be operated and played virtually over the Internet using an online bingo software system or web application.

(b) "Bingo occasion" or "occasion" means a single gathering or session at which a series of one or more successive bingo games is conducted by a single licensee.

(c) "Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Assisting them to establish themselves in life as contributing members of society through education or religion;

(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;

(3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;

(4) Making them aware of, or educating them about, issues of public concern so long as the activity or endeavor is not aimed at influencing legislation or supporting or participating in the campaign of any candidate for public office;

(5) By lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people;

(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled; or

(7) Providing or supporting nonprofit cultural or artistic activities.

(d) "Charitable or public service organization" means a bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary incorporated or unincorporated association or organization; or a volunteer fire department, rescue unit, or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office.

An organization or association is tax-exempt if it is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code.

(e) "Commissioner" means the State Tax Commissioner.

(f) "Concession" means any stand, booth, cart, counter, or other facility, whether stationary or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other tobacco products, newspapers, souvenirs, or any other items are sold to patrons by an individual operating the facility. Notwithstanding anything contained in §60-7-12(a)(2) of this code to the contrary, "concession" includes beverages which are regulated by, and are subject to, the provisions of chapter 60 of this code: *Provided*, That in no case may the sale or the consumption of alcoholic beverages or nonintoxicating beer be permitted in any area where bingo is conducted: *Provided however*, That the sale or the consumption of alcoholic beverages or nonintoxicating beer may be permitted in an area where bingo is conducted on the premises of a fraternal society or veteran's organization that is:

(1) A fraternal beneficiary society that is exempt from federal income tax under section 501(c)(8) of the Internal Revenue Code of 1986, as amended;

(2) A domestic fraternal society that is exempt from federal income tax under section 501(c)(10) of the Internal Revenue Code of 1986, as amended;

(3) A veterans' organization that is exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code of 1986, as amended; or

(4) A volunteer fire department, as defined in §11-13JJ-2 of this code.

(g) "Conduct" means to direct the actual playing of a bingo game by activities including, but not limited to, handing out bingo cards, collecting fees, drawing the numbers, announcing the numbers, posting the numbers, verifying winners, and awarding prizes.

(h) "Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of a bingo occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-20-15 of this code.

(i) "Gross proceeds" means all moneys collected or received from the conduct of bingo at all bingo occasions held by a licensee during a license period; this term ~~shall not be considered to~~ does not include any moneys collected or received from the sale of concessions at bingo occasions.

(j) "Joint bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is conducted by two or more licensees.

(k) "Licensee" means any organization or association granted an annual, limited occasion, or state fair bingo license pursuant to the provisions of this article.

(l) "Net proceeds" means all moneys collected or received from all the conduct of bingo at bingo occasions held by a licensee during a license period after payment of expenses authorized by §47-20-10, §47-20-13, §47-20-15, and §47-20-22 of this code; this term ~~shall not be considered to~~ does not include moneys collected or received from the sale of concessions at bingo occasions.

(m) "Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

(n) "Patron" means any individual who attends a bingo occasion other than an individual who is participating in the conduct of the occasion or in the operation of any concession, whether or not the individual is charged an entrance fee or plays any bingo games.

(o) "Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, as defined in subdivision (d) of this subsection, incorporated or unincorporated association or organization which is organized and functions exclusively to directly benefit a number of people as provided in paragraphs (1) through (7), inclusive, subdivision (c) of this subsection. "Qualified recipient organization" includes, without limitation, any licensee which is organized and functions exclusively as provided in this subdivision.

(p) "Venue" means the location in which bingo occasions are held.

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. House Bill 2511— A BILL to amend and reenact §47-20-2 of the Code of West Virginia, 1931 as amended; relating to charitable bingo and alcohol or nonintoxicating beer sales and consumption while such bingo is taking place; adding an exemption for the consumption or sale of alcohol or nonintoxicating beer at bingo games conducted on the premises of a fraternal beneficiary society, domestic fraternal society, veteran's organization, or volunteer fire department.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 603**), and there were--yeas 67, nays 30, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Brooks, Burkhammer, Clay, Cooper, Coop-Gonzalez, Dillon, Ferrell, Flanigan, Fluharty, Garcia, Gearheart, Green, Hamilton, Hansen, Hornbuckle, T. Howell, Jeffries, Kump, Lewis, Martin, Parsons, Pinson, Pritt, Steele, Toney, Vance, Ward, White and Worrell.

Absent and Not Voting: Jennings, McGeehan and Street.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 2511) passed.

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

A message from the Senate, by

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

H. B. 2942, Administration of the West Virginia Department of Environmental Protection Design-Build Pilot Program.

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

The Committee on Energy, Industry, and Mining moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 34. DEPARTMENT OF ENVIRONMENTAL PROTECTION DESIGN-BUILD PILOT PROGRAM.

§22-34-2. West Virginia Department of Environmental Protection Design-Build Program.

(a) Notwithstanding any provision of this code to the contrary, the secretary of the West Virginia Department of Environmental Protection may expedite the construction of projects by combining the design and construction elements of a project into a single contract as provided in this article.

(b) The secretary shall promulgate procedural rules as the secretary deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature in accordance with the provisions of §29A-3-1 *et seq.* of this code, which must provide at a minimum:

- (1) The application process for approval of a design-build project;
- (2) The procedure for selecting the most qualified design-builders prior to the release of the invitation for proposals;
- (3) The procedure for the preparation and contents of invitations for proposals;
- (4) The procedure for preparing and submitting proposals;
- (5) The procedure for evaluating proposals;
- (6) The procedure for negotiations between the agency and those submitting proposals prior to the acceptance of a proposal, if any such negotiations are contemplated;
- (7) The procedure for awarding and executing design-build contracts; and
- (8) The procedure for acting on formal protests relating to the solicitation or award of design-build contracts.

(c) A design-build project may be let to contract only in accordance with the secretary's procedural rules promulgated pursuant to the provisions of this article: *Provided*, That only contracts awarded directly by the Department of Environmental Protection may utilize the design-build delivery method authorized pursuant to the provisions of this article: *Provided, however*, design-build delivery projects awarded pursuant to the provisions of this article may not exceed a total aggregate value of ~~\$50~~ \$75 million.

§22-34-5. Report to the Legislature; sunset date.

(a) On or before January 15, 2024, ~~and annually thereafter~~, the secretary shall prepare and submit to the Joint Committee on Government and Finance a written report, which may be transmitted electronically, evaluating the experience of the West Virginia Department of Environmental Protection with each design-built project completed pursuant to the provisions of this article during the prior calendar year, including whether the department realized any cost or time savings, the number and cost of change orders, the quality of work performed, the number of bids received, and other issues the secretary considers appropriate.

(b) The provisions of this article expire and shall have no force and effect after December 31, ~~2025~~ 2027.

On motion of The Committee on Energy, Industry, the title of the bill was amended to read as follows:

Eng. House Bill 2942—A Bill to amend and reenact §22-34-2 and §22-34-5 of the Code of West Virginia, 1931, as amended, related to the administration of the West Virginia Department of Environmental Protection Design-Build Pilot Program; extending and revising the sunset provision to December 31, 2027; and increasing from \$50 million to \$75 million the maximum aggregate value of all ongoing design-build projects that can be active at any time.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 604**), and there were--yeas 93, nays 4, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Anders, Dillon, Kump and Vance.

Absent and Not Voting: Devault, McGeehan and Street.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 2942) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2961, To amend the law concerning ownership and possession of real property.

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3A. PREVENTING FOREIGN ADVERSARIES FROM OWNING REAL ESTATE IN WEST VIRGINIA.

§37-3A-1. Ownership of real estate in West Virginia.

Except as otherwise provided in this article, any resident alien or citizen may acquire, hold, and transfer real estate in this state by deed, will, or other instrument, including in fee simple or any lesser estate.

§37-3A-2. Definitions.

As used in this article:

“Control” means the power, direct or indirect, whether or not exercised, to determine, direct, or decide important matters affecting an entity, including but not limited to through ownership of at least 20 percent of the total outstanding voting interest, board representation, the ability to appoint or remove board members, proxy voting rights, special shares, contractual arrangements, legal obligations, or other formal or informal mechanisms to act in concert.

“Controlling interest” means an ownership interest of 50 percent or more in the aggregate.

“Owned or operated in whole or in part” means:

(A) For a publicly traded company, the person or entity has the ability to control the company, access any material nonpublic technical information in the possession of the company, or exercise any other rights or involvement in substantive decision-making beyond those of a retail investor holding an equivalent ownership share;

(B) For a privately held company, the person or entity possesses any ownership interest.

“People’s Republic of China” means all provinces and autonomous regions of the People’s Republic of China, including the Hong Kong Special Administrative Region and the Macao Special Administrative Region, but does not include Taiwan.

“Prohibited foreign party” means:

(A) A citizen or resident of the People’s Republic of China who is not a resident alien or citizen of the United States;

(B) The government of the People’s Republic of China or any of its political subdivisions;

(C) Any party other than an individual or government:

(i) Created or organized under the laws of any state or foreign country; and

(ii) In which a significant interest or substantial control is held directly or indirectly by:

(I) A person described in paragraph (A) of this subdivision;

(II) A government described in paragraph (B) of this subdivision;

(III) Any combination of the above; or

(IV) An agent, trustee, fiduciary, or other entity acting on behalf of any of the foregoing;

(D) Any foreign government, entity, or individual identified by a majority of the Governor, Treasurer, Agriculture Commissioner, Auditor, Attorney General, and Secretary of State, in consultation with the Secretary of Homeland Security, as hostile to the interests of the United States or the State of West Virginia: *Provided*, That in the event of a tie, the Governor’s vote shall serve as the tie-breaking vote.

“Prohibited foreign-party-controlled business” means a corporation, company, association, firm, partnership, joint-stock company, trust, estate, or other legal entity in which a controlling interest is owned or operated, in whole or in part, by a prohibited foreign party.

§37-3A-3. Prohibition on Ownership by Prohibited Foreign Parties.

(a) A prohibited foreign-party-controlled business may not acquire or own, directly or indirectly, any interest in any real estate in this state, including mineral rights.

(b) A person may not hold any interest in real estate as an agent, trustee, or fiduciary on behalf of a prohibited foreign-party-controlled business.

(c) Any interest in any real estate that is held on the effective date of this article shall be divested within six months of the effective date of this article.

§37-3A-4. Enforcement; Judicial Sale.

(a) A prohibited foreign-party-controlled business that acquires real estate in violation of this article shall divest that interest within six months of acquisition.

(b) If the business fails to divest, the Attorney General shall file a civil action in the circuit court of the county where the real estate is located.

(c) Upon a circuit court finding by a preponderance of the evidence that a violation of the provisions of this article have occurred, the circuit court shall order the real estate to be sold through judicial sale under terms and conditions that are to be set by the circuit court.

(d) Proceeds of the sale shall first be distributed to lienholders according to priority, excluding liens that remain on the real estate under the terms of the sale, and any remaining funds shall be remitted to the prohibited foreign party. Lienholders may credit bid at the sale.

(e) If there are no liens against the property, then the full proceeds shall be remitted to the prohibited foreign party.

(f) The Attorney General shall promptly file in the office of the county clerk where the real estate is located the following:

(1) A notice of the pending action in the county in which the real estate is located upon commencement of the civil action filed pursuant to this article; and

(2) Once all appellate rights have been exhausted by the parties, the circuit court's final order that directs the sale of the real estate.

§37-3A-5. Good-Faith Protections.

(a) Title to real estate is not rendered invalid or subject to divestiture solely due to a prior violation of this article by a previous owner.

(b) A person who is not subject to the prohibitions contained in this article is not required to investigate whether another person or entity is subject to the prohibitions contained in this article.

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. House Bill 2961— A Bill to amend the Code of West Virginia, 1931, as amended by adding a new article, designated §37-3A-1, §37-3A-2, §37-3A-3, §37-3A-4, and §37-3A-5, relating to prohibiting ownership and possession of real property by foreign adversaries; providing definitions; prohibiting the People's Republic of China and its citizens who are not resident aliens or citizens of the United States from acquiring, owning, or transferring any real estate or mineral interests in West Virginia; prohibiting foreign governments, entities, and individuals that have been identified by a majority of Governor, Treasurer, Agriculture Commissioner, Auditor, Attorney General, and Secretary of State, in consultation with the Secretary of Homeland Security, as hostile to the interests of the United States or the State of West Virginia from owning real estate or mineral interests in the state; providing Governor with tie-breaking vote; requiring forbidden entities that own real estate on effective date of article to divest within six months; requiring prohibited businesses that acquire property in violation of article to divest that property within six

months; designating judicial sale process to force sale of illegally owned real estate; requiring notice of judicial sale; and establishing good faith protections.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 605)**, and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Devault, McGeehan and Street.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2961) passed.

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

A message from the Senate, by

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

H. B. 3000, Relating to agency changes and updates to the West Virginia Commercial Feed Law.

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

The Committee on Government Organization moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 14. WEST VIRGINIA COMMERCIAL FEED LAW.

§19-14-2. Definitions.

(a) "Brand name" means any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor, guarantor, or manufacturer and distinguishing it from all others.

(b) "Bulk" refers to commercial feed or feed ingredients distributed in nonpackaged form where a label cannot be attached and accompanied by an invoice or delivery slip.

(c) "Commercial feed" means all materials or combinations of materials which are distributed, or intended for distribution, for use as feed or for mixing in feed, unless such materials are specifically exempted, for animals, other than humans, except: (1) Unmixed or unprocessed whole seeds when such whole or unprocessed seeds are not chemically changed or adulterated; (2) unprocessed hay, straw, stover, silage, cobs, husks, hulls, and raw meat when not mixed with other materials and when not adulterated; (3) individual chemical commodities, compounds or substances when such commodities, compounds or substances are not inter-mixed with ~~when not mixed with~~ other materials, and are therefore not adulterated within the meaning of §19-14-10 of this code. The term commercial feed shall include the categories of feed ingredients, customer-formula feeds, pet foods and specialty pet foods.

(d) "Commissioner" refers to the commissioner of agriculture of the State of West Virginia or a duly authorized employee of the commissioner.

(e) "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract and the commercial feed is supplied, furnished, or provided to the independent contractor and such contractor's remuneration is determined all or in part by feed consumption, mortality, profits, or the amount or quality of the product.

(f) "Customer-formula feed" means a commercial feed that consists of a mixture of commercial feed and/or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(g) "Distribute" means to offer for sale, sell, exchange, or barter commercial feed; or to supply, furnish, or provide commercial feed to a contract feeder.

(h) "Distributor" means any person who distributes a commercial feed.

(i) "Drug" means any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals, other than humans; and any substance intended to affect the structure or any function of the animal body.

(j) "Feed" means any material consumed, or intended to be consumed, by animals other than humans, or any element of that material that contributes nutrition, taste, or aroma, or otherwise has a technical effect on the consumed material. The term "feed" includes raw materials, ingredients, and finished product.

(k) "Feed ingredient" means each constituent material making up feed, including individual chemical compounds labeled for use as a feed ingredient.

(l) "Guarantor" means any person whose name appears on a label and who is therefore responsible for the product and its labeling.

(m) "Label" means a display of written, printed, or graphic matter printed upon or otherwise affixed to the container in which commercial feed is distributed; or printed upon or otherwise affixed to the invoice, delivery slip, or other shipping document which accompanies bulk shipments of commercial feed or customer-formula feed. All such labels shall be legible and in English.

(n) "Labeling" means and includes all labels as well as all other written, printed, or graphic matter found: (1) upon a commercial feed or any of its containers or wrappers, or (2) accompanying such commercial feed.

(o) "Manufacture" means to grind, mix, blend, package, pack, repack, or otherwise process a commercial feed for distribution.

(p) "Medicated feed" means any feed which contains one or more drugs. Antibiotics included in a feed growth promotion and/or efficiency level are drug additives and feeds containing such antibiotics are included in the definition of "medicated feed".

(q) "Mineral feed" means a commercial feed designed or intended to supply primarily mineral elements or inorganic nutrients.

(r) "Official sample" means any sample of feed taken by the commissioner in accordance with the provisions of this article and rules promulgated hereunder.

(s) "Percent" or "percentage" means percentage by weights.

(t) "Person" means an individual, partnership, association, fiduciary, firm, company, corporation, or any organized group of persons whether incorporated or not.

(u) "Pet" means dog (*Canis familiaris*) or cat (*Felis catus*).

(v) "Pet food" means any commercial feed manufactured and distributed for consumption by pets.

(w) "Process" means a method used to prepare, treat, convert, or transform materials into feed or feed ingredients. The word "processed" can be used to further describe an ingredient name, so long as the ingredient is not nutritionally altered from the original form of the ingredient.

(x) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.

(y) "Quantity statement" means the net weight (mass), liquid measure, or count.

(z) "Repack" or "repackaging" means to pack and label a previously manufactured feed.

(aa) "Specialty pet" means any animal normally maintained in a household, such as rodents, ornamental birds, fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits not raised for food or fur.

(bb) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(cc) "Ton" means a net weight of two thousand pounds avoirdupois.

§19-14-5. Permits; registration.

(a) Permits and registrations shall not be transferrable with respect to persons or locations.

(b) A person must apply for a permit or registration at least 30 days prior to the expiration of the current permit or registration; or at least 30 days prior to the date that the person intends to engage in the business of selling or marketing commercial feed products in this state. All applications shall be accompanied by the required fee. A penalty shall be added to the fee for all permits or registrations that are not applied for or renewed within the time limit.

(c) Persons manufacturing commercial feed or customer-formula feed in this state must obtain a Commercial Feed Manufacturing Permit from the commissioner, except for persons manufacturing feed for only ~~his/her~~ his or her animals on ~~his/her~~ his or her premises, or those producing pet food. Application forms shall be provided by the commissioner and include such information as established by rules. A separate permit shall be obtained for each manufacturing facility or location in this state. Each Commercial Feed Manufacturing Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.

(d) Each person distributing commercial feed in West Virginia must obtain a Commercial Feed Distributor Permit from the commissioner, except:

(1) Persons distributing pet food exclusively;

(2) Persons holding a valid Commercial Feed Manufacturing Permit issued by the commissioner; and

(3) Persons holding a Commercial Feed Guarantor Permit issued by the commissioner;

Application forms shall be provided by the commissioner and include such information as established by rules. Each Commercial Feed Distributor Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.

(e) Each person whose name appears on the label of a commercial feed or customer-formula feed as guarantor must obtain a Commercial Feed Guarantor Permit from the commissioner for each manufacturing facility or location that distributes feed in or into the state, except those facilities or locations for which a Commercial Feed Manufacturing Permit has already been issued by the commissioner. Application forms shall be provided by the commissioner and include such information as established by rules. Each Commercial Feed Guarantor Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.

(f) Pet food in packages over 10 pounds or bulk shall be registered annually. Each application for registration shall be accompanied by the required registration fee. Each registration shall expire on August 31 next following the date of issue: *Provided, That until June 30, 2027,* an additional registration fee of \$50 per product shall accompany each application for registration and the additional registration fee shall be deposited into the West Virginia Spay Neuter Assistance Fund for spay and neutering services performed within this state by licensed veterinarians.

(g) Pet food packaged in packages of 10 pounds and under shall be registered annually. Each application for registration shall be accompanied by the required registration fee. Each registration shall expire on December 31, next following the date of issue: *Provided, That until June 1, 2027,* an additional registration fee of \$35 per product shall accompany each application for registration and the additional registration fee shall be deposited into the West Virginia Spay Neuter Assistance Fund for spay and neutering services performed within this state by licensed veterinarians.

(h) Specialty pet food shall be registered annually. Each application for registration shall be accompanied by the required registration fee. Each registration shall expire on December 31, next following the date of issue.

(i) A person is not required to register any brand name or product name of commercial feed which is already registered by another person.

(j) Alteration of a pet food or specialty pet food that changes the label requires a new application for registration be made and approved before distribution.

§19-14-10. Adulteration.

Commercial feed or feed ingredients is adulterated:

(1) If it bears or contains any poisonous or deleterious substance, which may render it injurious to human or animal health; unless the substance is not an added substance, in which case such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to human or animal health;

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is: (A) A pesticide chemical in or on a raw commodity; or (B) a food additive;

(3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act: *Provided*, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act;

(5) If it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act;

(6) If it is, or it bears or contains, any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act;

(7) If it consists, in whole or part, of any filth, putrid, or decomposed substance, or if it is otherwise unfit for feed;

(8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(9) If it is, in whole or in part, the product of a diseased animal, or of an animal that has died other than by slaughter that is unsafe within the meaning of Section 404~~2~~(a)(1) or (a)(2) of the Federal Food, Drug, and Cosmetic Act;

(10) If the container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(12) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom or any less valuable substance substituted therefor;

(13) If its composition or quality falls below or differs from that which it is purported or represented to possess by its labeling; or

(14) If it contains a drug, and the methods used in the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner to assure that the drug meets the requirements of this law as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the commissioner may adopt the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act.

(15) If it contains viable weed seeds in amounts exceeding the limits which the commissioner shall establish by legislative rule.

§19-14-14. Prohibited acts.

It shall be unlawful:

- (a) To manufacture or distribute any commercial feed that is adulterated or misbranded.
- (b) To adulterate or misbrand any commercial feed.
- (c) To distribute, use, remove, or dispose of commercial feed in violation of an embargo order, or condemnation and confiscation order provided for under this article.
- (d) To manufacture, distribute, or use any commercial feed containing a drug or drugs that cause or may cause residue of the drug or drugs in the edible tissues, milk, or eggs of the animals fed such feed in excess of the acceptable residue levels set by the commissioner by rules.
- (e) To fail or refuse to register pet foods or specialty pet foods.
- (f) To fail or refuse to obtain permits required under this article.
- (g) To fail to make an accurate statement of tonnage.
- (h) To fail to pay inspection fees as required under this article.
- (i) To distribute or knowingly use any commercial feed that has not had an accurate statement of tonnage reported to the commissioner in the previous reporting period.
- (j) To use or imply the name West Virginia Department of Agriculture, or reference any inspection or sample findings made by the West Virginia Department of Agriculture on labels or labeling of commercial feed.

(k) To interfere with the commissioner's official duties.

(l) To distribute raw milk for use as commercial feed for any species, unless:

(1) It has been decharacterized using a sufficient quantity of food coloring as designated by the commissioner;

(2) It has been decharacterized using food coloring approved by the U.S. Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the U.S. Department of Agriculture;

(3) It has been decharacterized and the nutritive value of the milk has not been adversely affected by the decharacterization;

(4) The packaging of the raw milk does not resemble that used for the packaging of milk for human consumption;

(5) It is not stored at retail with, or in the vicinity of, milk or milk products intended for human consumption; and

(6) It does not otherwise violate this section.

(m) ~~The distribution of~~ To distribute agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of §19-14-10 of this code.

§19-14-17. Severability.

If any clause, sentence, paragraph, or part of this law shall for any reason be judged invalid by any court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgement shall be rendered.

On motion of Senator Rucker, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3000—A Bill to amend and reenact §19-14-2, §19-14-5, §19-14-10, and §19-14-14, of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §19-14-17, relating to West Virginia commercial feed law; updating definitions; removing sunset date for deposit of pet food registration fee into spay neuter assistance fund; clarifying changes to feed adulteration standards; authorizing Commissioner of Agriculture of State of West Virginia to promulgate regulations that adopt certain regulations under Federal Food, Drug, and Cosmetic Act; clarifying prohibited acts; and providing severability clause.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 606)**, and there were--yeas 92, nays 4, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Anders, Coop-Gonzalez, Dillon and Fluharty.

Absent and Not Voting: Devault, McGeehan, Pritt and Street.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3000) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3166, Requirements for School Safety Mapping Data.

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

The Committee on Finance moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

§18-9F-10a. Standardized school safety mapping data.

(a) In addition to other requirements contained in this article, the Crisis Response Plan required by §18-9F-9 of this code, or the safety program required by §18-9F-10 of this code, each county board of education shall create standardized school safety mapping data that, at a minimum, requires that mapping data:

(1) Be in formats that conform to, integrate with, and are accessible within software platforms used in local public safety answering points and by the city, county, state, and federal public safety agencies that could provide emergency services at the school without requiring the purchase of additional software or payment of fees to access the data;

(2) Be in formats capable of being printed, shared electronically, and, if requested, digitally integrated into interactive mobile platforms in use;

(3) Be viewable and printable from open-source document or image viewers;

(4) Be oriented to true north and include a fixed grid with consistent "x" and "y" coordinates.

(5) Have its accuracy verified by the entity producing the data through an on-site walk-through of the school buildings and grounds;

(6) Include accurate floor plans overlaid on current, verified aerial imagery of the school campus;

(7) Include site-specific labeling for school structures, such as room names, hallway designations, exterior doors, stairwell numbers, and the locations of hazards, critical utility controls, key boxes, automated external defibrillators, and trauma kits and school grounds, including parking areas, athletic fields, surrounding roads, and neighboring properties;

(8) Include the requirement that future updates or modifications to the school mapping data conform to and integrate with software platforms used by the relevant public safety agencies; and

(g) Be created, stored, and maintained exclusively within the United States for the entire duration of the mapping process and thereafter to ensure security of the data.

(b) The school safety mapping data set forth in subsection (a) shall be provided to the state board of education, Division of Homeland Security and Emergency Management, and local first response agencies including police, fire, emergency medical services (EMS), and any other local entities the school's crisis response planning team determines should be consulted in accordance with this article. The data shall be provided at no cost beyond the initial cost of production and shall be made available to such entities permanently.

(c) Local school systems shall consult and receive approval from the primary law enforcement agency serving and supporting the district. These shall include, but are not limited to county, city, or municipal police departments, or Sheriff's Department, prior to procurement to ensure school mapping data meets the requirements in this section.

(d) Subject to available funding each county board of education may receive not greater than \$4500 per school for the purposes set out in this section.

(e) The school safety mapping requirements of this section shall be effective on September 1, 2026.

(f) Any data obtained and maintained pursuant to the provisions of this section shall not be subject to disclosure pursuant to the provisions of §29B-1-1 *et seq.* of this code.

On motion of the Committee on Finance, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3166—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §18-9F-10a, relating to requiring county boards to create standardized school safety mapping data; setting forth requirements for mapping data; setting forth the dissemination; requiring consultation and agreement of local enforcement; sets forth and cost parameters of data; sets an effective date; and exempting data from disclosure under the Freedom of Information Act.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 607)**, and there were--yeas 94, nays 2, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Foggin and Kump.

Absent and Not Voting: Devault, McGeehan, Pritt and D. Smith.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3166) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with title amendment, to take effect July 1, 2025, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3209, To provide at least one counselor for every 250 students in public schools and public charter schools in this state.

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

On motion of Senator Grady, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3209—A Bill to amend and reenact §18-5-18b of the Code of West Virginia, 1931, as amended, relating to requiring each county to employ two school counselors to each 1,000 students to net enrollment; clarifying that requirement cannot be construed to increase the number of eligible professional student support personnel positions to each 1,000 students in net enrollment provided for under the public school support program; and allowing counties to follow certain counselor to student ratios.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 608**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Devault, McGeehan, Pritt and D. Smith.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3209) passed.

Delegate Kelly moved that the bill take effect July 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 609**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Devault, McGeehan and Pritt.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3209) takes effect July 1, 2025.

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

A message from the Senate, by

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

H. B. 3263, Relating to providing notification of utility service disruption to its' customers.

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

The Committee on Transportation and Infrastructure moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-22. SERVICE OUTAGE COMMUNICATION PLANS.

(a) Each utility shall have an outage communication plan in place to notify customers of any planned and any unexpected disruption of utility services. Such outage communication plan shall, at a minimum, include a methodology for advance notification to all affected customers for planned service disruptions, methods of communication, and notification content requirements concerning the outage, including an estimate of the duration and end of the outage.

(b) Each utility shall file its outage communication plan with the commission.

And,

On motion of the Committee on Transportation and Infrastructure, the title of the bill was amended to read as follows:

Eng. House Bill 3263—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-22, relating to requiring utilities to create outage communication plans to notify customers of any planned and any unexpected disruption of utility services; providing plan content requirements; and requiring filing of plan with the Public Service Commission.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 609**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Devault, McGeehan and Pritt.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 3263) passed.

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

A message from the Senate, by

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

H. B. 3277, Relating to defining terms for the West Virginia Hospital Finance Authority Act.

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

The Committee on Health and Human Resources moved to amend the bill on page 1, section 3, line 18, by striking out "16" and inserting in lieu thereof "16B".

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 610**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: McGeehan, Pritt and D. Smith.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 3277) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3411, Relating to commissions; removing the legislative members; and eliminating expired commissions.

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

The Committee on Government Organization moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. LEGISLATIVE BUILDING COMMISSION.

§4-7-1. Definitions.

[Repealed.]

§4-7-2. Legislative building commission created; its composition; appointment of members; vacancies; election of officers; compensation and expenses of members.

[Repealed.]

§4-7-3. Powers and duties of commission generally.

[Repealed.]

§4-7-4. Commission granted power of eminent domain.

[Repealed.]

§4-7-5. Funds and expenditures of commission.

[Repealed.]

§4-7-6. Deposit and disbursement of funds of commission; security for deposits; audits.

[Repealed.]

§4-7-7. Contracts for construction of state legislative building, etc.; to be secured by bond; competitive bids required for contracts exceeding \$2,000; procedure.

[Repealed.]

§4-7-8. Management and control of state legislative building.

[Repealed.]

§4-7-9. Article not authority to create state debt.

[Repealed.]

§4-7-10. This article, article six, chapter five, and the state Constitution are only restrictions on construction, etc., of building.

[Repealed.]

§4-7-11. Severability.

[Repealed.]

ARTICLE 10. PERFORMANCE REVIEW ACT.

§4-10-3. Definitions.

As used in this article, unless the context clearly indicates a different meaning:

~~(a)~~ "Agency" or "state agency" means a state governmental entity, including any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity in the state of West Virginia.

~~(b)~~ "Agency review" means a review performed on an agency at the direction of the President of the Senate, the Speaker of the House of Delegates, or by recommendation of the joint standing committee pursuant to the provisions of this article.

~~(c)~~ "Committee" means the Joint Standing Committee on Government ~~Operations.~~
Organization.

~~(d)~~ "Compliance review" means a review for compliance with recommendations contained in a previous agency review or regulatory board review conducted pursuant to the provisions of this article and may include further inquiry of other issues as directed by the President, the Speaker, the committee, ~~the joint standing committee,~~ or the Joint Committee on Government and Finance.

~~(e)~~ "Department" means the departments created within the executive branch, headed by a secretary appointed by the Governor, as authorized by the Code of West Virginia.

(f) "Department presentation" means a presentation by a department pursuant to the provisions of this article made at the direction of the President of the Senate or the Speaker of the House of Delegates.

(g) "Division" means the Performance Evaluation and Research Division, the Post Audit Division, or any division of the Legislative Auditor's Office.

~~(h) "Joint standing committee" means the Joint Standing Committee on Government Organization.~~

(i) "Privatize" means a contract to procure the services of a private vendor to provide a service that is similar to, or in lieu of, a service provided by a state agency.

(j) "Regulatory Board" means a board that regulates professions and occupations, created under the provisions of chapter 30 of this code.

~~(k) "Regulatory Board Review" means a review performed on a regulatory board pursuant to the provisions of this article.~~

§4-10-4. Joint Committee on Government Operations.

[Repealed.]

§4-10-5. Powers and duties of the committee. and joint standing committee.

(a) To carry out the duties set forth in this article, the committee, ~~or the joint standing committee~~, any authorized employee of the committee, ~~the joint standing committee~~, the Legislative Auditor or any employee of the division working at the direction of the committee ~~or the joint standing committee~~, shall have access, including copying, to all records of every state agency in West Virginia.

(b) When furnishing information, agencies shall provide the information in the format in which it is requested, if the request is specific as to a preferred format.

(c) The committee ~~or the joint standing committee~~ may hold public hearings in furtherance of the purposes of this article, at such times and places within the state as desired. A member of the committee ~~or the joint standing committee~~ may administer oaths to persons testifying at such hearings or meetings.

(d) The committee ~~or the joint standing committee~~ may issue a subpoena, with the signature of either cochair of the committee ~~or the joint standing committee~~ and served in the manner provided by law, to summon and compel the attendance of witnesses and their examination under oath and the production of all books, papers, documents and records necessary or convenient to be examined and used by the committee ~~or joint standing committee~~ in the performance of its duties.

(e) If any witness subpoenaed to appear at any hearing or meeting refuses or fails to appear or to answer questions put to him or her, or refuses or fails to produce books, papers, documents or records within his or her control when the same are demanded, the committee ~~or the joint standing committee~~, in its discretion, may enforce obedience to its subpoena by attachment, fine or imprisonment, as provided in article one of this chapter, or may report the facts to the circuit

court of Kanawha County or any other court of competent jurisdiction and the court shall compel obedience to the subpoena as though it had been issued by the court.

(f) Witnesses subpoenaed to attend hearings or meetings pursuant to the provisions of this article, except officers or employees of the state, shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury.

(g) The committee ~~or the joint standing committee~~, subject to the approval of the Joint Committee on Government and Finance, may employ such persons as it considers necessary to carry out the duties and responsibilities under this article and may contract for outside expertise in conducting reviews.

(h) The committee ~~or the joint standing committee~~ may collect, and the agency or regulatory board shall promptly pay, the costs associated with conducting the reviews performed under this article, upon presentation of a statement for the costs incurred. All money received by the committee ~~or the joint standing committee~~ from this source shall be expended only for the purpose of covering the costs associated with such services, unless otherwise directed by the Legislature.

§4-10-6. Department presentation; timing and scope.

(a) At the direction of the President of the Senate or the Speaker of the House of Delegates, and upon notification from the division, a department shall prepare and make a presentation to the ~~joint standing committee and the committee~~. The purpose of the presentation is to inform the Legislature as to the programs, activities, and financial situation of the department and to update and amend any information previously presented to the ~~joint standing committee or committee~~ pursuant to this section. The presentation shall include:

- (1) A departmental chart designating each agency under the purview of the department;
- (2) An analysis of the department's internal performance measures and self-assessment systems; and
- (3) For each agency under the purview of the department, the following:
 - (A) The mission, goals, and functions of the agency;
 - (B) The statutory or other legal authority under which the agency operates;
 - (C) The number of employees of the agency for the immediate past 10 years;
 - (D) The budget for the agency for the immediate past 10 years;
 - (E) Any potential or actual loss of revenue due to operations, changes in law, or any other reason;
 - (F) The extent to which the agency has operated in the public interest;
 - (G) The extent to which the agency has complied with state personnel practices, including affirmative action requirements;
 - (H) The extent to which the agency has encouraged public participation in the making of its rules and decisions and has encouraged interested persons to report to it on the impact of its

rules and decisions on the effectiveness, economy, and availability of services that it has provided;

(I) The efficiency with which public inquiries or complaints regarding the activities of the agency have been processed and resolved;

(J) The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency to better serve the interests of the public and to comply with the factors enumerated in this subsection; and

(K) A recommendation as to whether the agency should be continued, consolidated, or terminated.

§4-10-7. Agency review.

(a) The division shall conduct agency reviews of one or more state agencies each year. An agency review shall be conducted of each state agency at least once every 15 years. An agency review may be conducted more frequently than once in 15 years and may be conducted in the discretion, and at the direction, of the President of the Senate, the Speaker of the House of Delegates, or by recommendation of the joint standing committee.

(b) The agency review may include, but is not limited to:

(1) An identification and description of the agency under review;

(2) The number of employees of the agency for the immediate past 10 years;

(3) The budget for the agency for the immediate past 10 years;

(4) Whether the agency is effectively and efficiently carrying out its statutory duties or exercising its legal authority;

(5) Whether the activities of the agency duplicate or overlap with those of other agencies and, if so, how these activities could be consolidated;

(6) A cost-benefit analysis, as described in subsection (d) of this section, on state services that are privatized or contemplated to be privatized;

(7) An assessment of the utilization of information technology systems within the agency, including interagency and intra-agency communications;

(8) An analysis of any issues raised by any presentation by the department under whose purview the agency falls made pursuant to the provisions of this article;

(9) An analysis of any other issues as the committee, ~~the joint standing committee~~, the President of the Senate, or the Speaker of the House of Delegates may direct; and

(10) A recommendation as to whether the agency under review should be continued, consolidated, or terminated.

(c) An agency may be subject to a compliance review pursuant to the provisions of this article.

(d) A cost-benefit analysis authorized by this section may include:

(1) The tangible benefits of privatizing the service;

(2) Any legal impediments that may limit or prevent privatization of the service;

(3) The availability of multiple qualified and competitive private vendors; and

(4) A cost comparison, including total fixed and variable, direct and indirect, costs of the current governmental operation and the private vendor contract.

§4-10-9. Regulatory board review.

(a) The division shall conduct regulatory board reviews on each regulatory board to ascertain if there is a need for the continuation, consolidation, or termination of the regulatory board as one of its duties.

(b) A regulatory board review shall be performed on each regulatory board at least once every 12 years. A regulatory board may be subject to a compliance review pursuant to the provisions of this article.

(c) When a new regulatory board is created, a date for a regulatory board review shall be included in the act that creates the board, within 12 years of the effective date of the act.

(d) The regulatory board review may include:

(1) Whether the board complies with the policies and provisions of chapter 30 of this code and other applicable laws and rules;

(2) Whether the board follows a disciplinary procedure which observes due process rights and protects the public interest;

(3) Whether the basis or facts that necessitated the initial licensing or regulation of a profession or occupation have changed, or other conditions have arisen that would warrant increased or decreased regulation;

(4) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates;

(5) Whether statutory changes are necessary to improve board operations to enhance the public interest;

(6) An analysis of any other issues the committee, ~~the joint standing committee~~, the President of the Senate, the Speaker of the House of Delegates, or by recommendation of the joint standing committee.

(7) A recommendation as to whether the regulatory board under review should be continued, consolidated, or terminated.

§4-10-11. Compliance review.

(a) After an agency review or a regulatory board review, if the committee ~~or the joint standing committee~~ finds that an agency or a regulatory board needs further review, then the committee ~~or the joint standing committee~~ may request a compliance review.

(b) If the committee ~~or the joint standing committee~~ requests a compliance review for an agency or a regulatory board, then it must state, in writing, the specific reasons for the compliance review and its expected completion date.

§4-10-13. Disposition of agency or regulatory board assets, equipment and records after termination.

(a) On or before June 30 of the wind-up year, the terminated agency or regulatory board shall file a written statement with the Secretary of the Department of Administration and the division describing the disposition of its funds, assets, equipment and records.

(b) The division shall review the statement of the terminated agency or regulatory board and report the results of its review to the committee. ~~and the joint standing committee.~~

(c) Any unexpended funds of the terminated agency or regulatory board shall revert to the fund from which they were appropriated or, if that fund is abolished, to the General Revenue Fund.

(d) All remaining assets and equipment of a terminated agency or regulatory board shall be transferred to the secretary of the department of which it was a part or to the state agency for surplus property in the Department of Administration.

(e) The records of a terminated agency or regulatory board shall be deposited with the Department of Administration.

ARTICLE 13. WEST VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION AND FUND.

§4-13-1. Findings; West Virginia Sesquicentennial of the American Civil War Commission established; purpose.

[Repealed.]

§4-13-2. Membership; terms; filling vacancies; election of chair and vice chair.

[Repealed.]

§4-13-3. Expense reimbursement.

[Repealed.]

§4-13-4. Quorum; meetings.

[Repealed.]

§4-13-5. Advisory council.

[Repealed.]

§4-13-6. Powers; duties; limitation on duration of contracts.

[Repealed.]

§4-13-7. Termination of the commission.

[Repealed.]

ARTICLE 14. LEGISLATIVE OVERSIGHT COMMISSION ON DEPARTMENT OF TRANSPORTATION ACCOUNTABILITY.**§4-14-1. Findings, purpose and intent.**

(a) The Legislature ~~hereby finds and declares that:~~

(1) Investment in infrastructure is crucial to the well-being of West Virginians and West Virginia businesses;

(2) The state must spend funds wisely on infrastructure in order to get the best return on investment and must make long-term plans for investment;

(3) The federal government is an unpredictable and unreliable partner in providing consistent funding for infrastructure investment;

(4) The Legislature directed a Division of Highways performance and efficiency audit in 2015; and

(5) In order to maintain proper oversight to ensure that sufficient transportation planning is made, funds are spent wisely and efficiently, and the Department of Transportation is functioning appropriately, it shall report to the Legislative Oversight Commission on Department of Transportation Accountability. ~~is hereby created.~~

(b) It is the intent of the Legislature that all actions taken pursuant to the provisions of this article by the Legislature and the Department of Transportation serve the following core set of principles:

(1) That all Department of Transportation infrastructure investments be coordinated to maximize efficiencies and minimize cost thereby addressing the needs of the citizens more effectively;

(2) That communication be facilitated among the various agencies within the Department of Transportation and between the department and the Legislature;

(3) That policy changes, not made by legislative rule, be discussed with the commission for purposes of coordinating those policies with stated goals;

(4) That programs or policies implemented in accordance with federal mandates be communicated to the commission;

(5) That in developing and implementing programs with private or federal grant moneys, the various agencies communicate their efforts to the commission to ensure and facilitate future state funding; and

(6) That any Department of Transportation agencies exempted from rule-making review by federal or state statutes advise the commission of program changes which may affect infrastructure investment in West Virginia.

§4-14-2. Definitions.

As used in this article:

(1) "Agency" means each agency, authority, board, committee, commission or division of the Department of Transportation;

(2) "Commission" means the Legislative Oversight Commission on Transportation Accountability; ~~as created in section three of this article; and~~

(3) "Department" means the Department of Transportation.

§4-14-3. Creation of a Legislative Oversight Commission on Department of Transportation Accountability.

(a) There is hereby created a joint commission of the Legislature known as the Legislative Oversight Commission on Department of Transportation Accountability. The commission shall be composed of an equal number of senators and delegates, as appointed by the President of the Senate and the Speaker of the House of Delegates. ~~seven members of the Senate appointed by the President of the Senate and seven members of the House of Delegates appointed by the Speaker of the House of Delegates. No more than four of the seven members appointed by the President of the Senate and the Speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the President of the Senate and Speaker of the House of Delegates shall be ex officio nonvoting members of the commission. The co-chairs of the commission shall be the chair of the Senate Transportation and Infrastructure Committee and the chair of the House Roads and Transportation Committee. At least one of the Senate appointees and at least one of the House of Delegates appointees shall be a member of the committee on finance of the Senate and House of Delegates, respectively. The members shall serve until their successors shall have been appointed as heretofore provided.~~

(b) Members of the commission shall receive such compensation and expenses as provided in article two-a, chapter four of this code, subject to the approval by the Joint Committee on Government and Finance. ~~Such expenses and all other expenses including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel shall be paid from an appropriation to be made expressly for the Legislative Oversight Commission on Department of Transportation Accountability: *Provided*, That if no such appropriation be made, such expenses shall be paid from the appropriation under Fund No. 0175 for Joint Expenses created pursuant to the provisions of said chapter: *Provided, however*, That no expense of any kind payable under the account for joint expenses shall be incurred unless first approved by the Joint Committee on Government and Finance.~~

(c) ~~The commission shall meet at any time both during sessions of the Legislature and in the interim or as often as may be necessary.~~

(d) ~~The President of the Senate and Speaker of the House of Delegates shall assign such staff as may be deemed necessary to aid the commission in carrying out the provisions of this article.~~

ARTICLE 15. JOINT LEGISLATIVE COMMITTEE ON FLOODING.**§4-15-1. Establishing a Joint Legislative Committee on Flooding.**

[Repealed.]

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 24. WEST VIRGINIA FOREST MANAGEMENT REVIEW COMMISSION.****§5-24-3. Commission continued; composition; appointment of members.**

The West Virginia Forest Management Review Commission ~~heretofore created~~ is hereby continued for the purposes set forth in this article. This commission shall be comprised of an equal number of senators and delegates, as appointed by the President of the Senate and the Speaker of the House of Delegates, and ~~five members from the West Virginia Senate, a cochairman and four members to be appointed by the Senate president, and five members of the House of Delegates, a cochairman and four members to be appointed by the speaker; four members to be representatives from the commercial forest industry in the state, and three members of the public-at-large. The seven nonlegislative members shall be appointed by the Governor, with the advice and consent of the Senate. Two members shall be appointed to serve a term of two years; three members shall be appointed to serve a term of four years; and two members shall be appointed to serve a term of six years.~~ The successor of each such appointed member shall be appointed for an overlapping term of six years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only to the remainder of such term. Each board member shall serve until the appointment of his or her successor.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**ARTICLE 2B. WEST VIRGINIA WORKFORCE INVESTMENT ACT.****§5B-2B-2. Definitions.**

As used in this article, the following terms have the following meanings, unless the context clearly indicates otherwise:

"Board" means the West Virginia Workforce Development Board.

"Commission" or "Legislative Oversight Commission" means the Legislative Oversight Commission on Workforce Investment for Economic Development. ~~created pursuant to section seven of this article.~~

"Local area" means a local workforce investment area.

"Local board" means a local workforce development board.

"Team" means the workforce investment interagency collaborative team.

"WIOA" means the Workforce Innovation and Opportunity Act, 29 U. S. C. §3101, *et seq.*

§5B-2B-4a. Report to Legislature.

[Repealed.]

§5B-2B-7. Legislative oversight commission on workforce investment for economic development.

[Repealed.]

ARTICLE 3. WEST VIRGINIA ECONOMIC DEVELOPMENT STRATEGY: A VISION SHARED.**§5B-3-2. ~~Creation of the~~ The Joint Commission on Economic Development.**

(a) The joint commission on economic development is hereby continued. ~~The commission shall be comprised of an equal number of senators and delegates, as appointed by the President of the Senate and the Speaker of the House of Delegates, established. The commission shall be composed of not more than twenty-four members as follows:~~

~~(1) The chairs of the Senate and House of Delegates finance committees;~~

~~(2) The chairs of the Senate and House of Delegates judiciary committees;~~

~~(3) The chairs of the Senate and House of Delegates education committees;~~

~~(4) Not more than nine additional members of the Senate appointed by the President of the Senate, with at least one member representing health; and~~

~~(5) Not more than nine additional members of the House of Delegates appointed by the Speaker of the House of Delegates, with at least one member representing health.~~

~~(b) Any vacancies occurring in the membership of the commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to perform the duties of the commission.~~

~~(c)~~ The commission may explore how West Virginia can:

(1) Invest in systems that build workforce skills and promote lifelong learning to ensure a competitive workforce;

(2) Enhance the infrastructure, communications and transportation needed to support the knowledge-based industries and electronic commerce;

(3) Reorganize government to deliver services more efficiently, using technology, privatization and partnerships with the private sector;

(4) Align state tax systems to meet the demands of the twenty-first century economy;

(5) Develop more uniform regulatory and tax systems to reduce complexity, eliminate market distortions and better protect consumers;

(6) Support entrepreneurs by streamlining business regulations, providing timely decisions and assisting firms in their search for venture capital;

(7) Promote university policies that encourage research and development and build intellectual infrastructure;

(8) Address quality-of-life concerns to attract new businesses and workers; and

(9) Accomplish the goals set forth in this article and any other goal related to economic development or workforce investment that the commission considers important.

~~(d)~~(b) The commission may propose legislation necessary to accomplish its goals.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6D. WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD.

§12-6D-4. Steering Committee created; powers and authority.

[Repealed.]

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9C. WEST VIRGINIA SENTENCING COMMISSION.

§15-9C-1. Legislative findings.

[Repealed.]

§15-9C-2. Creation of Sentencing Commission; purpose; composition.

[Repealed.]

§15-9C-3. Powers and duties of the commission.

[Repealed.]

§15-9C-4. Objectives of the commission.

[Repealed.]

§15-9C-5. Recommendations to Legislature.

[Repealed.]

§15-9C-6. Sunset.

[Repealed.]

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29E. LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY.

§16-29E-4. Creation of a Legislative Oversight commission on health and human resources accountability.

[Repealed.]

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 2B. TOLL ROAD STUDY COMMISSION.

§17-2B-1. Legislative findings and purposes.

[Repealed.]

§17-2B-2. Toll road study commission created; composition; appointment of members; chairman.

[Repealed.]

§17-2B-3. Compensation and expenses of commission members; expenses of commission.

[Repealed.]

§17-2B-4. Powers and duties of the commission.

[Repealed.]

§17-2B-5. Meetings of the commission; quorum.

[Repealed.]

§17-2B-6. Interpretation of article; termination of commission.

[Repealed.]

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 14. MISCELLANEOUS.

§18B-14-1. Select committee on outcomes-based funding models in higher education.

[Repealed.]

§18B-14-9. Legislative findings; establishment of study committee; membership; recommendations on higher education facilities.

[Repealed.]

CHAPTER 21. LABOR

ARTICLE 5E. EQUAL PAY FOR EQUAL WORK FOR STATE EMPLOYEES.

§21-5E-1. Legislative findings and purpose.

[Repealed.]

§21-5E-2. Definitions.

[Repealed.]

§21-5E-3. Discrimination between sexes in payment of wages for work of comparable character prohibited.

[Repealed.]

§21-5E-4. Employee's right of action against employer.

[Repealed.]

§21-5E-5. Establishment of the Equal Pay Commission; appointment of members.

[Repealed.]

§21-5E-6. Commission's duties; promulgation of rules.

[Repealed.]

CHAPTER 22. ENVIRONMENTAL RESOURCES.**ARTICLE 26. WATER RESOURCES PROTECTION ACT.****§22-26-5. Joint Legislative Oversight Commission on State Water Resources.**

[Repealed.]

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**ARTICLE 1B. COMMISSION ON INTERSTATE COOPERATION.****§29-1B-1. Senate committee on interstate cooperation.**

[Repealed.]

§29-1B-2. House committee on interstate cooperation.

[Repealed.]

§29-1B-3. West Virginia commission on interstate cooperation.

[Repealed.]

§29-1B-4. Terms of Senate and House committees.

[Repealed.]

§29-1B-5. Function of commission.

[Repealed.]

§29-1B-6. Commission may establish delegations and committees.

[Repealed.]

§29-1B-7. Names of committees and commission.

[Repealed.]

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES ACT.**ARTICLE 3A. HIGHER EDUCATION RULE MAKING.****§29A-3A-11. Creation of a legislative oversight commission on education accountability.**

(a) There is hereby created a joint commission of the Legislature known as the Legislative Oversight Commission on Education Accountability to review all legislative rules of the agency and other rules as the commission deems appropriate. The commission shall be composed of an equal number of senator and delegates, as appointed by the President of the Senate and the Speaker of the House of Delegates. ~~six members of the Senate appointed by the President of the Senate and six members of the House of Delegates appointed by the Speaker of the House of Delegates. No more than five of the six members appointed by the President of the Senate and the Speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the President of the Senate and the Speaker of the House of Delegates shall be ex officio nonvoting members of the commission and shall designate the co-chairs. At least one of the Senate members and one of the House members shall be members of the committee on education of the Senate and House, respectively, and at least one of the Senate members and at least one of the House members shall be a member of the committee on finance of the Senate and House, respectively. The members shall serve until their successors have been appointed as heretofore provided. Members of the commission shall receive compensation and expenses as provided in §4-2A-1 et seq. of this code, subject to approval of the Joint Committee on Government and Finance. These expenses and all other expenses, including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory, and other personnel shall be paid from an appropriation to be made expressly for the Legislative Oversight Commission on Education Accountability, but if no such appropriation is made, the expenses shall be paid from the appropriation under "Account No. 103 for Joint Expenses", but no expense of any kind whatever payable under the account for joint expenses shall be incurred unless first approved by the Joint Committee on Government and Finance. The commission shall meet at any time, both during sessions of the Legislature and in the interim.~~

(b) The commission may adopt rules of procedure as it considers necessary for the submission, presentation, and consideration of rules.

CHAPTER 31. CORPORATIONS.**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.**

§31-20-26. Legislative oversight committee.

[Repealed.]

On motion of Senator Rucker, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3411—A Bill to repeal §4-7-1, §4-7-2, §4-7-3, §4-7-4, §4-7-5, §4-7-6, §4-7-7, §4-7-8, §4-7-9, §4-7-10 and §4-7-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §4-10-3 of said code; to repeal §4-10-4 of said code; to amend and reenact §4-10-5, §4-10-6, §4-10-7, §4-10-9, §4-10-11 and §4-10-13 of said code; to repeal §4-13-1, §4-13-2, §4-13-3, §4-13-4, §4-13-5, §4-13-6, and §4-13-7 of said code; to amend and reenact §4-14-1, §4-14-2, and §4-14-3 of said code; to repeal §4-15-1 of said code; to amend and reenact §5-24-3 of said code; to amend and reenact §5B-2B-2 of said code; to repeal §5B-2B-4a of said code; to repeal §5B-2B-7 of said code; to amend and reenact §5B-3-2 of said code; to repeal §12-6D-4 of said code; to repeal §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5 and §15-9C-6 of said code; to repeal §16-29E-4 of said code; to repeal §17-2B-1, §17-2B-2, §17-2B-3, §17-2B-4, §17-2B-5 and §17-2B-6 of said code; to repeal §18B-14-1 and §18B-14-9 of said code; to repeal §21-5E-1, §21-5E-2, §21-5E-3, §21-5E-4, §21-5E-5 and §21-5E-6 of said code; to repeal §22-26-5 of said code; to repeal §29-1B-1, §29-1B-2, §29-1B-3, §29-1B-4, §29-1B-5, §29-1B-6 and §29-1B-7 of said code; to amend and reenact §29A-3A-11 of said code; and to repeal §31-20-26 of said code, relating to commissions; removing legislative members; making technical changes throughout; and eliminating expired commissions.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 611**), and there were--yeas 93, nays 5, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Dillon, Martin and Ridenour.

Absent and Not Voting: McGeehan and D. Smith.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3411) passed.

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

On this question, the yeas and nays were taken (**Roll No. 612**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: McGeehan and D. Smith.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3411) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 3517, Relating generally to fiscal emergencies of local governments.

On motion of Delegate Kelly, the House concurred in the following amendment by the Senate, with further amendment:

The Committee on Finance moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 9D. LOCAL FISCAL EMERGENCIES.

§6-9D-1. Legislative findings.

(a) The Legislature finds:

(1) That local governments are instrumentalities of this state, and the Legislature must act for the public health, safety and welfare of its citizens to promote fiscal integrity of local governments to prevent future emergencies;

(2) That negative economic changes, waste, fraud or abuse by public officials, or a combination thereof, necessarily result in a significant impact on the revenues and effectiveness of local governments, and cause significant indebtedness without any current possibility for recovery; and

(3) That the failure of a local government to take actions on its own to address such a condition will adversely affect the health, safety and welfare not only of the residents of the local government, but also of other people of the state.

(b) It is the intent of the Legislature to direct the State Auditor or a designee to:

(1) Take necessary and appropriate actions to limit and restrict the powers of local governments to prevent the abuse of statutory powers;

(2) Require reports and examinations of their financial condition, transactions, operations and undertakings;

(3) Ensure the fiscal integrity of local governments so that they may provide for the health, safety and welfare of their citizens; and

(4) Determine if local governments have paid due principal and interest on their debt obligations, meet financial obligations to their employees, vendors and suppliers, and provide for proper financial accounting procedures, budgeting and taxing practices.

(c) The Legislature further finds that the fiscal emergency conditions described in this article result from and constitute abuses of the powers of a local government to borrow money, contract debts and levy taxes, and that those conditions impair and threaten the health, safety and welfare of the people of the state within and beyond the local government.

§6-9D-2. Definitions.

As used in this article:

“Committee” means a financial planning and supervision group created pursuant to this article.

“Debt obligations” means bonds, notes, certificates of indebtedness, bond anticipation notes, current revenue notes, local government fund notes, leases or other obligations issued or incurred in borrowing money, or to renew, refund, fund or refinance, or issued in exchange for, such obligations, and any interest coupons pertaining thereto.

“Default” means failure to pay the principal of or the interest on a debt obligation, or failure to make other payment to be made to the holder or owner of a debt obligation, in the full amount and at the time provided for in the contractual commitment with respect thereto, unless the time for such payment has been extended by the owner or holder of the debt obligation without penalty or premium and without the effect of subjecting the local government to the initiation of remedies pertaining to such debt obligation or other debt obligations.

“Deficit fund” means the general fund or any other fund of a local government that, as at the time indicated, has a deficit balance or a balance that is less than the amount required to be in such fund pursuant to law or pursuant to contractual requirements, demonstrating that over a period of time expenditures charged or chargeable to the fund have exceeded moneys credited to the fund, or that moneys credited to the fund have not been in the amounts required by law or contractual requirements.

“Effective financial accounting and reporting system” means an accounting and reporting system as prescribed by the West Virginia State Auditor’s Office.

“Employee benefits” means expenditures for goods and services furnished to local government officers or employees by the local government, including, but not limited to, such benefits as food, temporary housing and clothing, and the provision of pension, retirement, disability, hospitalization, health care, insurance or other benefits to employees requiring the advance payment of money other than directly to employees or other beneficiaries, or the deposit or reservation of money for such purpose.

“Estimated revenues” means the aggregate estimates of revenue receipts in the budget of the general fund of a local government and other funds as estimated and supplemented, modified, or amended by the local government, as approved by the West Virginia State Auditor’s Office or other regulatory agency.

“Financial recovery plan” means the financial plan approved by the committee in accordance with §6-9D-6 of this code, as it may from time to time be amended in accordance with this article.

“Fiscal emergency” means the existence of fiscal emergency conditions as set forth in this article.

“Fiscal emergency period” means the period of time commencing on the date when the determination of a fiscal emergency is made by the State Auditor or a designee and ending when the determination of termination is made and certified.

“Fiscal watch” means the existence of fiscal watch conditions as provided in this article.

“General fund” means the fund used to account for and report the primary operating activities of the local government.

“General fund budget” means the estimates of revenue and expenditure as a plan of financial operation of the general fund during the applicable fiscal year as approved by the West Virginia State Auditor’s Office.

“Local government” means any unit of local government within the state, including a county, municipality, and any other authority, board, commission, district, office, public authority, public corporation, or other instrumentality of a county, municipality, or any combination of two or more local governments.

“Other funds” means funds other than the general fund, including, but not limited to, special revenue funds, capital project funds, debt service funds, permanent funds, enterprise funds, internal service funds, pension trust funds, custodial funds, investment trust funds, and private purpose trust funds.

“Payroll” means compensation due and payable to employees of local government other than employee benefits.

§6-9D-3. Auditable Condition of Local Governments.

Notwithstanding the powers and duties granted to the State Auditor in §6-6-1 *et seq.* the State Auditor or designee may determine that a local government’s accounts, records, files, or reports have not been maintained in accordance with §6-9-2 of this code. The State Auditor or designee shall notify the local government, in writing, of the deficiencies present and the action necessary to present the accounts, records, files, or reports in an auditable condition. Furthermore, the State Auditor or designee may prescribe the deadline for the local government in completing the necessary action and institute a fiscal monitoring plan to improve the local government’s financial records.

§6-9D-4. Initiating fiscal watch review.

(a) A local government may undergo a fiscal watch review by the State Auditor to determine whether it is approaching a state of fiscal emergency. A fiscal watch review shall be initiated by a written request to the State Auditor or a designee from the governing body when duly authorized by a majority of the members of such body ; or may be initiated by the State Auditor or a designee if conditions for a fiscal watch have been determined to exist. Fiscal watch conditions include but are not limited to (1) the inability of a local government to meet financial obligations; (2) the lack of adequate financial records necessary to conduct an examination pursuant to §6-9-1 *et seq.* of this code; or (3) an examination pursuant to §6-9-1 *et seq.* of this code would cause an undue financial burden to the local government.

(b) The State Auditor or a designee will notify the local government when a fiscal watch review will or will not be conducted. The State Auditor’s Office will perform the fiscal watch review, which may be substituted for an examination, as required by §6-9-1 *et seq.* of this code at the discretion of the State Auditor or a designee.

(c) All working papers acquired or created to produce the fiscal watch review shall be considered confidential pursuant to §6-9-9b of this code.

§6-9D-5. Guidelines for identifying potential for declarations of fiscal watch or fiscal emergency; rulemaking authority.

(a) The State Auditor or a designee shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code, setting forth guidelines for identifying fiscal practices and budgetary conditions of local government that, if uncorrected, could result in declaration of a fiscal watch or fiscal emergency.

(b) If the State Auditor or a designee determines that a local government is engaging in any of the practices set forth in the legislative rule promulgated pursuant to the provisions of this section or that any of those conditions exist, the State Auditor or a designee may declare the local government to be under a fiscal watch.

(c) The State Auditor or a designee, may visit and inspect any local government that is declared to be under a fiscal watch. The State Auditor or a designee may provide technical assistance to the local government in implementing proposals to eliminate the practices or budgetary conditions that prompted the declaration of fiscal watch and may make recommendations concerning those proposals.

§6-9D-6. Conditions constituting grounds for fiscal watch.

In addition to the conditions set out in the legislative rule promulgated pursuant to the provisions of section eleven of this article the following also constitute grounds for a fiscal watch may include, but are not limited to:

(1) Accounts have been due and payable for more than 30 days or for which a penalty was added for failure to pay. Accounts include, but are not limited to, final judgments, employee benefits payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon. Accounts that are due and payable do not include any account, or portion of any account, that is being contested in good faith.

(2) The deficit amount within the general fund for the preceding fiscal year exceed the estimated revenues made in the general fund budget of the current fiscal year.

(3) The local government has failed to comply with debt covenants as required by the issuer of any debt with such requirement.

§6-9D-7. Declaring existence of fiscal watch; financial recovery plan.

(a) Upon determining that one or more of the conditions constituting grounds for a fiscal watch are present, the State Auditor or a designee shall issue a written declaration of the existence of a fiscal watch and provide the same to the governing body of the local government.

(b) The fiscal watch shall be in effect until the State Auditor or a designee determines that the conditions have been satisfactorily addressed, cancels the watch, or until the State Auditor or a designee determines that a state of fiscal emergency exists. The State Auditor or a designee, shall provide such technical and support services to the municipal corporation, county or political subdivision after a fiscal watch has been declared to exist as the State Auditor or a designee considers necessary and provide recommendations to address the fiscal watch conditions.

(c) Within 90 days after the day a written declaration of the existence of a fiscal watch is issued under this section, the governing body of the local government for which a fiscal watch was declared shall submit to the State Auditor or a designee a financial recovery plan that shall identify actions to be taken to eliminate all of the conditions described in section five of this article, and shall include a schedule detailing the approximate dates for beginning and completing the actions and a five-year forecast reflecting the potential effects of the actions. The financial recovery plan also shall evaluate the feasibility of entering into shared services agreements with other political subdivisions for the joint exercise of any power, performance of any function, or rendering of any service, if not precluded by statute. The financial recovery plan is subject to review and approval by the State Auditor or a designee pursuant to the provisions of the rules promulgated pursuant to this article. The State Auditor or a designee may extend the amount of time by which a financial recovery plan is required to be filed, for good cause shown.

(d) The State Auditor or a designee may declare that a fiscal emergency condition exists under this article in the municipal corporation, county or political subdivision if either of the following applies:

(1) A feasible financial recovery plan for a local government filed pursuant to the provisions of this article and for which a fiscal watch was declared is not submitted within the time period prescribed by this section, or within any extension of time thereof; or

(2) The State Auditor or a designee finds that a local government for which a fiscal watch has been declared has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal watch, and the State Auditor or a designee determines a fiscal emergency declaration is necessary to prevent further decline.

(e) If the State Auditor or a designee finds that a local government declared to be under a fiscal watch has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal watch, and if the State Auditor or a designee considers it necessary to prevent further fiscal decline, the State Auditor or a designee may determine that the local government should be in a state of fiscal emergency as set forth in this article

§6-9D-8. Determining existence of fiscal emergency conditions.

(a) The existence of fiscal emergency conditions as set forth in section nine of this article shall be determined by the State Auditor or a designee as set forth in rules authorized pursuant to this article. Fiscal emergency condition determinations shall be set forth in written reports by the State Auditor or a designee, which shall be filed with the governing body, the State Treasurer, Secretary of State, Governor, and Legislative Auditor.

(b) In making such determination, the State Auditor or a designee may rely on reports or other information filed or otherwise made available by the local government, accountants' reports, or other sources and data the State Auditor or a designee considers reliable for such purpose. The determination of a fiscal emergency condition may be made without need of the specific amounts noted related to such conditions.

§6-9D-9. Fiscal emergency conditions.

(a) The conditions constituting a fiscal emergency of a local government may include, but are not limited to:

- (1) The existence, of a default on any debt obligation for more than 30 days.
 - (2) The failure to make payment of all payroll to employees of the local government in the amounts and at the times required by law, ordinances, resolutions, or agreements.
 - (3) The failure to make payment of all employee benefits of the local government in the amounts and at the times required by law, ordinances, resolutions, or agreements.
 - (4) The existence of a condition in which accounts were due and payable from the general fund and that either had been due and payable for at least 30 days or to which a penalty has been added for failure to pay, including, but not limited to, final judgments, employee benefits payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon. Accounts due and payable do not include any account, or portion of any account, that is being contested in good faith.
 - (5) The deficit amount within the general fund for the preceding fiscal year exceed the estimated revenues made in the general fund budget of the current fiscal year.
 - (6) The local government has failed to comply with debt covenants as required by the issuer of any debt with such requirement.
 - (7) Any such rule, as proposed by the State Auditor or a designee for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code, identified as indicators of a financial emergency condition.
 - (8) The State Auditor or a designee declares a fiscal emergency pursuant to section eight of this article.
- (b) Any condition described in subdivisions (4), (5), (6) or (7) of subsection (a) of this section shall not constitute a fiscal emergency condition if the local government clearly demonstrates to the satisfaction of the State Auditor or a designee that such condition no longer exists prior to the time of the determination.
- (c) Neither the time periods nor the amounts used in subsection (a) of this section to determine what constitutes a fiscal emergency condition of a local government for purposes of this article authorize actions otherwise contrary to law or any agreement of the local government.

§6-9D-10. Appeal of decision of State Auditor.

(a) A determination by the State Auditor or a designee that a fiscal emergency condition does not exist is final, conclusive and not appealable. A determination by the State Auditor or a designee under this section that a fiscal emergency exists is final, except that the governing body affected by a determination of the existence of a fiscal emergency condition under this section, when authorized by a majority of the members of their governing body, may appeal the determination of the existence of a fiscal emergency condition to the circuit court of the county having territorial jurisdiction over the local government. The appeal shall be heard expeditiously by the circuit court for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. Notice of such appeal must be filed with the State Auditor

or a designee and such court within 30 days after the notification of a fiscal emergency determination by the State Auditor or a designee to the governing body of the local government as provided for in subsection (a) of this section.

(b) Upon such appeal, determinations of the State Auditor or a designee shall be presumed to be valid and the local government shall have the burden of proving, by clear and convincing evidence, that each of the determinations made by the State Auditor or a designee as to the existence of a fiscal emergency condition under this article was in error. If the local government fails, upon presentation of its case, to prove by clear and convincing evidence that each such determination by the State Auditor or a designee was in error, the court shall dismiss the appeal. The local government and the State Auditor or a designee may introduce any evidence relevant to the existence or nonexistence of such fiscal emergency conditions at the times indicated in the applicable provisions of subsections (a) and (b) of this section.

(c) The pendency of any such appeal shall not affect or impede the operations of this article; no restraining order, temporary injunction, or other similar restraint upon actions consistent with this article shall be imposed by the court or any court pending determination of such appeal; and the actions of the State Auditor taken pursuant to this article may continue regardless of the pendency of any such appeal. Any action taken or contract executed pursuant to this article during the pendency of such appeal is valid and enforceable among all parties, notwithstanding the decision in such appeal. If the circuit court reverses the determination of the existence of a fiscal emergency condition by the State Auditor or a designee, the determination no longer has any effect, and any procedures undertaken as a result of the determination shall be terminated.

(d) All expenses incurred by the State Auditor or a designee relating to a determination or termination of a fiscal emergency or a fiscal watch under this article, including providing technical and support services, or for conducting a financial review, shall be reimbursed from an appropriation for that purpose. If necessary, the governing body of the local government may provide sufficient funds for these purposes.

§6-9D-11. Financial planning and supervision committee; rule-making authority.

(a) Upon the occurrence of a fiscal emergency in any local government, there is established, with respect to that local government, a supervising committee to perform essential governmental functions of the local government to be known as the "financial planning and supervision committee for (name of local government)", which, in that name, may exercise all authority vested in such a committee provided by this article. Furthermore, if a local government in which fiscal watch or fiscal emergency exists has failed to develop a financial recovery plan the "financial planning and supervision committee for (name of local government)" may develop such a plan for the local government.

(b) The State Auditor shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, setting forth the following:

(1) Minimum requirements for the composition of the members of said committee;

(2) The rules of governance for such a committee;

(3) Requirements for the detailed financial recovery plan to be submitted by the subject local government;

(4) The powers, duties and functions of the committee;

(5) The payment of expenses and obligations;

(6) The establishment of enhanced financial reporting;

(7) The requirements of the local government operating under the plan;

(8) Recourse for a noncompliant local government;

(9) Limitations for appropriations;

(10) Communications of the committee;

(11) The approval of debt obligations;

(12) The issuance of general obligation, special obligation, or revenue bonds and notes in anticipation of bonds; and

(13) The continuance and dissolution of the committee.

§6-9D-12. Compliance

(a) Local government officials shall:

(1) Take the necessary corrective action recommended by the State Auditor or designee pursuant to section three of this article to present financial records in an auditable condition.

(2) Complete any recommendations imposed by the State Auditor or designee pursuant to section seven of this article.

(3) Provide a financial recovery plan in accordance with section seven of this article.

(4) Make reasonable proposals or otherwise take action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal watch or fiscal emergency.

(5) Comply with the financial recovery plan instituted by a financial planning and supervision committee created pursuant to section eleven of this article.

(b) If local government officials fail to adequately comply with the provision of this section, the State Auditor or designee may institute appropriate recourse measures pursuant to the rules authorized by section eleven of this article.

§6-9D-13. Prohibition against relief under federal bankruptcy laws unless authorized.

(a) No county, municipality, school district, authority, division, instrumentality, political subdivision, or public body corporate created under the Constitution or laws of this state shall be authorized to file a petition for relief from payment of its debts as they mature or a petition for composition of its debts under any federal statute providing for such relief or composition or otherwise to take advantage of any federal statute providing for the adjustment of debts of political

subdivisions and public agencies and instrumentalities without the express, written permission of the State Auditor.

(b) No chief executive, mayor, board of commissioners, city council, board of trustees, or other governmental officer, governing body, or organization shall be empowered to cause or authorize the filing by or on behalf of any county, municipality, school district, authority, division, instrumentality, political subdivision, or public body corporate created under the Constitution or laws of this state of any petition for relief from payment of its debts as they mature or a petition for composition of its debts under any federal statute providing for such relief or composition or otherwise to take advantage of any federal statute providing for the adjustment of debts of political subdivisions and public agencies and instrumentalities without the express, written permission of the State Auditor.

§6-9D-12. Severability.

(a) In case any section or provision of this article, including any condition or prerequisite to any action or determination thereunder, or in case any act or action, or part thereof, made, or taken under this article, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision of this article, including any condition or prerequisite to any action or determination thereunder, or any agreement, act or action, or part thereof, made, entered into, or taken under such article, which shall be construed and enforced and applied as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof, and each such section, provision, agreement, act, or action, or part thereof, shall be deemed to be effective, operative, made, and entered into or taken in the manner and to the full extent permitted by law.

(b) Any action or proceeding bringing into question the interpretation, legality, or validity of any provision of this article, the existence or authority, or the legality or validity of any act, of the committee or the State Auditor or of any action taken under this article, is a matter of great public interest to the state and shall be advanced on the docket of the court and expedited to final determination.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 35. DISSOLUTION OF MUNICIPALITIES.

PART I. FORFEITURE OF CHARTER OR CERTIFICATE OF INCORPORATION.

§8-35-1. Forfeiture of charter or certificate of incorporation; notice; dissolution of municipality.

(a) Any municipality heretofore incorporated or which shall hereafter be incorporated and which has no substantial indebtedness, and which shall fail for one year to exercise its corporate powers and privileges, or which has not 20 qualified voters, or in which there were not 20 legal votes cast at its last election, or the population of which shall be reduced below 100 persons and so remain for six consecutive months, shall in either event have its charter or certificate of incorporation and all rights, powers and privileges so conferred upon such municipality forfeited and declared dissolved.

(b) The county court commission of the county wherein any such municipality or the major portion of the territory thereof is located shall have jurisdiction to hear and determine all matters relating to the forfeiture and dissolution of such charter or certificate of incorporation, upon the petition of one or more of its inhabitants qualified voters, or the State Auditor, and to dissolve such municipal corporation. Ten days' notice of the filing of such petition with the clerk of the county court commission of such county, served upon the mayor and recorder, or on the last mayor or recorder thereof, shall be sufficient notice upon which such county court commission shall so act, and upon the proper proof of the allegations of such petition, any such charter or certificate of incorporation shall be declared forfeited and the municipal corporation dissolved and all debts of such municipality shall be ordered paid and the forfeiture and dissolution shall not become effective until when such debts have been paid or when the State Auditor has fully exercised the actions authorized by §8-35-4 of said code. Upon such forfeiture and dissolution all interest of such municipality in corporate funds, if any, in excess of the amounts required to pay corporate debts shall be and the same is hereby transferred to and vested in the State of West Virginia, to be controlled by the State Auditor. If the territory so incorporated, or a major part thereof, either in area or in population, shall, however, within one year next after such declaration of forfeiture and dissolution by the county court be reincorporated under this chapter, then the Auditor of the State of West Virginia shall convey unto such new municipality all of the rights of the State of West Virginia in and to the corporate property, moneys, claims, demands and taxes collected or uncollected, of the former municipal corporation so dissolved.

(c) A petition for forfeiture shall be filed with the clerk of the county commission. The petition shall be in writing and set forth the reasons for the request to forfeit and dissolve the municipality. The petition for dissolution shall be served upon the mayor and recorder, or on the last mayor or recorder thereof.

(d) The State Auditor shall promptly conduct an examination under the authority granted under §6-9-1 et seq. of this code, to determine the financial condition of the municipality.

PART II. VOLUNTARY DISSOLUTION OF ~~CLASS III CITY OR~~

~~CLASS IV TOWN OR VILLAGE~~ MUNICIPALITIES.

§8-35-2. Voluntary dissolution of ~~Class III city or Class IV town or village~~ municipal corporation.

(a) A petition for dissolution shall be filed with the governing body of the municipality. The petition shall be in writing, set forth the reasons for the request to dissolve the municipality, and be signed by not less than 25 percent of the qualified voters of the municipality as shown by the last preceding statewide general election. The petition for dissolution shall be served upon the mayor and recorder, or on the last mayor or recorder thereof.

(b) Upon the filing of a qualified petition for dissolution of twenty-five or more percent of the legal voters of any ~~Class III city or Class IV town or village~~ municipal corporation, the governing body thereof shall submit to the qualified voters of such municipal corporation at the next regular municipal election, or at a special municipal election called for that purpose, the question of continuing or dissolving such municipal corporation. It shall be the responsibility of the governing body to verify the total number of eligible petitioners and to determine whether the required percentage of petitioners has been obtained. The governing body shall provide written notice of the election to the State Auditor within five days of determining an election date. The ballots, or ballot labels where voting machines are used, shall have written or printed on them the words:

~~/For Continuance of Municipal Corporation~~

~~/For Dissolution of Municipal Corporation~~

Shall the municipality of _____ (name of municipality subject to dissolution) be dissolved?

() Yes.

() No.

(c) The dissolution election shall be conducted in accordance with applicable election laws.

(d) If a majority of the legal votes cast be for dissolution, then such municipal corporation shall by operation of law be dissolved upon termination of the term of the governing body then in office: ~~Provided, That all debts or other obligations outstanding against such municipal corporation shall be settled in full at the expiration of six (6) months from the date of the election on the question. The State Auditor shall promptly conduct an examination under the authority granted under §6-9-1 et seq. of this code, to determine the financial condition of the municipality.~~ If a majority of the legal votes cast be for continuance, then such municipal corporation shall continue in existence unless and until dissolved at some later date under the provisions of section one of this article or this section two. ~~Provided, however, That another election under the provisions of this section two shall not be held within two years of the last such election. Any election under the provisions of this section two shall be held, conducted and superintended and the result thereof ascertained, certified, returned and canvassed in the same manner and by the same persons as an election for municipal officers of such municipal corporation.~~

PART III. INVOLUNTARY DISSOLUTION OF MUNICIPAL CORPORATION.

§8-35-3. Involuntary dissolution of municipal corporation.

(a) The Prosecuting Attorney for the county where such municipality or the majority portion of the territory thereof is located, or the State Auditor, may petition for involuntary dissolution of a municipality when the government of a municipality ceases to function by reason of the following:

(1) General municipal elections have not been called in the municipality for two successive general municipal elections; and

(2) A majority of all the members of the governing body fail to qualify for two successive general municipal elections.

(b) The petition requesting involuntary dissolution shall be filed in the circuit court in the county in which such municipality or the majority portion of the territory thereof is located. The petition shall state the facts which justify the request and shall set forth a detailed statement of the assets and liabilities of the municipality insofar as they can be ascertained. The petition shall state the facts which justify the request insofar as they can be ascertained.

(c) Upon the filing of a petition for the involuntary dissolution of a municipality, the circuit court shall fix a date for a hearing on the request and written notice shall be provided to the State Auditor, and the Prosecuting Attorney for the county where such municipality or the majority portion of the territory thereof is located, within five days. The date of the hearing shall be not less than 30 days after the date of filing. The petitioner shall give at least 20 days' notice of the

hearing by publication in a newspaper of general circulation in the municipality, and by posting copies of the notice in a manner consistent with court proceedings. The notice shall state the purpose of the petition and the date and place of the hearing.

(d) The State Auditor shall promptly conduct an examination under the authority granted under §6-9-1 et seq. of this code, to determine the financial condition of the municipality.

(e) Any person owning property in or registered to vote in the municipality may appear at the hearing and give testimony for or against dissolution of the municipality. If the court finds that the government of the municipality has ceased to function because of the reasons listed in subsection (a), it shall enter an order for dissolution of the municipality. The order of the circuit court shall state when the dissolution shall take effect and appoint the State Auditor to act as special receiver to wind up the affairs of the municipality and dispose of its property.

(f) The order of dissolution shall be filed with the clerk of the county commission and the office of the Secretary of State.

PART IV. DISPOSITION OF PROPERTY, DEBTS AND LIABILITIES.

§8-35-4. State Auditor as special receiver.

(a) Upon declaration of the forfeiture of the charter or certificate of incorporation, or the certification of the election for voluntary dissolution, or upon an order by the circuit court for involuntary dissolution, as set forth in this article, the State Auditor shall by operation of law, act as special receiver for the dissolved municipality.

(b) The State Auditor, acting as special receiver of the dissolved municipality, shall have the power and authority to:

(1) Take legal control of assets, including municipal corporate property, moneys, claims, demands and taxes collected or uncollected;

(2) Protect assets;

(3) File claims on behalf of the dissolved municipality in receivership;

(4) Initiate necessary and proper bankruptcy proceedings, including, but not limited to filing a petition in the name of the municipal corporation under Chapter 9 of Title 11 of the United States Code, and to act on the municipality's behalf in such proceeding, to distribute assets to claimants or creditors, and;

(5) Any such actions as the State Auditor may deem necessary and appropriate to wind up the affairs of the municipality.

(6) Any excess of amounts required to pay corporate debts shall be maintained in a special fund titled "municipal dissolution account" to be controlled by the State Auditor to offset the costs associated with conducting examinations and legal expenses pursuant to the provisions of this article.

(7) Further powers and duties of the State Auditor acting as a special receiver shall be set out in rules authorized pursuant to the provisions of this article. These shall include, but are not limited to:

(A) The manner in which the State Auditor acting as a special receiver may gain access to and control over bank account and public funds;

(B) The manner in which the State Auditor acting as a special commissioner signs or records deeds, releases, or contracts;

(C) The manner in which the State Auditor acting as a special commissioner transfers or receives title to real or personal property;

(D) The manner in which the State Auditor acting as a special commissioner executes legally binding documents on behalf of a dissolved local government.

§8-35-5. Disposition of property belonging to dissolved municipal corporation.

(a) No dissolution of an incorporated municipality shall impair the rights of any person in any contract or agreement to which the municipality is a party.

(b) The deposits and investments belonging to the dissolved municipality shall be used first to pay the municipality's debts and liabilities.

(c) In the event that deposits and investments belonging to the municipality are not sufficient to satisfy its debts and liabilities, then the State Auditor may initiate the liquidation of the dissolved municipality's property pursuant to §8-35-3 of this code.

§8-35-6. Sale and liquidation of dissolved municipal assets.

(a) If the State Auditor, as special receiver, makes a determination that a dissolved municipality's real and/or personal property must be liquidated to satisfy its debts and liabilities then a public auction may be conducted. The property shall be sold either at an on-site public auction or by utilizing an Internet-based public auction service, or at a suitable location within the county wherein the dissolved municipality was principally located and such shall be conducted by the State Auditor. Before making such sale, notice of the time, terms, manner and either the location of the sale or the Internet-based public auction service to be utilized, together with a brief description of the property to be sold, shall be published as a Class II legal advertisement in compliance with the provision of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

(b) The provisions of subsection (a) of this section concerning sale at public auction shall not apply to the State Auditor selling or disposing of the property for public use to:

(1) The United States of America its instrumentalities, agencies or political subdivisions;

(2) The State of West Virginia, or its political subdivisions, including county boards of education, volunteer fire departments, and volunteer ambulance services; or

(3) Any authority, commission, instrumentality, or agency established by act of the State of West Virginia.

(c) For all sales made pursuant to this section, the State Auditor is not required to exclusively consider the present commercial or market value of the property.

(d) No officer or employee of the State Auditor or the Prosecuting Attorney for the county where such municipality or the majority portion of the territory thereof is located, or his or her immediate family, may purchase or acquire any property municipal assets disposed of pursuant to this section.

On motion of the Committee on Finance, the title of the bill was amended to read as follows:

Eng. House Bill 3517—A Bill to amend and reenact §8-35-1 and §8-35-2 of the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6-9D-1, §6-9D-2, §6-9D-2a, §6-9D-3, §6-9D-4, §6-9D-5, §6-9D-6, §6-9D-7, §6-9D-8, §6-9D-9, §6-9D-10, §6-9D-11 and §6-9D-12; and to amend said code by adding thereto by adding 4 new sections, designated §8-35-3, §8-35-4, §8-35-5 and §8-35-6, all relating generally to fiscal watch or fiscal emergencies of local governments; setting out findings; defining terms; setting out auditable conditions of local governments; providing details of a fiscal watch or a fiscal emergency; establishing a system to remediate those emergencies; providing for a financial recovery plan; setting out certain timeframes; setting out duties of local officials; requiring certain action be taken by the State Auditor or a designee; providing for an appeal; providing for a severability clause; modernizing the process for the dissolution of municipalities; and providing for rulemaking.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 613**), and there were-- yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Kump.

Absent and Not Voting: Garcia, Hornby, Martin, McGeehan and D. Smith.

So, a majority of the having voted in the affirmative, the Speaker declared the bill (H. B. 3517) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to:

Com. Sub. for S. B. 50, Requiring municipal elections to be held on same day as statewide elections.

Delegate Kelly moved that the House recede from the House amendment that was rejected by the Senate.

The yeas and nays having been ordered, they were taken (**Roll No. 614**), and there were--yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Adkins and Hansen.

Absent and Not Voting: Garcia, Hornby, Martin, McGeehan and D. Smith.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 225, Expanding powers of National Park Service law-enforcement officers.

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

On motion of Senator Martin, the title of the bill was amended to read as follows:

Eng. Com. Sub. for Senate Bill 225—A BILL to amend and reenact §15-10-5 of the Code of West Virginia, 1931, as amended, relating to incorporating in subsection (b) the following additional full time federal law enforcement officers of the United States government who are authorized to carry firearms while performing their duties in furtherance of the allowances contained in subsection (a) of this section of the code- United States Fish and Wildlife special agents and law enforcement, Diplomatic Security Service special agents, Coast Guard special agents, Customs and Border Protection law-enforcement agents and officers, Department of Defense special agents, Federal Protective Service officers, Federal Bureau of Prisons officers, and Immigration and Customs Enforcement special agents and law-enforcement; also relating to expanding the powers of law-enforcement officers of the National Park Service and the United States Forest Service to include the authority to arrest, conduct searches, conduct seizures and enforce all laws of this state and also establishes that these officers will have the authority to undertake an independent investigation pursuant to that authority but only for activities occurring on lands managed and overseen by the National Park Service or the United States Forest Service.

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 615**), and there were--yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Anders and Dillon.

Absent and Not Voting: Garcia, Hornby, Martin, McGeehan and D. Smith.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 225) passed.

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

A message from the Senate, by

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

H. B. 3356, Supplemental Appropriation - Education - Hope Scholarship.

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

On this question, the yeas and nays were taken (**Roll No. 616**), and there were--yeas 80, nays 14, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Campbell, Dittman, Ferrell, Fluharty, Hamilton, Hansen, Hornbuckle, Lewis, Pritt, Pushkin, Toney, Vance, Williams and Young.

Absent and Not Voting: Garcia, Hornby, Martin, McGeehan, Shamblin and D. Smith.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (H. B. 3356) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 3357, Supplemental Appropriation - Lottery Surplus - Hope Scholarship.

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

On this question, the yeas and nays were taken (**Roll No. 617**), and there were--yeas 78, nays 17, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Campbell, T. Clark, Dittman, Ferrell, Fluharty, Hamilton, Hansen, Hornbuckle, Lewis, Pritt, Pushkin, Shamblin, Stephens, Toney, Vance, Williams and Young.

Absent and Not Voting: Garcia, Hornby, Martin, McGeehan and D. Smith.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (H. B. 3357) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2025, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3111, To provide pay increases to members of the judiciary.

On motion of Delegate Kelly, the House concurred in the following amendments, with further amendment, of the bill by the Senate:

The Committee on Finance moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-10a. Salary of justices.

The salary of each of the justices of the Supreme Court of Appeals shall be \$95,000 per year: *Provided*, That beginning July 1, 2005, the salary of each of the justices of the Supreme Court shall be \$121,000: *Provided, however*, That beginning July 1, 2011, the annual salary of a justice of the Supreme Court shall be \$136,000: *Provided further*, That beginning July 1, 2021, the annual salary of a justice of the Supreme Court of Appeals shall be \$142,800, and beginning July 1, 2022, the annual salary of a justice of the Supreme Court of Appeals shall be \$149,600: *Provided further*, That beginning July 1, 2025, the annual salary of a justice of the Supreme Court of Appeals shall be \$154,600: *And provided further*, That beginning July 1, 2026, the annual salary of a justice of the Supreme Court of Appeals shall be \$159,600.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

§51-2-13. Salaries of judges of circuit courts.

The salaries of the judges of the various circuit courts shall be paid solely out of the State Treasury. No county, county commission, board of commissioners, or other political subdivision shall supplement or add to such salaries.

The annual salary of all circuit judges shall be \$90,000 per year: *Provided*, That beginning July 1, 2005, the annual salary of all circuit judges shall be \$116,000 per year: *Provided, however*, That beginning July 1, 2011, the annual salary of a circuit court judge shall be \$126,000: *Provided further*, That beginning July 1, 2021, the annual salary of a circuit judge shall be \$132,300, and beginning July 1, 2022, the annual salary of a circuit court judge shall be \$138,600: *Provided further*, That beginning July 1, 2025, the annual salary of a circuit judge shall be \$143,600: *And provided further*, That beginning July 1, 2026, the annual salary of a circuit judge shall be \$148,600.

ARTICLE 2A. FAMILY COURTS.

§51-2A-6. COMPENSATION AND EXPENSES OF FAMILY COURT JUDGES AND THEIR STAFFS.

(a) A family court judge ~~is entitled to~~ may receive as compensation for his or her services an annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge ~~is entitled~~

~~to~~ may receive as compensation for his or her services an annual salary of \$82,500: *Provided, however,* That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500: *Provided further,* That beginning July 1, 2020, the annual salary of a family court judge shall be \$103,950: *Provided further,* That beginning July 1, 2025, the annual salary of a family court judge shall be \$113,950: *And provided further,* That beginning July 1, 2026, the annual salary of a family court judge shall be \$118,950.

(b) The secretary-clerk of the family court judge is appointed by the family court judge and serves at his or her will and pleasure. The secretary-clerk of the family court shall be paid at least twice per month by the state. The annual salary of all secretary-clerks of the family court is \$42,576. Beginning July 1, 2023, the annual salary of a family court secretary-clerk shall be \$44,876. Family court secretary-clerks may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023.

(c) The family court judge may employ not more than one family case coordinator who serves at his or her will and pleasure: *Provided,* That the Supreme Court of Appeals may authorize additional family case coordinators if the workload of a circuit's family court requires extra staff support. The annual salary of the family case coordinator of the family court judge shall be established by the Administrative Director of the Supreme Court of Appeals but may not exceed \$54,576. Beginning July 1, 2023, the annual salary of a family court case coordinator shall not exceed \$56,876. Family court case coordinators may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023. If more than one family case coordinator is approved by the Supreme Court of Appeals, then the chief family court judge of that circuit shall appoint, supervise, and assign job duties for any additional family case coordinator as needed for that circuit.

(d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a bailiff is available when a family court judge determines the same is necessary for the orderly and efficient conduct of the business of the family court.

(e) Disbursement of salaries for family court judges and members of their staffs are made by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of Appeals.

(f) Family court judges and members of their staffs ~~staff~~ are allowed their actual and necessary expenses incurred in the performance of their duties. The expenses and compensation will be determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

(g) The Supreme Court of Appeals ~~is authorized to~~ may create additional classifications of support staff that it deems necessary to adequately and efficiently staff the family courts of this state, including, but not limited to, receptionists, assistant case coordinators, and assistant secretary-clerks. The Supreme Court of Appeals may determine the authority to hire and terminate, supervise, and assign job duties for these positions pursuant to its own employment rules, policies, and procedures. The annual salary of additional support staff authorized by this section shall not exceed the regular annual salary of a secretary-clerk and shall be paid by the state on the same basis established for secretary-clerks as provided in this section.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.**§51-9-4. REQUIRED PERCENTAGE CONTRIBUTIONS FROM SALARIES; ANY TERMINATION OF REQUIRED CONTRIBUTIONS PRIOR TO ACTUAL RETIREMENT DISALLOWED; LEASED EMPLOYEES; MILITARY SERVICE CREDIT; MAXIMUM ALLOWABLE AND QUALIFIED MILITARY SERVICE; QUALIFIABLE PROSECUTORIAL SERVICE.**

(a) Every person who is now serving or shall hereafter serve as a judge of any court of record of this state shall pay into the Judges' Retirement Fund six percent of the salary received by such person out of the State Treasury: *Provided*, That when a judge becomes eligible to receive benefits from such trust fund by actual retirement, no further payment by him or her shall be required, since such employee contribution, in an equal treatment sense, ceases to be required in the other retirement systems of the state, also, only after actual retirement: *Provided, however*, That on and after January 1, 1995, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund nine percent of the salary received by that person: *Provided further*, That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on and after July 1, 2005, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund ten and one-half percent of the salary received by that person: *And provided further*, That on and after July 1, 2013, except as provided in subsection (b) of this section, every person who is then serving or shall thereafter serve as a judge of any court of record in this state and who elects to participate in this retirement system shall pay into the Judges' Retirement Fund seven percent of the salary received. Any prior occurrence or practice to the contrary, in any way allowing discontinuance of required employee contributions prior to actual retirement under this retirement system, is rejected as erroneous and contrary to legislative intent and as violative of required equal treatment and is hereby nullified and discontinued fully, with the State Auditor to require such contribution in every instance hereafter, except where no contributions are required to be made under any of the provisions of this article.

(b) On and after July 1, 2014, every person who is serving or shall hereafter serve as a judge of any court of record of this state and who elects to participate in this retirement system shall contribute to the fund an amount determined by the board. This amount will be based on the annual actuarial valuation prepared by the State Actuary: *Provided*, That the contribution will be no less than seven percent or no more than ten and one-half percent of the participant's annual compensation.

(c) On or after July 1, 2013, and each year thereafter, the annual actuarial valuation prepared by the State Actuary for determination of all participants' contributions and the annual actuarially required contribution prepared by the State Actuary for use by the courts of this state for legislative appropriation shall be provided to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement: *Provided*, That the responsibility of the courts to pay, deposit, or transfer the calculated contribution into the plan shall be placed on a contribution holiday until such time that the actual overfunded nature of the pension fund has fallen below a rate of 150 percent.

(d) An individual who is a leased employee shall not be eligible to participate in the system. For purposes of this system, a "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization

or other similar organization. If a question arises regarding the status of an individual as a leased employee, the board has the final power to decide the question.

(e) In drawing warrants for the salary checks of judges, the State Auditor shall deduct from the amount of each such salary check six percent thereof, which amount so deducted shall be credited by the Consolidated Public Retirement Board to the trust fund: *Provided*, That on or after January 1, 1995, the amount so deducted and credited shall be nine percent of each such salary check: *Provided, however*, That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on or after July 1, 2005, the amount so deducted and credited shall be ~~ten~~ 10 and one-half percent of each such salary check: *Provided further*, That on and after July 1, 2013, except as provided in subsection (b) of this section, the amount so deducted and credited shall be seven percent of each salary check: *And provided further*, That on and after July 1, 2014, the amount so deducted and credited will be determined by the board.

(f) Any judge seeking to qualify military service to be claimed as credited service, in allowable aggregate maximum amount up to five years, shall be entitled to be awarded the same without any required payment in respect thereof to the Judges' Retirement Fund.

(g) Notwithstanding the preceding provisions of this section, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has the same meaning as in Section 414(u) of the Internal Revenue Code. The Retirement Board is authorized to determine all questions and make all decisions relating to this section and may promulgate rules relating to contributions, benefits and service credit pursuant to the authority granted to the retirement board in ~~section one, article ten-d, chapter five~~ §5-10D-1 of this code to comply with Section 414(u) of the Internal Revenue Code.

(h) Any judge holding office as such on the effective date of the amendments to this article adopted by the Legislature at its 1987 regular session who seeks to qualify service as a prosecuting attorney as credited service, which service credit must have been earned prior to the year 1987, shall be required to pay into the Judges' Retirement Fund nine percent of the annual salary which was actually received by such person as prosecuting attorney during the time such prosecutorial service was rendered prior to the year 1987 and for which credited service is being sought, together with applicable interest. No judge whose term of office shall commence after the effective date of such amendments to this article shall be eligible to claim any credit for service rendered as a prosecuting attorney as eligible service for retirement benefits under this article, nor shall any time served as a prosecutor after the year 1988 be considered as eligible service for any purposes of this article.

§51-9-6. Eligibility for and payment of benefits.

(a) Except as otherwise provided in sections five, six-d, twelve and thirteen of this article, and subject to the provisions of subsection (e) of this section, any person who is now serving, or who shall hereafter serve, as a judge of any court of record of this state and shall have served as such judge for a period of not less than sixteen full years and shall have reached the age of sixty-five years, or who has served as judge of such court or of that court and other courts of record of the state for a period of sixteen full years or more (whether continuously or not and whether said service be entirely before or after this article became effective, or partly before and partly after said date, and whether or not said judge shall be in office on the date he or she shall become

eligible to benefits hereunder) and shall have reached the age of sixty-five years, or who is now serving, or who shall hereafter serve, as a judge of any court of record of this state and shall have served as such judge for a period of not less than twenty-four full years, regardless of age, shall, upon a determination and certification of his or her eligibility as provided in section nine hereof, be paid from the fund annual retirement benefits, so long as he or she shall live, in an amount equal to seventy-five percent of the annual salary of the office from which he or she has retired based upon such salary of such office and as such salary may be changed from time to time during the period of his or her retirement and the amount of his or her retirement benefits shall be based upon and be equal to seventy-five percent of the highest annual salary of such office for any one calendar year during the period of his or her retirement and shall be payable in monthly installments: *Provided*, That such retirement benefits shall be paid only after such judge has resigned as such or, for any reason other than his or her impeachment, his or her service as such has ended: *Provided, however*, That every such person seeking to retire and to receive the annual retirement benefits provided by this subsection must have served a minimum of twelve years as a sitting judge of any such court of record: *Provided further*, That every individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, who subsequently seeks to retire and to receive the annual retirement benefits provided by this subsection must have served a minimum of fourteen years as a sitting judge of any court of record: *Provided further*, That any Justice of the West Virginia Supreme Court of Appeals, Intermediate Court of Appeals Judge, Circuit Court Judge, or Family Court Judge in this state appointed or elected for the first time after July 1, 2005, shall be eligible for payment of benefits under this subsection.

(b) Notwithstanding any other provisions of this article with the exception of sections twelve-a and twelve-b, any person who is now serving or who shall hereafter serve as a judge of any court of record of this state and who shall have accumulated sixteen years or more of credited service, at least twelve years of which is as a sitting judge of a court of record, and who has attained the age of sixty-two years or more but less than the age of sixty-five years, may elect to retire from his or her office and to receive the pension to which he or she would otherwise be entitled to receive at age sixty-five, but with an actuarial reduction of pension benefit to be established as a reduced annuity receivable throughout retirement: *Provided*, That every individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, who subsequently seeks to retire and to receive the annual retirement benefits provided by this subsection must have served a minimum of fourteen years as a sitting judge of any court of record. The reduced percentage (less than seventy-five percent) actuarially computed, determined and established at time of retirement in respect of this reduced pension benefit shall also continue and be applicable to any subsequent new annual salary set for the office from which such judge has retired and as such salary may be changed from time to time during the period of his or her retirement.

(c) In determining eligibility for the benefits provided by this section, active full-time duty (including leaves and furloughs) in the Armed Forces of the United States shall be eligible for qualification as credited military service for the purposes of this article by any judge with twelve or more years actual service as a sitting judge of a court of record, such awardable military service to not exceed five years: *Provided*, That in determining eligibility for the benefits provided by this section for every individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, active full-time duty (including leaves and furloughs) in the Armed Forces of the United States qualifies as credited service for the purposes of this article for any judge with fourteen or more years actual service as a sitting judge of a court of record of this state, the awardable military service not to exceed five years.

(d) If a judge of a court of record who is presently sitting as such on the effective date of the amendments to this section enacted by the Legislature at its regular session held in the year 1987 and who has served for a period of not less than twelve full years and has made payments into the Judges' Retirement Fund as provided in this article for each month during which he or she served as judge, following the effective date of this section, any portion of time which he or she had served as prosecuting attorney in any county in this state shall qualify as years of service, if such judge shall pay those sums required to be paid pursuant to the provisions of section four of this article: *Provided*, That any term of office as prosecuting attorney, or part thereof, commencing after December 31, 1988, shall not hereafter in any way qualify as eligible years of service under this retirement system. For purposes of this article, eligible service as a "prosecuting attorney" or as a "prosecutor" does not include any service as an assistant prosecuting attorney. The amendment to this subsection during the third extraordinary session in the year 2005 is not for the purpose of changing existing law but is intended to clarify the intent of the Legislature as to existing law regarding eligibility for benefits for service as a prosecuting attorney since its initial enactment and this clarification shall be applied retrospectively to the effective date of this section and any predecessor acts in which service as a prosecuting attorney was initially determined by statute to qualify as eligible years of service under the retirement system provided by this article.

(e) Any retirement benefit accruing under the provisions of this section shall not be paid if otherwise barred under the provisions of article ten-a, chapter five of this code.

(f) Notwithstanding any other provisions of this article, forfeitures under the system shall not be applied to increase the benefits any member would otherwise receive under the system.

§51-9-6a. Eligibility benefits; service and retirement of judges over ~~sixty-five~~ 65 years of age.

(a) Any judge of a court of record of this state who shall have served for a period of not less than eight full years after attaining the age of ~~sixty-five~~ 65 years and who shall have made payments into the Judges' Retirement Fund as provided in this article for each month during which he or she served as such judge following the effective date of this section, shall be subject to all the applicable terms and provisions of this article, not inconsistent with the provisions hereof, and shall receive retirement benefits in an amount equal to seventy-five percent of the annual salary of the office from which he or she has retired based upon such salary of such office as such salary may be changed from time to time during the period of his or her retirement and the amount of his or her retirement benefits shall be based upon and be equal to seventy-five percent of the highest annual salary of such office for any one calendar year during the period of his or her retirement and shall be payable in monthly installments. If such judge shall become incapacitated to perform his or her said duties before the expiration of his or her said term and after serving for six years thereof, and upon the acceptance of his or her resignation as in this article provided, he or she shall be paid the annual retirement benefits as herein provided so long as he or she shall live. The provisions of this section shall prevail over any language to the contrary in this article contained, except those provisions of sections twelve-a and twelve-b of this article: *Provided*, That no individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, is eligible for retirement under this subsection.

(b) Any individual who is appointed or elected for the first time as a family court judge, a judge of a court of record, judge of the Intermediate Court of Appeals, or as a justice of the Supreme Court of Appeals of West Virginia, of this State after July 1, 2005, who having attained the age of 65 years, and who shall have served as a sitting judge of said court or courts for a period of not less than 12 full years, and who shall have made payments into the Judges' Retirement Fund as

provided in this article for each month during which he or she served as a judge or justice, shall be eligible to receive the pension to which he or she would otherwise have been entitled to receive as if at 16 years of credited service, but with an actuarial reduction of pension benefit to be established as a reduced annuity receivable throughout retirement, and shall be paid as an annual retirement benefit as herein provided so long as he or she shall live.

§51-9-6b. Annuities for surviving spouses and surviving dependent children of judges; automatic escalation and increase of annuity benefit; proration designation by judge permitted.

(a) There shall be paid, from the fund created or continued by section two of this article, or from such funds as may be appropriated by the Legislature for such purpose, an annuity to the surviving spouse of a judge, if such judge at the time of his or her death is eligible for the retirement benefits provided by any of the provisions of this article, or who has, at death, actually served five years or more as a sitting judge of any court of record of this state, exclusive of any other service credit to which such judge may otherwise be entitled, and who dies either while in office or after resignation or retirement from office pursuant to the provisions of this article. Said annuity shall amount to ~~forty~~ 50 percent of the annual salary of the office which said judge held at his or her death or from which he or she resigned or retired. In the event said salary is increased or decreased while an annuitant is receiving the benefits hereunder, his or her annuity shall amount to ~~forty~~ 50 percent of the new salary. ~~Provided, That with respect to any individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, any annuity to the surviving spouse of the judge shall be an amount equal to forty 50 percent of the judge's final average salary. Provided, however, That the annuitant is not entitled to an increase in benefits by virtue of any increase in the salaries of the offices of circuit court judge or Justice of the Supreme Court of Appeals.~~ The annuity granted hereunder shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month for which the annuity shall have accrued. Such annuity shall commence on the first day of the month in which said judge dies and shall, subject to the provisions of subsection (b) of this section, terminate upon the death of the annuitant or shall terminate upon the remarriage of the annuitant.

(b) If there be no surviving spouse at the time of death of a judge who dies after serving five years or more as a sitting judge of any court of record and such judge leaves surviving him or her any dependent child or children, such dependent child or children shall receive an amount equal to twenty percent of the annual salary of the office which said judge held at the time of his or her death: *Provided*, That the total of all such annuities payable to each such child shall not exceed in the aggregate an amount equal to forty percent of such salary. Such annuity shall continue as to each such child until: (i) He or she or she attains the age of eighteen years; or (ii) attains the age of twenty-three years so long as such child remains a full-time student. The Auditor shall by legislative rule establish the criteria for determining a person's status as a full-time student within the meaning and intent of this subsection. In the event there are surviving any such judge three or more dependent children, then each such child's annuity shall be proratably reduced in order that the aggregate annuity received by all such dependent children does not exceed forty percent of such salary and the amount to be so received by any such child shall continue throughout the entire period during which each such child is eligible to receive such annuity. The provisions of this subsection shall also apply to those circumstances and situations wherein a surviving spouse of a deceased judge shall die while receiving benefits pursuant to subsection (a) of this section and who shall leave surviving dependent children of such deceased judge who would be entitled to benefits under this subsection as if they had succeeded to such annuity benefits upon the death of such judge in the first instance. In the event the salary of judges is increased or decreased

while an annuitant is receiving benefits pursuant to this subsection, the annuities payable shall be likewise increased or decreased proportionately to reflect such change in salary. ~~Provided, however, That with respect to any individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, any annuity to any children of the judge shall be calculated with respect to the judge's final average salary: Provided further, That the child is not entitled to an increase in benefits by virtue of any increase in the salaries of the offices of circuit court judge or Justice of the Supreme Court of Appeals.~~ The annuities granted hereunder shall accrue monthly and shall be due and payable in monthly installments on the same day as surviving spouses' benefits are required to be paid. Such annuities shall commence on the first day of the month in which any such dependent child becomes eligible for benefits hereunder and shall terminate on the last day of the month during which such eligibility ceases.

§51-9-6c. Limitations on benefit increases.

[Repealed]

§51-9-6d. Adjusted annual retirement benefit calculations.

[Repealed]

ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.

§51-11-11. Judicial compensation and benefits; expenses.

(a) The annual salary of a Judge of the Intermediate Court of Appeals is \$142,500. Provided, That beginning July 1, 2025, the annual salary of a Judge of the Intermediate Court of Appeals shall be \$147,500: And provided further, That beginning July 1, 2026 the annual salary of a Judge of the Intermediate Court of Appeals shall be \$152,500. The budget for the payment of compensation and expenses of Intermediate Court of Appeals judges shall be included in the appropriation for the Supreme Court of Appeals.

(b) Judges of the Intermediate Court of Appeals and staff shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under the guidelines prescribed by the Administrative Director of the Supreme Court of Appeals.

On motion of Senator Barrett, the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3111— A BILL to amend and reenact §51-1-10a, §51-2-13, §51-2A-6, §51-9-4, §51-9-6, §51-9-6a, §51-9-6b, and §51-11-11 of the Code of West Virginia, 1931, as amended; and to repeal §51-9-6c and §51-9-6d of said code, relating to salaries and retirement benefits of judges; increasing annual salary of justices of the Supreme Court of Appeals, circuit court judges, family court judges, and judges of the Intermediate Court of Appeals; suspending contribution of courts into judicial retirement system until certain condition met; providing for retirees under post-2005 retirement system to be treated as pre-2005 retirement system retirees; providing for actuarially reduced pension benefit for judges in certain circumstances; increasing surviving spouse plan benefit for certain judges; eliminating limitation on retirement benefit increases; and eliminating distinction between certain judges for purposes of calculating surviving spouse plan benefits, surviving dependent children plan benefits, and adjusted annual retirement benefit.

Delegate Kelly moved to amend the bill by striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for House Bill 3111— “A BILL to amend and reenact §51-1-10a, §51-2-13, §51-2A-6, §51-9-4, and §51-11-11 of the Code of West Virginia, 1931, as amended, relating to salaries and retirement benefits of judges; increasing annual salary of justices of the Supreme Court of Appeals, circuit court judges, family court judges, and judges of the Intermediate Court of Appeals; providing for employee contribution into judicial retirement system; and suspending contribution of employer into judicial retirement system until certain condition met.”

On the motion to concur in the Senate amendments with further amendment, the yeas and nays were demanded, which demand was sustained.

Delegates Akers and Eldridge requested to be excused from voting on Com. Sub. for H. B. 3111 under the provisions of House Rule 49.

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

The yeas and nays having been ordered, they were taken (**Roll No. 618**), and there were-- yeas 67, nays 25, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Amos, Anders, Anderson, Bridges, Canterbury, Cooper, Coop-Gonzalez, Ferrell, Gearheart, Hornbuckle, G. Howell, T. Howell, Leavitt, Lewis, Lucas, Marple, Martin, Parsons, Ridenour, Shamblin, Toney, Ward, White, Williams and Young.

Absent and Not Voting: Burkhammer, Hamilton, McGeehan, Pinson, Pushkin, D. Smith, Steele and Worrell.

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendments with further amendment of the bill by the Senate prevailed.

Delegate Marple moved that the bill (Com. Sub. for H. B. 3111) be laid upon the table.

So, a majority of the members present having not voted in the affirmative, the motion to lay upon the table, lost.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 619**), and there were-- yeas 82, nays 11, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Adkins, Anders, Canterbury, Coop-Gonzalez, Cooper, Dillon, Gearheart, Lewis, Marple, Riley, and Shamblin.

Absent and Not Voting: Burkhammer, McGeehan, Pinson, Pushkin, D. Smith, Steele, and Worrell.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3111) passed.

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

At 7:04 p.m., on motion of Delegate Kelly, the House of Delegates recessed until 7:30 p.m.

Conference Committee Report Availability

At 7:42 p.m., the Clerk announced that the reports of the committees of conference on **Com. Sub. for H. B. 2880**, Relating to Parent Resource Navigators, and **Com. Sub. for H. B. 2667**, Requiring the approval of the Legislature and the Governor before additional bonds may be issued by the Parkways Authority, would be available in the Clerk's Office.

Third Reading

Com. Sub. for S. B. 474, Ending diversity, equity, and inclusion programs; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Steele moved that the total time allocable for consideration of all amendments pending on the bill (Com. Sub. for S. B. 474), excluding time allocated to the sponsor for the explanation of each amendment, be limited to one hour.

Having been ordered, the yeas and nays were taken (**Roll No. 620**), and there were--yeas 89, nays 9, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Williams, and Young.

Absent and Not Voting: McGeehan and Vance.

So, two-thirds of the members present having voted in the affirmative, the motion was adopted.

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

Whereupon,

Delegate Flanigan asked and obtained unanimous consent to withdraw the amendment.

On motion of Delegate Flanigan, the amendment was rejected.

Delegate Flanigan moves to amend the Committee Substitute for Committee Substitute for Senate Bill 474 on page 5, line 47, by striking out the period at the end of the sentence and adding the following proviso:"

Provided, That complaints shall include specific evidence of an intentional and material violation of this section, and shall not be based on isolated comments, classroom discussion, or misunderstandings."

and,

On page 15, line 69, following the period at the end of the sentence by inserting the following:

"Complaints shall include specific evidence of an intentional and material violation of this section, and shall not be based on isolated comments, classroom discussion, or misunderstandings."

[DELEGATE ROHRBACH, MR. SPEAKER PRO TEMPORE, IN THE CHAIR]

On motion of Delegate Young, the amendment was adopted.

Delegate Young moves to amend Com Sub for Com Sub for SB474 on page 10, section 2, line 29, following the words "sexual harassment" by striking out the period and inserting the following: "or to meet accreditation standards."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 621**), and there were-- yeas 63, nays 33, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Amos, Anders, Barnhart, Bridges, Brooks, D. Cannon, Canterbury, T. Clark, Cooper, Coop-Gonzalez, Crouse, Dillon, Ellington, Gearheart, Green, Hite, Horst, T. Howell, Jeffries, Jennings, Kimble, Kump, Linville, Lucas, Martin, Mazzocchi, Miller, Parsons, Ridenour, B. Smith, Street, Ward and Worrell.

Absent and Not Voting: Burkhammer, McGeehan, Phillips and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

On motion of Delegate Hamilton, the amendment was rejected.

Delegate Hamilton moves to amend Com Sub for Com Sub for SB474 on page 2, section 2, line 6 following the words "of race," by inserting the word "sex,";

And

On page 2, section 2, line 8 following the word "to race," by inserting the word sex,".

On motion of Delegate Hamilton, the amendment was rejected.

Delegate Hamilton moves to amend Com Sub for Com Sub for SB474 on page 3, section 3, line 12, following the period by inserting the following:

"(6) Allow discrimination based on hairstyles or hair textures: *Provided*, that reasonable restrictions may be made on hairstyles or hair textures only to address legitimate safety hazards."

And,

On page 6, section 29, line 7, following the words "shall not be:" by inserting the following:

“(1) Required to or otherwise authorized to discriminate based on hairstyles or hair textures: *Provided*, that reasonable restrictions may be made on hairstyles or hair textures only to address legitimate safety hazards.” and renumbering the subsequent subdivisions accordingly;

And,

On page 13, section 5, line 25, following the words “of race,” by inserting the word “hairstyle,”

And,

On page 13, section 5, line 26, following the words “or employment” by striking out the period, inserting a colon and the following: “*Provided*, that reasonable restrictions may be made on hairstyles or hair textures only to address legitimate safety hazards.”

On motion of Delegate Hornbuckle, the amendment was adopted.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 3, section 3, following the period on line 12, by inserting the following:

“(b) Nothing in this article may be construed to abrogate individuals’ rights and causes of action under the West Virginia Human Rights Act.”

On motion of Delegate Hornbuckle, the amendment was rejected.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 5, Section 9b, line 48 by striking out the word “complainant” and inserting in lieu thereof, the words “party affected by the ruling”;

And,

on page 5, Section 9b, line 52 by striking out the word “complainant” and inserting in lieu thereof, the words “party affected by the ruling”.

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

Whereupon,

Delegate Young asked and obtained unanimous consent to withdraw the amendment.

On motion of Delegate Hornbuckle, the amendment was adopted.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 7, section 29, following the period on line 20, by inserting the following:

“(d) Nothing in this article may be construed to abrogate individuals’ rights and causes of action under the West Virginia Human Rights Act.”

On motion of Delegate Hornbuckle, the amendment was rejected.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 12, section 4, line 7, by striking out the number “2025” and inserting in lieu thereof the number “2026”.

On motion of Delegate Hornbuckle, the amendment was rejected.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 12, Section 5, lines 4 and 5, following the words “college students” by inserting the following: “underserved student populations (including historically underserved student populations based on race, color, sex, ethnicity or national origin.)”

On motion of Delegate Hornbuckle, the amendment was rejected.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 13, Section 5, line 26, following the words “or employment.” by inserting the following:

“Notwithstanding that prohibition, state institutions of higher education shall not be prohibited from providing financial aid or student fellowships to underserved student populations, including historically underserved student populations based on race, color, sex, ethnicity or national origin.”

On motion of Delegate Williams, the amendment was rejected.

Delegate Williams moves to amend Com Sub for Com Sub for S. B. 474 on page 7, Section 29, at the end of line 20, by inserting a new subsection (e) to read as follows:

“(e) Nothing in this section may be construed to allow harassment, intimidation or bullying as defined by §18-2C-2 of the Code based on a person’s sex.”

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 3, section 3, following line 12 by inserting a new subsection (b) to read as follows:

“(b) This Act does not apply to preferences granted to veterans of the U.S. Armed Forces in state law or in state contracting.”

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 10, section 2, following the period at the end of line 36, by inserting the following:

“(13) The purchase of materials for university library inventory and the access of the public to university library inventory;” and by renumbering the subsequent paragraph accordingly.

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 10, section 2, line 33, by striking out the words “donor-designated scholarships” and inserting in lieu thereof the words “financial aid”.

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 10, section 2, line 36 following the period, by inserting the following

“(13) Bona fide qualification based on national origin that is related to the eligibility of an individual for a visa;” and renumbering the subsequent paragraph accordingly.

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 3, section 3, line 12, following the period by inserting the following:

“(b) Nothing in this article shall prohibit a department, division, agency, or board of this state from collaborating with private sector partners or community programs provided such partnerships comply with federal and state nondiscrimination laws.”

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 12, section 3, line 36 following the period, by inserting the following:

“(d) Nothing in this article shall prohibit a state institution of higher education and each governing board of a state institution of higher education from collaborating with private sector partners, workforce development organizations, or community programs to improve career readiness, provided such partnerships comply with federal and state nondiscrimination laws.”

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for SB474 on page 2, section 2, line 4 by striking out the words “color-blind and sex-neutral” and inserting in lieu thereof the word “neutral”;

And,

On page 7, section 1, line 4 by striking out the words “color-blind and sex-neutral” and inserting in lieu thereof the word “neutral”;

And,

On page 12, section 5, line 4 by striking out the words “color-blind and sex-neutral” and inserting in lieu thereof the word “neutral”.

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

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on Page 2, section 2, line 3, after the word “ethnicity,” by inserting the words “political ideology”;

And,

On Page 2, section 2, line 6, after the word “ethnicity,” by inserting the words “political ideology”;

And,

On Page 2, section 2, line 9, after the word “ethnicity,” by inserting the words “political ideology”;

And,

On Page 2, section 2, line 12, after the word “ethnicity,” by inserting the words “political ideology”;

And,

On Page 3, section 3, following line 12, by inserting the following:

“(6) Give preference or require a declaration of personal support for or disagreement with any political ideology or movement.”

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 on page 6, section 9b, line 65, following the period, by inserting the following:

“(j) Nothing in this article may be construed to apply to any private or parochial school.”

On motion of Delegate Young, the amendment was rejected.

Delegate Young moves to amend Com Sub for Com Sub for S. B. 474 On pages 13 and 14, section 5, lines 30-32 following the words “must be committed to” by striking out the words “the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the university community to be offensive, unwise, immoral, or misguided” and inserting in lieu thereof the words “free, robust, and uninhibited debate,”.

On motion of Delegate Young, the amendment was rejected.

Delegate Hornbuckle moves to amend Com Sub for Com Sub for S. B. 474 on page 9, section 2, line 17, following the words “this section.” By inserting the following:

“To ensure that First Amendment protections are afforded to any employee or contractor disciplined under the policies or procedures created by this subsection, state institutions of higher education shall ensure that any disciplinary policy or procedure affords the employee or contractor a means to challenge the imposed discipline.”

Delegate Coop-Gonzalez demanded the previous question, which demand was sustained.

On adoption of the motion for the previous question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 622**), and there were-- yeas 72, nays 25, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Nays: Anderson, Bridges, Campbell, Dean, Dittman, Eldridge, Ferrell, Fluharty, Funkhouser, Garcia, Hamilton, Hansen, Heckert, Hornbuckle, G. Howell, Lewis, Pushkin, B. Smith, Statler, Toney, Vance, Williams, Young, Zatezalo, and Hanshaw (Speaker).

Absent and not voting: McGeehan, Riley, and Worrell.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 623)**, and there were--yeas 87, nays 12, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Flanigan, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, Leavitt, Lewis, Pushkin, B. Smith, Williams and Young.

Absent and Not Voting: McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 474) passed.

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

Conference Committee Reports

Delegate Burkhammer, from the committee of conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2880, Relating to Parent Resource Navigators.

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 Committee Substitute for House Bill 2880 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses that the House concur with the Senate amendment.

On motion of Delegate Kelly, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken **(Roll No. 624)**, and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2880) passed.

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

Delegate Hornby, from the committee of conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2267, Requiring the approval of the Legislature and the Governor before additional bonds may be issued by the Parkways Authority.

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 Committee Substitute for House Bill 2880 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses that the House concur with the Senate amendment and further amendment.

On motion of Delegate Kelly, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 625**), and there were--yeas 73, nays 25, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Adkins, Anders, Bridges, Brooks, Burkhammer, Butler, D. Cannon, Coop-Gonzalez, Devault, Dillon, Ferrell, Green, T. Howell, Jeffries, Martin, Mazzocchi, Miller, Parsons, Pinson, Pritt, Steele, Street, Toney, Ward and White.

Absent and Not Voting: Flanigan and McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) passed.

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

On this question, the yeas and nays were taken (**Roll No. 626**), and there were--yeas 78, nays 19, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Anders, Brooks, Burkhammer, Butler, D. Cannon, Coop-Gonzalez, Devault, Ferrell, Green, T. Howell, Miller, Parsons, Pinson, Steele, Street, Toney, Vance, Ward and White.

Absent and Not Voting: J. Cannon, Flanigan and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) takes effect from its passage.

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

HB2267 CC 4-12
90 days
Roskovensky 3338

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Delegate Hornby, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Committee Substitute House Bill No. 2267, Authorizing Department of Revenue to Promulgate Legislative Rules

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 2267 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses that the Senate and the House agree as follows:

On page 2, section 1, after line 3, by adding the following:

On page 13, paragraph 2.30.9, after the words "(iv) canned or packaged food valued at least" by deleting "\$100" and inserting in lieu thereof "\$50".

And,

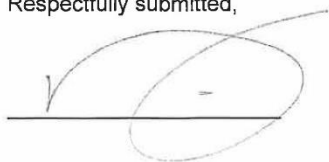
On page 24, by striking out all of paragraph 3.2.1.a., and inserting in lieu thereof a new paragraph 3.2.1.a. to read as follows:

3.2.1.a. That is located on any college campus, state university campus, or branch thereof, unless it is located in an on-campus structure listed on the National Register of Historic Places located within a designated National Historic Landmark District or such private club type is located upon the premises of a National Collegiate Athletic Association, or its successor, approved Division I, II, or III sports stadium used for revenue generating sports by a college or university on its campus and no classes are held at the sports stadium or at a private college sports stadium.

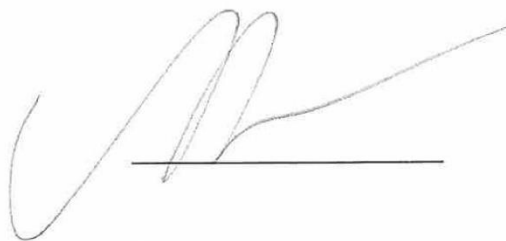
And,

beer, wine, or alcoholic liquors to any person;" and inserting in lieu thereof the words "in any capacity that includes, even incidentally, the selling, furnishing, tendering, serving, or giving of nonintoxicating beer, wine, or alcoholic liquors to any person;".

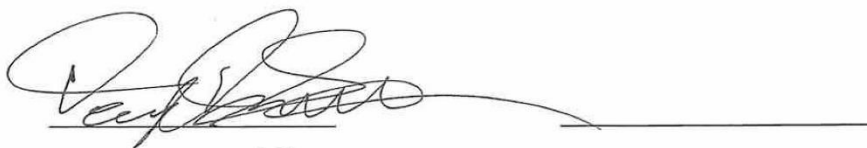
Respectfully submitted,

A handwritten signature in dark ink, consisting of a large, stylized 'V' followed by a horizontal line and a small dash.

Chair,

A handwritten signature in dark ink, featuring a large, stylized 'M' followed by a horizontal line.

Chair,

A handwritten signature in dark ink, appearing to be 'Paul Davis' followed by a horizontal line.A handwritten signature in dark ink, appearing to be 'Paul Davis' followed by a horizontal line.A handwritten signature in dark ink, appearing to be 'J. A.' followed by a horizontal line.

HB2880 CC 4-12
90 days
Roskovensky 3338

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1
2 Delegate Burkhammer, from the committee of conference on matters of disagreement
3 between the two houses, as to
4 **Eng. Committee Substitute House Bill No. 2880**, Relating to parent resource
5 navigators.
6 Submitted the following report, which was received:
7 Your committee of conference on the disagreeing votes of the two houses as to the
8 amendments of the House to Engrossed Committee Substitute for House Bill 2880 having met,
9 after full and free conference, have agreed to recommend and do recommend to their respective
10 houses, as follows:

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-201. Definitions related, but not limited to, child abuse and neglect.

1 When used in this chapter, terms defined in this section have the meanings ascribed to
2 them that relate to, but are not limited to, child abuse and neglect, except in those instances where
3 a different meaning is provided or the context in which the word is used clearly indicates that a
4 different meaning is intended.
5 "Abandonment" means any conduct that demonstrates the settled purpose to forego the
6 duties and parental responsibilities to the child;
7 "Abused child" means:
8 (1) A child whose health or welfare is being harmed or threatened by:
9 (A) A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to
10 inflict, or knowingly allows another person to inflict, physical injury or mental or emotional injury

11 upon the child or another child in the home. Physical injury may include an injury to the child as a
12 result of excessive corporal punishment;

13 (B) Sexual abuse or sexual exploitation;

14 (C) The sale or attempted sale of a child by a parent, guardian, or custodian in violation of
15 §61-2-14h of this code;

16 (D) Domestic violence as defined in §48-27-202 of this code; or

17 (E) Human trafficking or attempted human trafficking in violation of §61-14-2 of this code.

18 (2) A child conceived as a result of sexual assault, as that term is defined in this section,
19 or as a result of the violation of a criminal law of another jurisdiction which has the same essential
20 elements: *Provided*, That no victim of sexual assault may be determined to be an abusive parent
21 as that term is defined in this section, based upon being a victim of sexual assault.

22 "Abusing parent" means a parent, guardian, or other custodian, regardless of his or her
23 age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as
24 alleged in the petition charging child abuse or neglect.

25 "Battered parent" for the purposes of §49-4-601 *et seq.* of this code means a respondent
26 parent, guardian, or other custodian who has been adjudicated by the court to have not condoned
27 the abuse or neglect and has not been able to stop the abuse or neglect of the child or children
28 due to being the victim of domestic violence as defined by §48-27-202 of this code, which was
29 perpetrated by the same person or persons determined to have abused or neglected the child or
30 children.

31 "Child abuse and neglect" or "child abuse or neglect" means any act or omission that
32 creates an abused child or a neglected child as those terms are defined in this section.

33 "Child abuse and neglect services" means social services which are directed toward:

34 (A) Protecting and promoting the welfare of children who are abused or neglected;

35 (B) Identifying, preventing, and remedying conditions which cause child abuse and
36 neglect;

37 (C) Preventing the unnecessary removal of children from their families by identifying family
38 problems and assisting families in resolving problems which could lead to a removal of children
39 and a breakup of the family;

40 (D) In cases where children have been removed from their families, providing time-limited
41 reunification services to the children and the families so as to reunify those children with their
42 families, or some portion of the families;

43 (E) Placing children in suitable adoptive homes when reunifying the children with their
44 families, or some portion of the families, is not possible or appropriate; and

45 (F) Assuring the adequate care of children or juveniles who have been placed in the
46 custody of the department or third parties.

47 "Condition requiring emergency medical treatment" means a condition which, if left
48 untreated for a period of a few hours, may result in permanent physical damage; that condition
49 includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture,
50 unconsciousness, and evidence of ingestion of significant amounts of a poisonous substance.

51 "Imminent danger to the physical well-being of the child" means an emergency situation
52 in which the welfare or the life of the child is threatened. These conditions may include an
53 emergency situation when there is reasonable cause to believe that any child in the home is or
54 has been sexually abused or sexually exploited, or reasonable cause to believe that the following
55 conditions threaten the health, life, or safety of any child in the home:

56 (A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling, babysitter, or
57 other caretaker;

58 (B) A combination of physical and other signs indicating a pattern of abuse which may be
59 medically diagnosed as battered child syndrome;

60 (C) Nutritional deprivation;

61 (D) Abandonment by the parent, guardian, or custodian;

62 (E) Inadequate treatment of serious illness or disease;

63 (F) Substantial emotional injury inflicted by a parent, guardian, or custodian;

64 (G) Sale or attempted sale of the child by the parent, guardian, or custodian;

65 (H) The parent, guardian, or custodian's abuse of alcohol or drugs or other controlled
66 substance as defined in §60A-1-101 of this code, has impaired his or her parenting skills to a
67 degree as to pose an imminent risk to a child's health or safety; or

68 (I) Any other condition that threatens the health, life or safety of any child in the home.

69 "Neglected child" means a child:

70 (A) Whose physical or mental health is harmed or threatened by a present refusal, failure
71 or inability of the child's parent, guardian, or custodian to supply the child with necessary food,
72 clothing, shelter, supervision, medical care, or education, when that refusal, failure, or inability is
73 not due primarily to a lack of financial means on the part of the parent, guardian, or custodian;

74 (B) Who is presently without necessary food, clothing, shelter, medical care, education, or
75 supervision because of the disappearance or absence of the child's parent or custodian; or

76 (C) "Neglected child" does not mean a child whose education is conducted within the
77 provisions of §18-8-1 *et seq.* of this code.

78 "Parent Resource Navigator" means an individual established through the Court
79 Improvement Program (CIP) or Public Defender Services (PDS) model who is assisting a parent
80 or parents through requirements to be unified or reunified with their child or children.

81 "Petitioner or copetitioner" means the department or any reputable person who files a child
82 abuse or neglect petition pursuant to §49-4-601 *et seq.* of this code.

83 "Permanency plan" means the part of the case plan which is designed to achieve a
84 permanent home for the child in the least restrictive setting available.

85 "Respondent" means all parents, guardians, and custodians identified in the child abuse
86 and neglect petition who are not petitioners or copetitioners.

87 "Sexual abuse" means:

88 (A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by §61-8c-
89 3 of this code, which a parent, guardian, or custodian engages in, attempts to engage in, or
90 knowingly procures another person to engage in, with a child notwithstanding the fact that for a
91 child who is less than 16 years of age, the child may have willingly participated in that conduct or
92 the child may have suffered no apparent physical, mental, or emotional injury as a result of that
93 conduct or, for a child 16 years of age or older, the child may have consented to that conduct or
94 the child may have suffered no apparent physical injury or mental, or emotional injury as a result
95 of that conduct;

96 (B) Any conduct where a parent, guardian, or custodian displays his or her sex organs to
97 a child, or procures another person to display his or her sex organs to a child, for the purpose of
98 gratifying the sexual desire of the parent, guardian, or custodian, of the person making that
99 display, or of the child, or for the purpose of affronting or alarming the child; or

100 (C) Any of the offenses proscribed in §61-8b-7, §61-8b-8, or §61-8b-9 of this code.

101 "Sexual assault" means any of the offenses proscribed in §61-8b-3, §61-8b-4, or §61-8b-
102 5 of this code.

103 "Sexual contact" means sexual contact as that term is defined in §61-8b-1 of this code.

104 "Sexual exploitation" means an act where:

105 (A) A parent, custodian, or guardian, whether for financial gain or not, persuades, induces,
106 entices, or coerces a child to engage in sexually explicit conduct as that term is defined in §61-
107 8c-1 of this code;

108 (B) A parent, guardian, or custodian persuades, induces, entices, or coerces a child to
109 display his or her sex organs for the sexual gratification of the parent, guardian, custodian, or a
110 third person, or to display his or her sex organs under circumstances in which the parent,
111 guardian, or custodian knows that the display is likely to be observed by others who would be
112 affronted or alarmed; or

113 (C) A parent, guardian, or custodian knowingly maintains or makes available a child for
114 the purpose of engaging the child in commercial sexual activity in violation of §61-14-5 of this
115 code.

116 "Sexual intercourse" means sexual intercourse as that term is defined in §61-8b-1 of this
117 code.

118 "Sexual intrusion" means sexual intrusion as that term is defined in §61-8b-1 of this code.

119 "Serious physical abuse" means bodily injury which creates a substantial risk of death,
120 causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or
121 impairment of the function of any bodily organ.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-802a. Information to be provided at the outset of a child protective services investigation.

1 (a) Notwithstanding any other provision to the contrary, immediately upon initiating an
2 investigation of a parent or other person having legal custody of a child, the department shall,
3 upon first contact with the individual, provide the individual with a copy of A Parent's Guide to
4 Working with Child Protective Services (Guide).

5 (b) The Guide shall include a short and plain statement to include, but not be limited to,
6 the following:

7 (1) Steps that the department will take to investigate signs of abuse and neglect;

8 (2) Steps that may need to be taken to make a safer or healthier home for the child;

9 (3) An overview of the court process;

10 (4) The confidentiality of maltreatment reports and case appeals;

11 (5) Child visitation; and

12 (6) Case appeals.

§49-2-809. Reporting procedures.

1 (a) ~~Reports of child abuse and neglect pursuant to this article shall be made immediately~~
2 ~~to the department of child protective services by a method established by the Bureau for Social~~
3 ~~Services. *Provided*, That if the method for reporting is web-based, the Bureau for Social Services~~
4 ~~shall maintain a system for addressing emergency situations that require immediate attention and~~
5 ~~shall be followed by a written report within 48 hours if so requested by the receiving agency. The~~
6 ~~Bureau for Social Services shall establish and maintain a 24-hour, seven-day-a-week telephone~~
7 ~~number to receive calls reporting suspected or known child abuse or neglect. Reports of child~~
8 ~~abuse and neglect pursuant to this article shall be made immediately to the Bureau for Social~~
9 ~~Services. Reports of child abuse and neglect shall be made to the Bureau of Social Services via~~
10 ~~a 24-hour, seven-day-a week hotline (centralized intake) that shall be maintained by the Bureau~~
11 ~~of Social Services to receive calls reporting suspected or known child abuse or neglect or such~~
12 ~~reports may be made via web-based reporting (email, electronic fax, fillable form, or other~~
13 ~~electronic form) that sends the reports to a live person to handle the reports immediately. Both~~
14 ~~systems shall give the reporter a specific case identifier immediately upon making a report.~~

15 (b) If a report of child abuse and neglect is made in any fashion other than specified in
16 subsection (a) of this section, then Bureau of Social Services is still required to act upon such
17 report as if the report were made to centralized intake.

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

26 (c) A copy of any report of serious physical abuse, sexual abuse, or assault shall be
27 forwarded by the department to the appropriate law-enforcement agency, the prosecuting
28 attorney, or the coroner or medical examiner's office. All reports under this article are confidential.
29 Reports of known or suspected institutional child abuse or neglect shall be made and received as
30 all other reports made pursuant to this article.

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

37 (e) All reports made to centralized intake by email, fax, fillable form, or other electronic
38 form from a reporter, shall be retained in the Comprehensive Child Welfare Information System
39 in its original format for at least 12 months.

40 (f) Audio files recorded from reports made to centralized intake shall be retained in the
41 Comprehensive Child Welfare Information System for at least 12 months.

42 (g) Any such person receiving a report pursuant to subsection (b) of this section shall
43 make a written record in the Comprehensive Child Welfare Information system detailing the report
44 and retain that record in an appropriate format for a period of at least 12 months.

ARTICLE 4. COURT ACTIONS.

§49-4-405. Multidisciplinary treatment planning process involving child abuse and neglect; team membership; duties; reports; admissions.

1 (a) Within 30 days of the initiation of a judicial proceeding pursuant to part six of this article,
2 the department shall convene a multidisciplinary treatment team to assess, plan, and implement
3 a comprehensive, individualized service plan for children who are victims of abuse or neglect and

4 their families. The multidisciplinary team shall obtain and utilize any assessments for the children
5 or the adult respondents that it deems necessary to assist in the development of that plan.

6 (b) In a case initiated pursuant to part six of this article, the treatment team consists of:

7 (1) The child or family's case manager in the department;

8 (2) The adult respondent or respondents;

9 (3) The child's parent or parents, guardians, any copetitioners, custodial relatives of the
10 child, foster or preadoptive parents;

11 (4) Any attorney representing an adult respondent or other member of the treatment team;

12 (5) The child's counsel or the guardian ad litem;

13 (6) The prosecuting attorney or his or her designee;

14 (7) A member of a child advocacy center when the child has been processed through the
15 child advocacy center program or programs or it is otherwise appropriate that a member of the
16 child advocacy center participate;

17 (8) Any court-appointed special advocate assigned to a case;

18 (9) Any other person entitled to notice and the right to be heard;

19 (10) An appropriate school official;

20 (11) A parent resource navigator;

21 ~~(11)-(12)~~ The managed care case coordinator; and

22 ~~(12)~~ (13) Any other person or agency representative who may assist in providing
23 recommendations for the particular needs of the child and family, including domestic violence
24 service providers.

25 The child may participate in multidisciplinary treatment team meetings if the child's
26 participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise
27 ordered by the court, a party whose parental rights have been terminated and his or her attorney
28 may not be given notice of a multidisciplinary treatment team meeting and ~~does~~ do not have the
29 right to participate in any treatment team meeting.

30 (c) Prior to disposition in each case in which a treatment planning team has been
31 convened, the team shall advise the court as to the types of services the team has determined
32 are needed and the type of placement, if any, which will best serve the needs of the child. If the
33 team determines that an out-of-home placement will best serve the needs of the child, the team
34 shall first consider placement with appropriate relatives then with foster care homes, facilities, or
35 programs located within the state. The team may only recommend placement in an out-of-state
36 facility if it concludes, after considering the best interests and overall needs of the child, that there
37 are no available and suitable in-state facilities which can satisfactorily meet the specific needs of
38 the child.

39 (d) The multidisciplinary treatment team shall submit written reports to the court as
40 required by the rules governing this type of proceeding or by the court and shall meet as often as
41 deemed necessary but at least every three months until the case is dismissed from the docket of
42 the court. The multidisciplinary treatment team shall be available for status conferences and
43 hearings as required by the court.

44 (e) If a respondent or copetitioner admits the underlying allegations of child abuse or
45 neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her
46 statements may not be used in any subsequent criminal proceeding against him or her, except
47 for perjury or false swearing.

ARTICLE 5. RECORD KEEPING AND DATABASE.

§49-5-101. Confidentiality of records; non-release of records; exceptions; penalties.

1 (a) Except as otherwise provided in this chapter or by order of the court, all records and
2 information concerning a child or juvenile which are maintained by the Division of Corrections and
3 Rehabilitation, the Department of Human Services, a child agency or facility, or court or law-
4 enforcement agency, are confidential and may not be released or disclosed to anyone, including
5 any federal or state agency.

6 (b) Notwithstanding the provisions of subsection (a) of this section or any other provision
7 of this code to the contrary, records concerning a child or juvenile, except adoption records and
8 records disclosing the identity of a person making a complaint of child abuse or neglect, may be
9 made available:

10 (1) Where otherwise authorized by this chapter;

11 (2) To:

12 (A) The child;

13 (B) A parent whose parental rights have not been terminated;

14 (C) The attorney of the child or parent; and

15 (D) The Juvenile Justice Commission and its' designees acting in the course of their official
16 duties;

17 (3) With the written consent of the child or of someone authorized to act on the child's
18 behalf; and

19 (4) Pursuant to an order of a court of record: *Provided*, That the court shall review the
20 record or records for relevancy and materiality to the issues in the proceeding and safety and may
21 issue an order to limit the examination and use of the records or any part thereof.

22 (c) In addition to those persons or entities to whom information may be disclosed under
23 subsection (b) of this section, information related to child abuse or neglect proceedings, except
24 information relating to the identity of the person reporting or making a complaint of child abuse or
25 neglect, shall be made available upon request to:

26 (1) Federal, state, or local government entities, or any agent of those entities, including
27 law-enforcement agencies and prosecuting attorneys, having a need for that information in order
28 to carry out its responsibilities under law to protect children from abuse and neglect;

29 (2) The child fatality review team;

30 (3) Child abuse citizen review panels;

31 (4) Multidisciplinary investigative and treatment teams; or

32 (5) A grand jury, circuit court, or family court, upon a finding that information in the records
33 is necessary for the determination of an issue before the grand jury, circuit court, or family court;
34 and

35 (6) The West Virginia Crime Victims Compensation Fund and its designees acting in the
36 course of their official duties.

37 (d) Information related to proceedings involving child abuse or neglect, or both, shall be
38 made available, upon request, to the Foster Care Ombudsman, or his or her designee, with the
39 exception of information related to the identity of the person making a referral or suspected abuse
40 or neglect. Only in cases involving near fatalities or fatalities of a child in the foster care system,
41 shall the information related to the identity of the person who reported the suspected abuse or
42 neglect be made available to the Foster Care Ombudsman: *Provided*, That such request is made
43 in the course of their official duties pursuant to §16B-16-1 *et seq.* of this code.

44 ~~(d)~~ (e) If there is a child fatality or near fatality due to child abuse and neglect, information
45 relating to a fatality or near fatality shall be made public by the Department of Human Services
46 and provided to the entities described in subsection (c) of this section and to the Critical Incident
47 Review Team as established in §61-12B-1 *et seq.* of this code: all-under-the-circumstances
48 ~~described in that subsection:~~ *Provided*, That information released by the Department of Human
49 Services pursuant to this subsection may not include the identity of a person reporting or making
50 a complaint of child abuse or neglect except when such information and records are released to
51 the Foster Care Ombudsman or his or her designee acting in the course of their official duties
52 related to a near fatality or fatality of a child with in the foster care system. Only in those
53 circumstances shall the Department of Human Services include the identity of a person reporting
54 or making a complaint of child abuse or neglect may be included: *Provided, however*, That the
55 Foster Care Ombudsman or his or her designee is acting in the course of their official duties
56 pursuant to §16B-16-1 *et seq.* of this code. For purposes of this subsection, "near fatality" means

57 any medical condition of the child which is certified by the attending physician to be life-
58 threatening.

59 ~~(e)~~ (f) Except in juvenile proceedings which are transferred to criminal proceedings, law-
60 enforcement records and files concerning a child or juvenile shall be kept separate from the
61 records and files of adults and not included within the court files. Law-enforcement records and
62 files concerning a child or juvenile shall only be open to inspection pursuant to §49-5-103 of this
63 code.

64 ~~(f)~~ (g) Any person who willfully violates the provisions of this section is guilty of a
65 misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in
66 jail for not more than six months, or both fined and confined. A person convicted of violating this
67 section is also liable for damages in the amount of \$300, or actual damages, whichever is greater.

68 ~~(g)~~ (h) Notwithstanding the provisions of this section, or any other provision of this code to
69 the contrary, the name and identity of any juvenile adjudicated or convicted of a violent or
70 felonious crime shall be made available to the public;

71 ~~(h)~~ (i)(1) Notwithstanding the provisions of this section or any other provision of this code
72 to the contrary, the Division of Corrections and Rehabilitation may provide access to, and the
73 confidential use of, a treatment plan, court records, or other records of a juvenile to an agency in
74 another state which:

75 (A) Performs the same functions in that state that are performed by the Division of
76 Corrections and Rehabilitation in this state;

77 (B) Has a reciprocal agreement with this state; and

78 (C) Has legal custody of the juvenile.

79 (2) A record which is shared under this subsection may only provide information which is
80 relevant to the supervision, care, custody, and treatment of the juvenile;

81 (3) The Division of Corrections and Rehabilitation may enter into reciprocal agreements
82 with other states and propose rules for legislative approval in accordance with §29A-3-1 *et seq.*
83 of this code to implement this subsection; and

84 (4) Other than the authorization explicitly given in this subsection, this subsection may not
85 be construed to enlarge or restrict access to juvenile records as provided elsewhere in this code.

86 ~~(j)~~ (i) The records subject to disclosure pursuant to subsection (b) of this section may not
87 include a recorded/videotaped interview, as defined in §62-6B-2(6) of this code, the disclosure of
88 which is exclusively subject to §62-6B-6 of this code.

89 ~~(j)~~ (k) Notwithstanding the provisions of subsection (a) of this section, records in the
90 possession of the Division of Corrections and Rehabilitation declared to be confidential by the
91 provisions of subsection (a) of this section may be published and disclosed for use in an employee
92 grievance if the disclosure is done in compliance with subsections ~~(k), (l), and (m)~~ (l), (m), and
93 (n) of this section.

94 ~~(k)~~ (l) Records or information declared confidential by the provisions of this section may
95 not be released for use in a grievance proceeding except:

96 (1) Upon written motion of a party; and

97 (2) Upon an order of the Public Employee's Grievance Board entered after an in-camera
98 hearing as to the relevance of the record or information.

99 ~~(j)~~ (m) If production of confidential records or information is disclosed to a grievant, his or
100 her counsel or representative, pursuant to subsection ~~(k)~~ (l) of this section:

101 (1) The division shall ensure that written records or information is redacted of all identifying
102 information of any juvenile which is not relevant to the resolution of the grievance;

103 (2) Relevant video and audio records may be disclosed without redaction; and

104 (3) Records or other information released to a grievant or his or her counsel or
105 representative pursuant to subsection ~~(k)~~ (l) of this section may only be used for purposes of his
106 or her grievance proceeding and may not be disclosed, published, copied, or distributed for any

107 other purpose, and upon the conclusion of the grievance procedure, returned to the Division of
108 Corrections and Rehabilitation.

109 ~~{m}~~ (n) If a grievant or the Division of Corrections and Rehabilitation seek judicial review
110 of a decision of the Public Employee's Grievance Board, the relevant confidential records
111 disclosed and used in the grievance proceeding may be used in the appeal proceeding upon entry
112 of an order by the circuit court, and the order shall contain a provision limiting disclosure or
113 publication of the records or information to purposes necessary to the proceeding and prohibiting
114 unauthorized use and reproduction.

115 ~~{n}~~ (o) Nothing in this section may be construed to abrogate the provisions of §29B-1-1 *et*
116 *seq.* of this code.

117 ~~{o}~~ (p) When requested, A a child placing-agency or a residential childcare and treatment
118 facility may shall disclose otherwise confidential information to other child-placing agencies or
119 residential childcare and treatment facilities when making referrals or providing services on behalf
120 of the child. This information shall be maintained in the same manner as provided in this code.

121 ~~{p}~~ (q) The department shall provide electronic access to information required to perform
122 an adoption to child-placing agencies as necessary to complete the adoption.

123 ~~{q}~~ (r) A child-placing agency completing adoption as a contractor on behalf of the
124 department shall have access to secure records from vital statistics and other pertinent record
125 holders.

126 (s) The Bureau for Social Services shall provide to the managed care organization, the
127 child-placing agency, and the person having temporary custody of the child, the medical records
128 of the child that are necessary for the care of treatment of the child.

ARTICLE 11. SYSTEM REPORTING.

§49-11-101. Systemic reporting transparency; ~~rulemaking.~~

1 (a) The commissioner shall ~~change~~ update the existing child welfare data dashboard by
2 ~~July 1, 2023, July 1, 2026, and shall update the child welfare data dashboard monthly thereafter~~
3 to report on system-wide issues including, but not limited to, system-level performance indicators,
4 intake hotline performance indicators, field investigation performance indicators, open case
5 performance indicators, out-of-home placement performance indicators, and federally mandated
6 performance indicators including, but not limited to, time to first contact to all children, information
7 on children in non-placement or temporary lodging status.

8 (b) The Commissioner shall update the existing child welfare data dashboard with
9 information on child fatality and near fatality information related to those cases subject to review
10 by the Critical Incident Review Team as set forth in §61-12B-1 et seq. of this code within 48 hours
11 of a child fatality or near fatality. With respect to child fatality or near fatality information, the
12 Department of Human Services shall report the following variables: the date of the incident, the
13 child's sex, and the child's age. The data dashboard shall provide a link to the final report of the
14 Critical Incident Review Team within 24 hours of its completion. The Commissioner shall send a
15 notification, within 24 hours of child fatalities or near fatalities, to the Secretary of Human Services
16 to enable it to convene a meeting of the Critical Incident Review Team.

17 (c) The child welfare data dashboard shall include workforce information including, but not
18 limited to, the number of child protective services staff that have been hired but who have not
19 completed training, the number and vacancies of adoption workers, and the number and
20 vacancies of home finders.

21 (d) Starting July 1, 2026, the data reported on the child welfare data dashboard shall be
22 represented as a point in time number and trended over time. Beginning July 1, 2026, the data
23 shall be saved in a way to allow public users to search the dashboard yearly by reporting date,
24 and by county. The Department of Human Services may apply data suppression in order to protect
25 individual identification as necessary.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 12B. CRITICAL INCIDENT REVIEW TEAM.

§61-12B-1. Purpose.

1 The Critical Incident Review Team is created under the Department of Human Services
2 for the purpose of reviewing fatalities and near fatalities involving children involved in the child
3 welfare system and making recommendations to identify effective prevention and intervention
4 processes to decrease preventable child fatalities and near fatalities in the child welfare system.

§61-12B-2. Definitions.

1 As used in this article:

2 "Epidemiological analysis" means an analysis of demographic factors related to the child's
3 fatality or near fatality including, but not limited to, an analysis of the following factors: the date of
4 birth of the child; the sex of the child; the county of the child's residence; the race/ethnicity of the
5 child; the date the child suffered the fatality or near fatality; the type of maltreatment; the cause of
6 the fatality or near fatality; whether the agency had any contact, and if so, how many times, with
7 the child or a member of the child's family or household before the fatality or near fatality; and
8 maltreater demographic information.

9 "Known case" means any Child Protective Services case or youth services case in the
10 Comprehensive Child Welfare Information System or a case assessed by Child Protective
11 Services, youth services, or a contracted vendor;

12 "Near fatality" means any medical condition of the child which is certified by the attending
13 physician to be life threatening. It shall also include incidents that have been found to have created
14 a substantial risk of death or serious bodily injury to the child.

§61-12B-3. Creation of the Critical Incident Review Team and composition of members.

1 (a) The Critical Incident Review Team is created under the Office of the Inspector General
2 and is a multidisciplinary team created to oversee and coordinate the examination, review, and
3 assessment of:

4 (1) The fatality or near fatality of a child in the custody of the Department of Human
5 Services;

6 (2) The fatality or near fatality of a child who has a known case with the Department of
7 Human Services or who is the immediate family member or a member of a household of a person
8 with a known case with the Department of Human Services; and

9 (3) The fatality or near fatality of a child whose identity has been brought to the attention
10 of the Department of Human Services through a centralized intake report, regardless of whether
11 the report was accepted for an investigation.

12 (b) The Critical Incident Review Team shall consist of the following members:

13 (1) The Commissioner of the Bureau for Social Services, or his or her designee, who is to
14 serve as the chairperson, and is responsible for calling and coordinating meetings of the Critical
15 Incident Review Team;

16 (2) The Director of the Division of Planning and Quality Improvement;

17 (3) The Deputy Commissioner of the Bureau for Social Services;

18 (4) A representative from the Office of Field Support, Programs and Resource
19 Development, Planning and Research, or the Office of Field Operations;

20 (5) The social services manager for any district having a history with the child or his or her
21 family or any household member that is the subject of the critical incident review;

22 (6) The Foster Care Ombudsman, or his or her designee;

23 (7) A representative of the West Virginia Supreme Court of Appeals, Division of Children
24 Services;

25 (8) A representative from the Prosecuting Attorney's Institute;

26 (9) The Superintendent of the West Virginia State Police or his or her designee;

27 (10) A member of the West Virginia Senate, appointed by the President of the Senate,
28 who shall serve as an ex officio member; and

29 (11) A member of the West Virginia House of Delegates, appointed by the Speaker of the
30 House, who shall serve as an ex officio member.

31 (c) Each member shall serve without additional compensation and may not be reimbursed
32 for any expenses incurred in the discharge of his or her duties under the provisions of this article.

33 (d) The Critical Incident Review Team may seek guidance and opinion regarding any
34 matter under review from outside experts in any related field. At any such time, the Critical Incident
35 Review Team shall require that all appropriate privacy requirements required in this article are in
36 place.

§61-12B-4. Responsibilities of the Critical Incident Review Team.

1 (a) The Critical Incident Review Team shall:

2 (1) The team shall meet at least quarterly; *Provided*, That in the event of a fatality or near
3 fatality, the team shall meet within 45 days of such fatality or near fatality to conduct the review
4 required by this article;

5 (2) Review and analyze all fatalities and near fatalities as required by this article;

6 (3) Ascertain and document the trends, patterns, and risk factors associated with the
7 fatalities and near fatalities evaluated;

8 (4) Provide statistical information and an epidemiological analysis regarding the causes of
9 fatalities and near fatalities as specified in this article;

10 (5) Establish standard procedures for the handling of the critical incident review;

11 (6) Establish processes and protocols for the review and analysis of fatalities and near
12 fatalities of those who were not suffering from mortal diseases shortly before fatality;

13 (7) Establish processes and protocols to ensure confidentiality of records obtained by the
14 Critical Incident Review Team; and

15 (8) Seek additional expert guidance as necessary to complete a review of any fatality or
16 near fatality evaluated.

17 (b) The team is prohibited from the following:

18 (1) Contacting a witness or witnesses to take testimony from individuals involved in the
19 investigation of a fatality; or

20 (2) Otherwise take any action which impedes an ongoing law enforcement investigation.

§61-12B-5. Reporting of the Critical Incident Review Team.

1 (a)(1) The Critical Incident Review Team shall submit an initial report within 75 days of the
2 fatality or near fatality to the Legislative Oversight Commission on Health and Human Resources
3 Accountability with updated reports every 90 days.

4 (2) Any initial reports submitted mid-year and any other updated reports to be made shall
5 be compiled into a final report to be submitted to the Legislative Oversight Commission on Health
6 and Human Resources Accountability which shall be submitted no later than December 1 each
7 year.

8 (b) The report is to include statistical information and an epidemiological analysis
9 concerning cases reviewed during the year, trends and patterns concerning these cases, and the
10 team's recommendations to reduce the number of fatalities and near fatalities that occur in this
11 state.

12 (c) The Critical Incident Review Team may provide reporting to child residential facilities
13 to inform their internal peer review activities. Such information shall be deemed confidential and
14 shall be used only for peer review purposes.

§61-12B-6. Access to information; other agencies of government required to cooperate.

1 (a) Notwithstanding any other provision of this code to the contrary, the Critical Incident
2 Review Team may request information and records as necessary to carry out its responsibilities.
3 Records and information that may be requested under this section include:

4 (1) Medical, dental, and mental health records;

- 5 (2) Substance abuse records to the extent allowed by federal law; and
6 (3) Information and records maintained by any state, federal, or local government agency.
7 (b) State, county, and local government agencies shall provide the Critical Incident Review
8 Team with any information requested in writing by the team.

§61-12B-7. Confidentiality.

(a) Proceedings and records of the Critical Incident Review Team established pursuant to this article are confidential and are not subject to discovery, subpoena, or the introduction into evidence in any civil or criminal proceeding. This section does not limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the team.

(b) Members of the Critical Incident Review Team may not be questioned in any civil or criminal proceeding regarding information presented or opinions formed as a result of a meeting of the team. This subsection does not prevent a member of a team from testifying to information obtained independently of the team which is public information.

(c) Proceedings and records of the Critical Incident Review Team established by the team are exempt from disclosure under the Freedom of Information Act as provided in §29B-1-1 et seq. of this code.

(d) Notwithstanding any other provision to the contrary, the Critical Incident Review Team shall prepare a compilation of data to be shared, on an annual basis or more often as requested or needed, with the Centers for Disease Control and Prevention to study child fatalities or near fatalities.

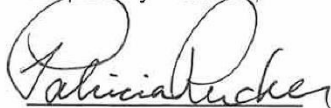
(e) Information shall be maintained by the Critical Incident Review Team in a confidential manner compliant with the Health Insurance Portability and Accountability Act of 1996.

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 2880—A Bill to amend and reenact §49-1-201, §49-2-809, §49-4-405, §49-5-101, and §49-11-101 of the Code of West Virginia, 1931, as amended; to amend the code by adding a new article, designated, to amend the code by adding a new section, designated §49-2-802a; and to amend the code by adding a new article, designated, §61-12B-1, §61-12B-2, §61-12B-3, §61-12B-4, §61-12B-5, §61-12B-6, and §61-12B-7, relating to child welfare; defining terms; requiring information to be provided at outset of investigation; stating form of centralized intake reporting procedures; including parent resource navigators within multidisciplinary teams; permitting the foster care ombudsman to access information related to child abuse and neglect proceedings; requiring the Bureau for Social Services to provide access medical records; requiring updates to the child welfare dashboard; establishing the Critical Incident Review Team; setting forth composition of members; setting forth the responsibilities of the Critical Incident Review Team; setting forth the reporting requirements of the Critical Incident review team; requiring cooperation with Critical Incident Team; and setting forth confidentiality of information.

Respectfully submitted,



Chair,




Chair,



A handwritten signature in cursive script, appearing to read "Chris Bone", written over a horizontal line.

Conferees on the part
of the Senate.

Conferees on the part of
the House of Delegates.

A handwritten signature in cursive script, appearing to read "M. J. ...", written over a horizontal line.

Senate Messages

There being no objections, the House returned to further consideration of Com. Sub. for S. B. 35, Permitting campus police officers to participate in Deputy Sheriffs Retirement System.

On motion of Delegate Criss, the House reconsidered the action on the vote on passage of the bill.

On motion of Delegate Criss, the amendment was adopted.

The Committee on Finance moved to amend the bill on page 1, following the enacting clause, by striking all of section two in its entirety, and inserting in lieu thereof the following:

“CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-2. Definitions.

As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:

(a) "Accrued benefit" means on behalf of any member 2.75 percent per year of the member's final average salary for the first 20 years of credited service. Additionally, 2 percent per year for 21 through 25 years and 1.5 percent per year for each year over 25 years will be credited with a maximum benefit of 90 percent of a member's final average salary. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §8-22A-10 of this code.

(b) "Accumulated contributions" means the sum of all retirement contributions deducted from the compensation of a member or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) "Active military duty" means full-time duty in the active military service of the United States Army, Navy, Air Force, Space Force, Coast Guard, or Marine Corps. The term does not include regularly required training or other duty performed by a member of a reserve component or National Guard unless the member can substantiate that he or she was called into the full-time active military service of the United States and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed on the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location

of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits, or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost-of-living in accordance with §5-10D-7 of this code and Section 401(a) (17) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application or the required beginning date, if earlier. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) "Beneficiary" means a natural person who is entitled to, or will be entitled to, an annuity or other benefit payable by the plan.

(i) "Board" means the Consolidated Public Retirement Board.

(j) "Bona fide separation from service upon retirement" means that a retirant has completely terminated any employment relationship with any participating public employer in the plan for a period of at least 60 consecutive days from the effective date of retirement and without a prearranged agreement to return to employment with a participating public employer. For purposes of this definition, an employment relationship includes employment in any capacity, whether on a permanent, full-time, part-time, substitute, per diem, temporary or leased employee basis.

(k) "Covered employment" means ~~either~~: (1) Employment as a full-time municipal police officer or firefighter and the active performance of the duties required of that employment; or (2) employment as a full-time campus police officer as described in §18B-4-5 of this code and the active performance of the duties required of that employment; or (3) the period of time during which active duties are not performed but disability benefits are received under this article; or ~~(3)~~ (4) concurrent employment by a municipal police officer or firefighter or a campus police officer in a job or jobs in addition to his or her employment as a municipal police officer or firefighter or a campus police officer in this plan where the secondary employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: *Provided*, That the police officer or firefighter contributes to the fund created in this article the amount specified as the member's contribution in §8-22A-8 of this code.

~~(k)~~ (l) "Credited service" means the sum of a member's years of service, active military duty, and disability service.

~~(l)~~ (m) "Dependent child" means ~~either~~: (1) An unmarried person under age 18 who is: (A) A natural child of the member; (B) a legally adopted child of the member; (C) a child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or (D) a stepchild of the member residing in the member's household at the time of the member's death; or (2) Any unmarried child under age 23: (A) Who is enrolled as a full-time student in an accredited college or university; (B) who was claimed as a

dependent by the member for federal income tax purposes at the time of the member's death; and (C) whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

~~(m)~~ (n) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

~~(n)~~ (o) "Disability service" means service credit received by a member, expressed in whole years, fractions thereof, or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

~~(o)~~ (p) "Effective date" means January 1, 2010.

~~(p)~~ (q) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

~~(q)~~ (r) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly compensation which the member was receiving in the plan year prior to the initial disability. "Final average salary" does not include any lump sum payment for unused, accrued leave of any kind or character.

~~(r)~~ (s) "Full-time employment" means permanent employment of an employee by a participating ~~municipality~~ public employer in a position which normally requires 12 months per year service and requires at least 1,040 hours per year service in that position.

~~(s)~~ (t) "Fund" means the West Virginia Municipal Police Officers and Firefighters Retirement Fund created by this article.

~~(t)~~ (u) "Hour of service" means: (1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and (2) each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence, or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member may not be credited with any hours of service for any period of time he or she is receiving benefits under §8-22A-17 and §8-22A-18 of this code; and (3) each hour for which back pay is either awarded or agreed to be paid by the ~~employing municipality~~ participating public employer, irrespective of mitigation of damages. The same hours of service may not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

~~(u)~~ (v) "Medical examination" means an in-person or virtual examination of a member's physical or mental health, or both, by a physician or physicians selected or approved by the board; or, at the discretion of the board, a medical record review of the member's physical or mental health, or both, by a physician selected or approved by the board.

~~(v)~~ (w) "Member" means, except as provided in §8-22A-32 and §8-22A-33, or §8-22A-33a of this code, a person hired as a municipal police officer or municipal firefighter, as defined in this section, by a participating ~~municipal~~ public employer on or after January 1, 2010, or a campus police officer as described in §18B-4-5 of this code who is hired after January 1, 2026, or who was hired before that date but elects to become a member as described in that section. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

~~(w)~~ (x) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

~~(x)~~ (y) "Municipality" has the meaning ascribed to it in this code.

~~(y)~~ (z) (1) "Municipal police officer" means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal policemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal policemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal police officer also means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 or §8-22A-33a of this code. Paid police department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

(2) "Municipal firefighter" means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal firemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal firemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal firefighter also means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 or §8-22A-33a of this code. Paid fire department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

~~(z)~~ (aa) "Municipal subdivision" means any separate corporation or instrumentality established by one or more municipalities, as permitted by law; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more municipalities.

~~(aa)~~ (bb) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

~~(bb)~~ (cc) "Normal retirement age" means the first to occur of the following: (1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service; (2) while still in covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory service equals or exceeds 70 years; (3) while still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or (4) attainment of age 62 years and completion of five or more years of regular contributory service.

~~(cc)~~ (dd) "Participating public employer" means a municipality, municipal subdivision participating in the plan or an institution of higher education.

(ee) "Plan" means the West Virginia Municipal Police Officers and Firefighters Retirement System established by this article.

~~(dd)~~ (ff) "Plan year" means the 12-month period commencing on January 1 of any designated year and ending the following December 31.

~~(ee)~~ (gg) "Qualified public safety employee" means any employee of a participating state or political subdivision who provides police protection, firefighting services or emergency medical services for any area within the jurisdiction of the state or political subdivision, or such other meaning given to the term by Section 72(t) (10) (B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b) (2) (v) as they may be amended from time to time.

(ff) (hh) "Regular contributory service" means a member's credited service excluding active military duty, disability service and accrued annual and sick leave service.

~~(gg)~~ (ii) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

~~(hh)~~ (jj) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise separates from covered employment (1) the calendar year in which the member attains the applicable age as set forth in this paragraph; or

(2) The calendar year in which he or she retires or otherwise separates from covered employment.

The applicable age is:

(A) Seventy-two, if the individual attains age 72 prior to January 1, 2023;

(B) Seventy-three, if the individual attains age 72 after December 31, 2022, and attains age 73 before January 1, 2033; or

(C) Seventy-five, if the individual attains age 74 after December 31, 2032; *Provided, That the applicable age shall be determined in accordance with the provisions of §401(a)(9) of the Internal Revenue Code and the Treasury Regulations thereunder, as the same may be amended from time to time.*

(kk) "Retirant" means any member who commences an annuity payable by the plan.

~~(ii)~~ (ll) "Retirement income payments" means the monthly retirement income payments payable.

~~(jj)~~ (mm) "Spouse" means the person to whom the member is legally married on the annuity starting date.

~~(kk)~~ (nn) "Surviving spouse" means the person to whom the member was legally married at the time of the member's death and who survived the member.

~~(ll)~~ (oo) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For purposes of this subsection: (1) A member is totally disabled only if his or her physical or mental impairment or impairments are so severe that he or she is not only unable to perform his or her previous work as a police officer or firefighter but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration; and (2) "physical or mental impairment" is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a member's annual tax return for purposes of monitoring the earnings limitation.

~~(mm)~~ (pp) "Vested" means eligible for retirement income payments after completion of five or more years of regular contributory service.

~~(nn)~~ (qq) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based on the hours of service performed as covered employment and credited to the member during the plan year based on the following schedule:

Hours of Service	Year of Service Credited
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Less than 500	0
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500 to 999	1/3
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1,000 to 1,499	2/3
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1,500 or more	1
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During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under §8-22A-17 and §8-22A-18 of this code.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.**§16-5V-2. Definitions.**

As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:

(a) "Accrued benefit" means on behalf of any member two and six-tenths percent per year of the member's final average salary for the first 20 years of credited service. Additionally, two percent per year for 21 through 25 years and one and one-half percent per year for each year over 25 years will be credited with a maximum benefit of 67 percent. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §16-5V-12 of this code.

(1) The board may, upon the recommendation of the board's actuary, increase the employees' contribution rate to 10 and five-tenths percent should the funding of the plan not reach 70 percent funded by July 1, 2012. The board shall decrease the contribution rate to eight and one-half percent once the plan funding reaches the 70 percent support objective as of any later actuarial valuation date.

(2) Upon reaching the 75 percent actuarial funded level, as of an actuarial valuation date, the board shall increase the two and six-tenths percent to two and three-quarter percent for the first 20 years of credited service. The maximum benefit will also be increased from 67 percent to 90 percent.

(3) For 911 personnel or home confinement officers with assets transferred pursuant to §16-5V-6d or §16-5V-6f of this code who did not elect to pay back higher past contributions with interest, "accrued benefit" means, on behalf of the member, two percent per year of the member's final average salary for all credited service that was credited as a result of transferred assets. Additionally, two and three-quarter percent for the first 20 years of new credited service earned from date of membership in this plan will be credited. Additionally, two percent per year for 21 through 25 years of new credited service earned from date of membership in this plan and one and one-half percent per year for each year over 25 years earned from date of membership in this plan will be credited. A maximum benefit of 90 percent of a member's final average salary may be paid. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §16-5V-12 of this code.

(4) For 911 personnel or home confinement officers with assets transferred pursuant to §16-5V-6d or §16-5V-6f of this code who did elect to pay back higher past contributions, with interest, for eligible 911 service credit, "accrued benefit" means on behalf of the member two percent per year of the member's final average salary for all non-911 credited service that was credited as a result of transferred assets. Additionally, two and three-quarter percent for the first 20 years of 911 credited service will be credited. Additionally, two percent per year for 21 through 25 years of 911 credited service and one and one-half percent per year for each year over 25 years of 911 credited service will be credited. A maximum benefit of 90 percent of a member's final average salary may be paid. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §16-5V-12 of this code.

(b) "Accumulated contributions" means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) "Active military duty" means full-time active duty with any branch of the armed forces of the United States, including service with the National Guard or reserve military forces when the member has been called to active full-time duty and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based upon the nature or location of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) "Board" means the Consolidated Public Retirement Board.

(i) "Bona fide separation from service upon retirement" means that a retirant has completely terminated any employment relationship with any participating public employer in the system for a period of at least 60 consecutive days from the effective date of retirement and without a prearranged agreement to return to employment with a participating employer. For purposes of this definition, an employment relationship includes employment in any capacity, whether on a permanent, full-time, part-time, substitute, per diem, temporary, or leased employee basis.

~~(j)~~(i) "Contributing service" or "contributory service" means service rendered by a member while employed by a participating public employer for which the member made contributions to the plan. Contributory service that was transferred in full from the Public Employees Retirement System will qualify as contributory service in this plan.

~~(j)~~(k) "County commission or political subdivision" has the meaning ascribed to it in this code.

~~(k)~~(l) "County firefighter" means an individual employed in full-time employment as a firefighter with a county commission.

~~(h)~~(m) "Covered employment" means: (1) Employment as a full-time emergency medical technician, emergency medical technician/paramedic, or emergency medical services/registered nurse, and the active performance of the duties required of emergency medical services officers; or (2) employment as a full-time employee of a county 911 public safety answering point; or (3) employment as a full-time county home confinement officer; or ~~(3)~~(4) employment as a full-time county firefighter; or ~~(4)~~(5) the period of time during which active duties are not performed but disability benefits are received under this article; or ~~(5)~~(6) concurrent employment by an emergency medical services officer, 911 personnel, home confinement officer, or county firefighter in a job or jobs in addition to his or her employment as an emergency medical services officer, 911 personnel, home confinement officer, or county firefighter where the secondary employment requires the emergency medical services officer, 911 personnel, home confinement officer, or county firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: *Provided*, That the emergency medical services officer, 911 personnel, home confinement officer, or county firefighter contributes to the fund created in this article the amount specified as the member's contribution in §16-5V-8 of this code.

~~(m)~~(n) "Credited service" means the sum of a member's years of service, active military duty, disability service, service transferred from the Public Employees Retirement System and accrued annual and sick leave service.

~~(n)~~(o) "Dependent child" means either:

(1) An unmarried person under age eighteen who is:

(A) A natural child of the member;

(B) A legally adopted child of the member;

(C) A child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or

(D) A stepchild of the member residing in the member's household at the time of the member's death; or

(2) Any unmarried child under age 23:

(A) Who is enrolled as a full-time student in an accredited college or university;

(B) Who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death; and

(C) Whose relationship with the member is described in paragraph (A), (B), or (C), subdivision (1) of this subsection.

~~(o)~~(p) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

~~(p)~~(q) "Disability service" means service received by a member, expressed in whole years, fractions thereof or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

~~(q)~~(r) "Early retirement age" means age 45 or over and completion of 20 years of contributory service.

~~(+)~~(s) "Effective date" means January 1, 2008.

~~(s)~~(t) "Emergency medical services officer" means an individual employed by the state, county or other political subdivision as a medical professional who is qualified to respond to medical emergencies, aids the sick and injured and arranges or transports to medical facilities, as defined by the West Virginia Office of Emergency Medical Services. This definition is construed to include employed ambulance providers and other services such as law enforcement, rescue, or fire department personnel who primarily perform these functions and are not provided any other credited service benefits or retirement plans. These persons may hold the rank of emergency medical technician/basic, emergency medical technician/paramedic, emergency medical services/registered nurse, or others as defined by the West Virginia Office of Emergency Medical Services and the Consolidated Public Retirement Board.

~~(+)~~(u) "Employer error" means an omission, misrepresentation, or deliberate act in violation of relevant provisions of the West Virginia Code, the West Virginia Code of State Rules, or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

~~(+)~~(v) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly salary determined paid to the member during that period as determined under §16-5V-19 of this code multiplied by 12. Final average salary does not include any lump sum payment for unused, accrued leave of any kind or character.

~~(+)~~(w) "Full-time employment" means permanent employment of an employee by a participating public employer in a position which normally requires 12 months per year service and requires at least 1,040 hours per year service in that position.

~~(w)~~(x) "Fund" means the West Virginia Emergency Medical Services Retirement Fund created by this article.

(y) "Home confinement officer" means an individual employed in full-time employment as a home confinement officer or home incarceration supervisor with a county sheriff's office or by a county commission and who is certified pursuant to the provisions of §30-29-1 et seq. of this code.

~~(x)~~ (z) "Hour of service" means:

(1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year, but where no duties are performed due to vacation, holiday, illness, incapacity

including disability, layoff, jury duty, military duty, leave of absence, or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under §16-5V-19 or §16-5V-20 of this code; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission or political subdivision, irrespective of mitigation of damages. The same hours of service shall not be credited both under subdivision (1) or subdivision (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement, or payment is made.

~~(y)~~ (aa) "Medical examination" means an in-person or virtual examination of a member's physical or mental health, or both, by a physician or physicians selected or approved by the board; or, at the discretion of the board, a medical record review of the member's physical or mental health, or both, by a physician selected or approved by the board.

~~(z)~~(bb) "Member" means either: (1) A person first hired as an emergency medical services officer by an employer which is a participating public employer of the Emergency Medical Services Retirement System after the effective date of this article, as defined in subsection ~~(+)~~(s) of this section; or (2) an emergency medical services officer of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to the effective date and who elects to become a member pursuant to this article; or (3) a person first hired by a county 911 public safety answering center after the participating public employer elects to participate in the Emergency Medical Services Retirement System; or (4) a home confinement officer hired on or after July 1, 2025, employed by a participating public employer and who is not participating in the Deputy Sheriffs Retirement System; or (5) a home confinement officer who elects to participate pursuant to §16-5V-6f of this code and who is employed by a participating public employer; or ~~(4)~~(6) a county firefighter hired on or after June 10, 2022; or ~~(5)~~(7) a county firefighter of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to June 10, 2022, and who elects to become a member pursuant to §16-5V-6a of this code; or ~~(6)~~(8) a person first hired by a county 911 public safety answering center prior to July 1, 2022, and who elects to become a member pursuant to §16-5V-6c of this code. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

~~(aa)~~(cc) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

~~(bb)~~(dd) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

~~(ee)~~(ee) "Normal retirement age" means the first to occur of the following:

(1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service, excluding active military duty, disability service, and accrued annual and sick leave service;

(2) While still in covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory years of service equals or exceeds 70 years;

(3) While still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or

(4) Attainment of age 62 years and completion of five or more years of regular contributory service.

~~(dd)~~(ff) "Participating public employer" means: (1) Any county commission, political subdivision, or county 911 public safety answering point in the state which has elected to cover its emergency medical services officers or 911 personnel, as defined in this article, under the West Virginia Emergency Medical Services Retirement System; or (2) any county sheriff's office or county commission who employs full-time home confinement officers; or ~~(2)(3)~~ any county commission who employs county firefighters or full-time home confinement officers.

~~(ee)~~(gg) "Plan" means the West Virginia Emergency Medical Services Retirement System established by this article.

~~(ff)~~(hh) "Plan year" means the 12-month period commencing on January 1 of any designated year and ending the following December 31.

~~(gg)~~(ii) "Political subdivision" means a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns: *Provided*, That any public corporation established under §7-15-4 of this code is considered a political subdivision solely for the purposes of this article.

~~(hh)~~(jj) "Public Employees Retirement System" means the West Virginia Public Employees Retirement System created by West Virginia Code.

~~(ii)~~(kk) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

~~(jj)~~(ll) "Required beginning date" means April 1 of the calendar year following the later of: ~~(1) The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise separates from covered employment~~ (1) The calendar year in which the member attains the applicable age as set forth in this paragraph; or

(2) The calendar year in which he or she retires or otherwise separates from covered employment.

The applicable age is:

(A) Seventy-two, if the individual attains age 72 prior to January 1, 2023;

(B) Seventy-three, if the individual attains age 72 after December 31, 2022, and attains age 73 before January 1, 2033; or

(C) Seventy-five, if the individual attains age 74 after December 31, 2032; provided that the applicable age shall be determined in accordance with the provisions of §401(a)(9) of the Internal Revenue Code and the Treasury Regulations thereunder, as the same may be amended from time to time.

~~(kk)~~(mm) "Retirant" means any member who commences an annuity payable by the plan.

~~(ll)~~(nn) "Retire" or "retirement" means a member's withdrawal from the employ of a participating public employer and the commencement of an annuity by the plan.

~~(mm)~~(oo) "Retirement income payments" means the monthly retirement income payments payable under the plan.

~~(nn)~~(pp) "Spouse" means the person to whom the member is legally married on the annuity starting date.

~~(oo)~~(qq) "Surviving spouse" means the person to whom the member was legally married at the time of the member's death and who survived the member.

~~(pp)~~(rr) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

For purposes of this subsection:

(1) A member is totally disabled only if his or her physical or mental impairment or impairments is so severe that he or she is not only unable to perform his or her previous work as an emergency medical services officer, 911 personnel, home confinement officer, or county firefighter but also cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration.

(2) "Physical or mental impairment" is an impairment that results from an anatomical, physiological, or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a member's annual tax return for purposes of monitoring the earnings limitation.

~~(qq)~~(ss) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based upon the hours of service performed as covered employment and credited to the member during the plan year based upon the following schedule:

Hours of Service	Years of Service Credited
Less than 500	0
500 to 999	1/3
1000 to 1499	2/3
1500 or more	1

During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under §16-5V-19 or §16-5V-20 of this code. Except as specifically excluded, years of service include covered employment prior to the effective date.

Years of service which are credited to a member prior to his or her receipt of accumulated contributions upon termination of employment pursuant to §16-5V-18 of this code or §5-10-30 of this code shall be disregarded for all purposes under this plan unless the member repays the accumulated contributions with interest pursuant to section §16-5V-18 of this code or has, prior to the effective date, made the repayment pursuant to §5-10-18 of this code.

~~(ff)~~(tt) "911 personnel" means an individual employed in full-time employment with a county 911 public safety answering point.

§16-5V-6f. Home confinement officers as members of the system. Transfer of home confinement officers assets from Public Employees Retirement System.

(a) Notwithstanding any other provision of this article to the contrary, any home confinement officer hired on or after July 1, 2025, shall be a member of this retirement plan as a condition of employment and upon membership does not qualify for membership in any other retirement system administered by the board, so long as he or she remains employed in covered employment: *Provided*, That any home confinement officer who has concurrent employment in an additional job or jobs which would require the home confinement officer to be a member of any other retirement system administered by the board shall participate in only one retirement system administered by the board and the retirement system applicable to the concurrent employment for which the home confinement officer has the earliest date of hire shall prevail. Notwithstanding any other provision of this article to the contrary, a person employed as a home confinement officer by a participating public employer may be a member of this retirement plan subject to the provisions of this section. Full-time employment as a home confinement officer employed by a sheriff's office or county commission which is a participating public employer satisfies the definition of "covered employment" as defined in this article.

(b) Any home confinement officer who elects to become a member of the plan does not qualify for active membership in any other retirement system administered by the board, so long as he or she remains employed in covered employment: *Provided*, That any home confinement officer who has concurrent employment in an additional job or jobs which would require the home confinement officer to be an active member of the West Virginia Deputy Sheriffs Retirement

System, the West Virginia Municipal Police Officers and Firefighters Retirement System, or the West Virginia Natural Resources Police Officer Retirement System shall actively participate in only one retirement system administered by the board, and the retirement system applicable to the concurrent employment for which the employee has the earliest date of hire shall prevail. Any home confinement officer shall continue to receive his or her accrued benefit of other retirement systems administered by the board, except in the case of Public Employees Retirement System, when credit and assets are transferred to the Emergency Services Retirement System.

(c) Any home confinement officer who was employed as a home confinement officer prior to July 1, 2025, but was not employed on July 1, 2025, shall become a member upon rehire as a home confinement officer. For purposes of this section, the member's years of service and credited service prior to July 1, 2025, may be counted so long as the home confinement officer has not received the return of his or her accumulated contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The member may request in writing to have his or her accumulated contributions and employer contributions from covered employment in the Public Employees Retirement System transferred to the plan and will receive two percent of the member's final average salary for each year transferred. If the conditions of this subsection are met, all years of the home confinement officer's covered employment shall be counted as years of service for the purposes of this article.

(d) Any home confinement officer employed in covered employment on July 1, 2025, shall elect in writing on a form provided by the board whether or not to transfer into this plan on or before August 29, 2025. Any home confinement officer who has elected to transfer into this plan shall be given credited service at the time of transfer for all credited service then standing to the home confinement officer's service credit in the Public Employees Retirement System regardless of whether the credited service, as defined in §5-10-2 of this code, was earned as a home confinement officer. All credited service standing to the transferring home confinement officer's credit in the Public Employees Retirement System at the time of transfer into this plan shall be transferred into the plan created by this article, and the transferring home confinement officer shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System as that transferring home confinement officer would have received from the Public Employees Retirement System as if the transfer had not occurred but with accrued benefit multipliers subject to the provisions of §16-5V-12 of this code. In connection with each transferring home confinement officer receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: *Provided*, That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as a home confinement officer and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(e) Once made, the election made under this section is irrevocable. All home confinement officers electing to become members as described in this section, shall be members as a condition of employment and shall make the contributions required by this article.

(f) The Consolidated Public Retirement Board shall transfer assets of home confinement officers who wish to participate in the Emergency Medical Services Retirement Act from the Public Employees Retirement System Trust Fund into the West Virginia Emergency Medical Services Trust Fund no later than March 31, 2026.

(g) The amount of assets to be transferred for each transferring home confinement officer shall be computed using the July 1, 2025, actuarial valuation of the Public Employees Retirement System, and updated with 7.25 percent annual interest to the date of the actual asset transfer. The market value of the assets of the transferring home confinement officer in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred, the board shall:

(1) Compute the market value of the Public Employees Retirement System assets as of July 1, 2025, actuarial valuation date under the actuarial valuation approved by the board;

(2) Compute the actuarial accrued liabilities for all Public Employees Retirement System retirees, beneficiaries, disabled retirees, and terminated inactive members as of July 1, 2025, actuarial valuation date;

(3) Compute the market value of active member assets in the Public Employees Retirement System as of July 1, 2025, by reducing the assets value under subdivision (1) of this subsection by the inactive liabilities under subdivision (2) of this subsection;

(4) Compute the actuarial accrued liability for all active Public Employees Retirement System members as of July 1, 2025, actuarial valuation date approved by the board;

(5) Compute the funded percentage of the active members' actuarial accrued liabilities under the Public Employees Retirement System as of July 1, 2025, by dividing the active members' market value of assets under subdivision (3) of this subsection by the active members' actuarial accrued liabilities under subdivision (4) of this subsection;

(6) Compute the actuarial accrued liabilities under the Public Employees Retirement System as of July 1, 2025, for active home confinement officers transferring to the Emergency Medical Services Retirement System;

(7) Determine the assets to be transferred from the Public Employees Retirement System to the Emergency Medical Services Retirement System by multiplying the active members' funded percentage determined under subdivision (5) of this subsection by the transferring active members' actuarial accrued liabilities under the Public Employees Retirement System under subdivision (6) of this subsection and adjusting the asset transfer amount by interest at 7.25 percent for the period from the calculation date of July 1, 2025, through the first day of the month in which the asset transfer is to be completed.

(h) Once a home confinement officer has elected to transfer from the Public Employees Retirement System, transfer of that amount as calculated in accordance with the provisions of subsection (g) of this section by the Public Employees Retirement System shall operate as a complete bar to any further liability to the Public Employees Retirement System and constitutes an agreement whereby the transferring home confinement officer forever indemnifies and holds harmless the Public Employees Retirement System from providing him or her any form of retirement benefit whatsoever until that emergency medical services officer obtains other employment which would make him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever for the amounts transferred to the Emergency Medical Services Retirement System.

(i) A home confinement officer who timely elected to transfer into this plan may request in writing that the Consolidated Public Retirement Board compute a quote of the amount owed for

the member's transferred home confinement officer to be eligible for the 2.75 percent multiplier. The quote shall be provided to the member within 60 days of the board's receipt of the written request and the employer's verification of home confinement officer. Other Public Employees Retirement System employment is eligible for transfer, but only at the 2 percent multiplier. To determine the computation of the quote provided, the board shall:

(1) Compute the contributions made by each home confinement officer for eligible years under Public Employees Retirement System.

(2) Compute the contributions that would have been required under Emergency Medical Services Retirement System for eligible years.

(3) Compute the difference with interest at 7.25 percent that each home confinement officer would have been required to pay had he or she originally participated in Emergency Medical Services Retirement System for eligible years.

(4) Full reinstatement amount must be repaid no later than December 31, 2030, or prior to the member's effective retirement date, whichever occurs first.

(i) Commencement of retirement for transferring home confinement officers may occur on or after April 1, 2026

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5. Campus police officers; appointment; qualifications; authority; compensation and removal; law enforcement grants; pension plan.

(a) The governing boards may appoint qualified individuals to serve as campus police officers upon any premises owned or leased by the State of West Virginia and under the jurisdiction of the governing boards, subject to the conditions and restrictions established in this section.

(1) A person who previously was qualified for employment as a law-enforcement officer for an agency or political subdivision of any state is considered qualified for appointment as a campus police officer.

(2) Before performing duties as a campus police officer in any county, a person shall qualify as is required of county police officers by:

(A) Taking and filing an oath of office as required by §6-1-1 *et seq.* of this code; and

(B) Posting an official bond as required by §6-2-1 *et seq.* of this code.

(b) A campus police officer may carry a gun and any other dangerous weapon while on duty if the officer fulfills the certification requirement for law-enforcement officers under §30-29-5 of this code or meets the requirements of subsection (a) of this section.

(c) ~~It is the duty of a~~ A campus police officer ~~to~~ shall preserve law and order on:

(1) ~~On the~~ The premises under the jurisdiction of the governing board; and

(2) ~~On any~~ Any street, road, or thoroughfare, except controlled access and open country highways, immediately adjacent to or passing through premises, to which the officer is assigned by the president of the institution.

(A) For the purpose of this subdivision, the campus police officer is a law-enforcement officer pursuant to the provisions of §30-29-1 *et seq.* of this code;

(B) The officer has and may exercise all the powers and authority of a law-enforcement officer as to offenses committed within the area assigned;

(C) The officer is subject to all the requirements and responsibilities of a law-enforcement officer;

(D) Authority assigned pursuant to this subdivision does not supersede in any way the authority or duty of other law-enforcement officers to preserve law and order on ~~such~~ these premises;

(E) Campus police officers may assist a local law-enforcement agency on public highways. The assistance may be provided to control traffic in and around premises owned by the state when:

(i) Traffic is generated as a result of athletic or other activities conducted or sponsored by the institution; and

(ii) The assistance has been requested by the local law-enforcement agency; and

(F) Campus police officers may assist a local law-enforcement agency in any location under the agency's jurisdiction at the request of the agency.

(d) The salary of a campus police officer is paid by the employing governing board. A state institution may furnish each campus police officer with a firearm and an official uniform to be worn while on duty. The institution shall furnish and require each officer while on duty to wear a shield with an appropriate inscription and to carry credentials certifying the person's identity and authority as a campus police officer.

(e) A governing board may at its pleasure revoke the authority of any campus police officer and such officers serve at the will and pleasure of the governing board. The president of the state institution shall report the termination of employment of a campus police officer by filing a notice to that effect in the office of the clerk of each county in which the campus police officer's oath of office was filed.

(f) Notwithstanding any other provisions of this code to the contrary, and for purposes of enhancing the ability of campus police officers to perform their duties, a governing board may apply for and receive any public or private grant or other financial award that is available to other law-enforcement agencies in the state.

(g) Current campus police officers may choose to participate in the Deputy Sheriffs Retirement System, to be administered by the Consolidated Public Retirement Board. Should the current campus police officer choose to participate in the Deputy Sheriffs Retirement System, no service credit or dollars accrued may be moved to that system.

(h) Effective January 1, 2026, all newly hired campus police officers shall participate in the Deputy Sheriffs Retirement System

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-5. Supplemental and additional retirement plans for employees; payroll deductions; authority to match employee contributions; retroactive curative and technical corrective action.

(a) Any reference in this code to the "additional retirement plan" relating to state higher education employees, means the "Higher Education Retirement Plan" provided in this section. Any state higher education employee participating in a retirement plan upon the effective date of this section continues to participate in that plan and may not elect to participate in any other state retirement plan. Any retirement plan continues to be governed by the provisions of law applicable on the effective date of this section.

(b) The commission, on behalf of the council, governing boards and itself, shall contract for a retirement plan for their employees, to be known as the Higher Education Retirement Plan. The commission, council and governing boards shall make periodic deductions from the salary payments due employees in the amount they are required to contribute to the Higher Education Retirement Plan, which deductions shall be six percent.

(c) The commission, council and governing boards may contract for supplemental retirement plans for any or all of their employees to supplement the benefits employees otherwise receive. The commission, council and governing boards may make additional periodic deductions from the salary payments due the employees in the amount they are required to contribute for the supplemental retirement plan.

(d) An organization, by way of additional compensation to their employees, shall pay an amount, which, at a minimum, equals the contributions of the employees into the Higher Education Retirement Plan from funds appropriated to the commission, council, or governing board for personal services.

(e) As part of an overall compensation plan, the commission, council or a governing board, each at its sole discretion, may increase its contributions to any employee retirement plan to an amount that exceeds the contributions of employees.

(f) Each participating employee has a full and immediate vested interest in the retirement and death benefits accrued from all the moneys paid into the Higher Education Retirement Plan or a supplemental retirement plan for his or her benefit. Upon proper requisition of a governing board, the commission, or council, the Auditor periodically shall issue a warrant, payable as specified in the requisition, for the total contributions so withheld from the salaries of all participating employees and for the matching funds of the commission, council or governing board.

(g) Any person whose employment commences on or after July 1, 1991, and who is eligible to participate in the Higher Education Retirement Plan, shall participate in that plan and is not eligible to participate in any other state retirement system: *Provided*, That the foregoing provision does not apply to a person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code: *Provided, however, That the foregoing provision does not apply to campus police officers in this state pursuant to §18B-4-5.* The additional retirement plan contracted for by the governing boards prior to July 1, 1991, remains in effect unless changed by the commission.

Nothing in this section considers employees of the council or governing boards as employees of the commission, nor is the commission responsible or liable for retirement benefits contracted by, or on behalf of, the council or governing boards.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 627**), and there were--yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Anders, Clay, Linville, McGeehan and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 35) passed.

The Committee on Finance moved to amend title of the bill to read as follows:

Com. Sub. for S. B. 35 -- “A Bill to amend and reenact §8-22A-2, §16-5V-2, §18B-4-5, and §18B-7-5, and of the Code of West Virginia, 1931, as amended, and to amend the code by adding a new section, designated §16-5V-6f, relating to retirement of certain law enforcement officers; amending definitions; providing definition for bona fide separation from service upon retirement; allowing campus police officers hired before January 1, 2026, to participate in the Municipal Police and Firefighters Retirement System under certain conditions; mandating newly hired campus police officers to participate in the Municipal Police and Firefighters Retirement System beginning on January 1, 2026; authorizing home confinement officers to participate in the Emergency Medical Services Retirement System; requiring newly hired home confinement officers to participate in the Emergency Medical Services Retirement System beginning on January 1, 2025, and providing for home confinement officers to transfer from the Public Employees Retirement System to the Emergency Medical Services Retirement System.”

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

A message from the Senate, by

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

Com. Sub. for H. B. 2347, Relating generally to the creation of mental hygiene regions by the Supreme Court of Appeals.

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the provisions of Engrossed Committee Substitute for Committee Substitute for Senate Bill 761.

On motion of Senator Stuart the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 2347— A BILL to amend and reenact §27-5-2 and §27-5-4 of the Code of West Virginia, 1931, as amended, relating to involuntary custody and involuntary

hospitalization; providing additional grounds for application for involuntary hospitalization; modifying evidentiary standards for imposing civil liability on mental health professionals rendering services in mental hygiene cases; requiring individual to agree to voluntary treatment before being removed from involuntary hospitalization prior to probable cause hearing; providing additional grounds for satisfaction of probable cause and involuntary hospitalization standards in mental hygiene proceedings; providing name of amendments; permitting hospitalization of individuals with substance use disorder under certain circumstances; providing prohibition on consideration of refusal of substance abuse services when considering individual's judgment; providing for dismissal of involuntary hospitalization proceedings under certain circumstances; setting forth additional required findings by the chief medical officer; providing for restoration of firearm possession rights under certain circumstances; and providing for removal of individual from mental health registry under certain circumstances.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 628**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Clay and McGeehan.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2347) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 586, Relating to requirements for filling vacancies in certain elected federal, state, and county offices.

On motion of Delegate Kelly, the House concurred in the following title amendment by the Senate, with further amendment:

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

Eng. Senate Bill 586—A Bill to amend and reenact §3-10-3, §3-10-4, §3-10-5, §3-10-6, §3-10-7, and §3-10-8 of the Code of West Virginia, 1931, as amended, to amend and reenact §8-5-10 of said Code; and to amend and reenact §50-1-6 of said Code; relating to requirements for filling vacancies in certain elected federal, state, county, and municipal offices; prohibiting the appointment of an individual to fill a vacant office if that person has not been a member of his or her registered political party for at least one year prior to the occurrence of the vacancy; providing that process to select candidates to fill state Senate and House of Delegates seats be governed by the party senatorial district executive committee or party delegate district executive committee, or in the case of a single-county senatorial or delegate district, by the county executive party, as applicable for the respective political party; authorizing the Governor to appoint an acting official to perform the duties of a constitutional officer until that office is filled by appointment; relating to filling vacancies in the office of magistrate; providing that vacancies in the office of magistrate with

an unexpired term of more than two years are filled by subsequent nonpartisan judicial election held concurrently with the primary or general election, whichever occurs first; excluding vacancies in the office of magistrate from certain other provisions relating to process for filling vacancies; authorizing prospective vacancy due to upcoming resignation or retirement of a magistrate to be filled by circuit judge or chief circuit judge; and requiring generally that partisan office appointments be made from the political party with which the individual vacating the office was affiliated at the time of the previous election for that office.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 629**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Clay, McGeehan and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 586) passed.

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

On this question, the yeas and nays were taken (**Roll No. 630**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Clay, McGeehan and Steele.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 586) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3125, To remove restrictions from teachers receiving permanent teaching licenses.

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

Senator Grady moved to amend the bill on page 2, section 2a, line 32, by striking out the period and inserting in lieu thereof a semicolon and the word "or";

And on page 2, section 2a, after line 32, by inserting the following paragraph:

(D) Is an honorably discharged member of the armed forces who:

(i) Holds at least a bachelor's degree from an accredited institution of higher education that is related to the available position which the veteran has applied to; and

(ii) Has passed the basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which the licensure is sought; and

(iiii) Is exempt from any additional teacher certification requirements except the criminal history check required by §18A-3-10 of this code.

On motion of Senator Grady the title of the bill was amended to read as follows:

Eng. Com. Sub. for House Bill 3125—A Bill to amend and reenact §18A-3-2a and §18A-3-4 of the Code of West Virginia, 1931, as amended, relating to certificates valid in the public schools; adding a fourth set of conditions under which a person who meets those conditions can be issued a professional teaching certificate; allowing teachers with a bachelor's degree and 10 years teaching experience, with a valid teaching certificate, in good standing, without any unsatisfactory evaluations to apply for and receive a permanent teaching certificate without having to take any additional course work.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 631**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Clay, McGeehan and Steele.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3125) passed.

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

On this question, the yeas and nays were taken (**Roll No. 632**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Clay, McGeehan and Steele.

So, two thirds of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3125) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 2678, Relating to school zones of public or private schools.

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

The Committee on Transportation and Infrastructure moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-1. Speed limitations generally; penalty.

(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be controlled as necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this section is lawful, but any speed in excess of the limits specified in this subsection or established as authorized in this section is unlawful. The following speed limits apply:

(1) Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending 125 feet along the street or highway from the school grounds and, in the case of school property not abutting a street or highway but accessed through a right-of-way granted for entrance to school property, a school zone established by an engineering study conducted by the Division of Highways is all school property, including school grounds and any property within the access right-of-way, and extending 125 feet along the street or highway from the entrance to the access right-of-way. The West Virginia Division of Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a formal vote and a written request by a county board of education, governing board of a public charter school, or governing body of a private school to expand a school zone to a road that is adjacent to school property or from the entrance to an access right-of-way, the West Virginia Division of Highways shall expand the school zone by erecting new signage indicating the expanded school zone's location and speed limit within 90 days of receiving the request: *Provided*, That the school zone may not be expanded more than 125 feet along an adjacent road unless the division determines that the additional extension is needed and necessary for the safety of the school children. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways. For purposes of this subdivision, the term "school property" includes any public school, public charter school, and any private school that requests the Division of Highways to designate a school zone;

(2) Twenty-five miles per hour in any business or residence district; and

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

The speeds set forth in this section may be altered as authorized in §17C-6-2 and §17C-6-3 of this code.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than 55 miles per hour and the speed limits specified in subsection (b) of this section do not apply.

(e) Unless otherwise provided in this section, any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and, upon a third or subsequent conviction within two years thereafter, shall be fined not more than \$500: *Provided*, That if the third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by 15 miles per hour or more, then upon conviction, shall be fined not more than \$500 or confined in jail for not more than six months, or both fined and confined.

(f) Any person who violates the provisions of subdivision (1), subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by 15 miles per hour or more in the presence of one or more children, then upon conviction, shall be fined not less than \$100 nor more than \$500 or confined in jail for not more than six months, or both fined and confined: *Provided, however*, That if the signage required by subdivision (1), subsection (b) of this section is not present in the school zone at the time of the violation, then any person who violates said provision is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25.

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled access highway or interstate highway and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above the speed limit, then, upon conviction thereof, that person shall be fined not more than \$5, plus court costs.

(h) Any person operating a commercial motor vehicle engaged in the transportation of coal on the coal resource transportation road system who violates subsection (a), (b), or (c) of this section shall, upon conviction, be subject to fines in triple the amount otherwise provided in subsection (e) of this section.

(i) If an owner or driver is convicted under the provisions of this section for the offense of driving above the speed limit on a controlled access highway or interstate highway of this state and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above the speed limit, then notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on the conviction ~~shall~~ may not be transmitted to the Division of Motor Vehicles or, if transmitted, may not be recorded by the division: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter 17E of this code if the offense was committed while operating a commercial vehicle.

(j) If an owner or driver is convicted in another state for the offense of driving above the maximum speed limit on a controlled access highway or interstate highway and if the maximum speed limit in the other state is less than the maximum speed limit for a comparable controlled access highway or interstate highway in this state, and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above what would be the maximum speed limit for a comparable controlled access highway or interstate highway in this state, then notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on the conviction ~~shall~~ may not be transmitted to the Division of Motor Vehicles or, if transmitted, ~~shall~~ may not be recorded by the division, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state: *Provided*, That

the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter 17E of this code, if the offense was committed while operating a commercial vehicle.

The Committee on Transportation and Infrastructure moved to amend the title of the bill to read as follows:

Eng. House Bill 2678—A Bill to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to speed restrictions; clarifying that school zones include private schools and public charter schools; incorporating technical corrections and updates; and clarifying that a certified abstract of a judgment for conviction of an offense of driving above the speed limit on a controlled access highway or interstate highway at 10 miles per hour or less above the speed limit may not be recorded by the Division of Motor Vehicles.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 633**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Clay, McGeehan and Steele.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 2678) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect August 1, 2025, a bill of the House of Delegates, as follows:

H. B. 3513, Relating to standards of liability and insurance requirements in certain civil actions.

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12b. Liability of intoxicated persons; liability of persons or licensees for knowingly unlawful sales; rebuttable presumptions and exceptions.

(a) Notwithstanding any other provision of this article to the contrary, a licensee or person acting on the licensee's behalf who sells, furnishes, or serves an alcoholic beverage to a person is not thereby liable in a civil action for damages for injury, death, or damage caused by or resulting from the impairment or intoxication of the person who was furnished the alcoholic beverage, including injury or death to other individuals, unless either of the following circumstances apply:

(1) The licensee or person acting on the licensee's behalf knowingly sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age; or

(2) The licensee or person acting on the licensee's behalf knowingly sells, furnishes, or serves alcoholic beverages to a person who was visibly intoxicated at the time the alcoholic beverage was furnished.

(b) Where either of the circumstances set forth in §60-7-12b(a) of this code are met by a preponderance of the evidence, a person or licensee may become liable for injury or damage caused by or resulting from the intoxication of the person when the sale, furnishing, or serving of alcoholic beverages to the person is the proximate cause of the injury or damage.

(c) In determining whether the sale, furnishing, or serving of alcoholic beverages to a person not of legal drinking age is done knowingly, as provided in §60-7-12b(a)(1) of this code, a rebuttable presumption that the alcoholic beverages were not sold, furnished, or served knowingly exists if:

(1) The person selling, furnishing, or serving alcoholic beverages has installed a transaction scan device on its licensed premises and can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom alcoholic beverages have been furnished; or,

(2) The person selling, furnishing, or serving alcoholic beverages can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom an alcoholic beverage is sold by providing evidence:

(A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom an alcoholic beverage will be sold, furnished, or given away;

(B) That it has communicated this policy to each employee, servant, or agent; and

(C) That it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or provision without charge of any alcoholic beverage and that it has taken corrective action for any discovered noncompliance with this policy.

(d) For purposes of this section, an intoxicated person of lawful drinking age operating a motor vehicle, an executor or administrator of the intoxicated motor vehicle operator's estate, any person voluntarily riding in a motor vehicle operated by a person known to be intoxicated, or an executor or administrator of any person voluntarily riding in a motor vehicle operated by a person known to be intoxicated, do not have a private cause of action against any licensee, person acting on the licensee's behalf, or owner or lessor of any building of a licensee, for injuries to his or her person or property arising from the actions of the intoxicated driver.

(e) For any cause of action brought pursuant to this section against a licensee or person acting on the licensee's behalf that maintains liquor liability insurance in an amount not less than \$1 million per occurrence and at least \$2 million in the aggregate, a verdict of past medical expenses is limited to \$1 million, and an award of punitive damages may not exceed two times the amount of compensatory damages awarded.

(f) For purposes of this section, these terms are defined as follows:

“Alcoholic beverage” includes alcohol, beer, including nonintoxicating beer and nonintoxicating craft beer, wine, spirits and any other liquid or solid capable of being used as a beverage.

“Knowing” or “knowingly” means knew or should have known under a totality of the circumstances.

“Transaction scan device” means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver’s license or other government-issued identity card.

“Visible intoxication” or “visibly intoxicated” means actual evidence of a person’s action or series of actions that present objective signs of intoxication. A person’s blood alcohol content or the number of alcoholic beverages a person consumes do not constitute prima facie evidence to establish that a person is visibly intoxicated within the meaning of this section but may be admissible as relevant evidence of the person’s intoxication.

(g) Notwithstanding any other effective date to the contrary, the amendments to this article, enacted during the 2025 regular legislative session, apply to all cases filed on or after August 1, 2025.

§60-7-12c. Liability of owners or lessors for gross negligence.

(a) A person, and an executor or administrator of the person’s estate, who suffers personal injury, death, or property damage as a result of the actions of an intoxicated person do not have a private cause of action against an owner or lessor who rents their building or premises to a licensee or person acting on the licensee’s behalf against whom a private cause of action may be brought under §60-7-12b of this code, except when:

(1) The owner and the licensee are the same person, and the licensee violated a provision of §60-7-12b of this code; or

(2) There is clear and convincing evidence that the owner or lessor acted willfully, wantonly, or with gross negligence with respect to the renting of the owner or lessor’s building or premises to a licensee or person acting on a licensee’s behalf against whom a private cause of action has been brought.

(b) For any cause of action brought under this section in which the trier of fact has determined that punitive damages are to be awarded, the limitations on punitive damages provided in §55-7-29 of this code apply.

(c) Notwithstanding any other effective date to the contrary, the amendments to this article, enacted during the 2025 regular legislative session, apply to all cases filed on or after August 1, 2025.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 634)**, and there were--yeas 71, nays 27, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Nays: Bridges, Brooks, Burkhammer, D. Cannon, Coop-Gonzalez, Dean, Flanigan, Fluharty, Garcia, Hamilton, Hansen, Hornbuckle, T. Howell, Jeffries, Lewis, Mazzocchi, Moore, Pinson, Pritt, Pushkin, Steele, Street, Vance, Ward, White, Williams and Young.

Absent and Not Voting: Clay and McGeehan.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 3513) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to:

Com. Sub. for S. B. 275, Removing requirement school cooks or custodians have high school diploma or equivalent.

On motion of Delegate Kelly, and by unanimous consent, the House receded from its position with respect to the House amendments on Com. Sub. for S. B. 275.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 635**), and there were--yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foggin and G. Howell.

Absent and Not Voting: McGeehan.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (S. B. 275) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 581, Relating to school attendance and student participation in 4-H activities.

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

On motion of Senator Rucker the title of the bill was amended to read as follows:

Eng. Com. Sub. For Senate Bill 581--A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to expanding the definition of excused absence; including up to five college visits in the definition of excused absence; including a student participating in a 4-H or FFA-sponsored activity or program in the definition of excused absence;

providing that the student be credited as present in the same manner as a student participating in an educational field trip; providing that the student not be counted as absent; requiring a 4-H or FFA agent to provide documentation of a student's participation upon request of the principal or the principal's designee; addressing makeup of missed schoolwork and the student's class grades; and addressing 4-H or FFA program participation during any period of time the student has been suspended, expelled, or assigned to an alternative school or program.

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 636**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 581) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate passed with amendment and title amendment,

H. B. 2776, Requiring Department of Health to report positive Alpha Gal tests to CDC.

On motion of Delegate Kelly, the House refused to concur on the Senate amendments on H. B. 2776 and asked that the Senate recede.

Senator Chapman moved to amend the bill by striking out the title and substituting therefor a new title, to read as follows:

Eng. House Bill 2776—A Bill amend and reenact §16-1-4 and §16-1-9a of the Code of West Virginia, 1931, as amended, relating to the State Public Health System; requiring the Secretary of the Department of Health to propose legislative rules to include alpha-gal syndrome on the list of diseases that shall be required to be reported to the Centers for Disease Control and Prevention (CDC); creating two classifications of backflow prevention assemblies; replacing references to the commissioner with the Secretary of the Department of Health; providing that the Secretary of the Department of Health may not require low-hazard backflow prevention assemblies to be inspected more frequently than once in five years; and providing that high-hazard backflow prevention assemblies shall be inspected annually.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2451, To facilitate the creation of home-based businesses.

Delegate Shamblin obtained unanimous consent for the House to reconsider the vote on the passage of the bill.

On motion of Delegate Shamblin, the House concurred with further amendment and further title amendment, and the passage as amended of the bill as follows:

Delegate Kelly moved to amend the engrossed Com. Sub. for H. B. 2451 by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-4. Municipal license and tax thereon when state license required.

(a) Whenever anything, for which a state license is required, is to be done within the corporate limits of any municipality, the governing body shall have plenary power and authority, unless prohibited by general law, to require a municipal license and for the use of the municipality to impose a reasonable tax which may not exceed the amount of the state license tax. Upon proper application for a municipal license and payment of the prescribed reasonable tax by any person who has a valid and subsisting state license, the municipal license shall be issued.

(b) Except where a business license tax or fee has been established by the West Virginia Code, the governing body of a municipality may, in lieu of the provisions of subsection (a), enact an ordinance creating an annual general municipal business license for anything which requires a state license that is done within the corporate limits of a municipality, the tax for which may not exceed ~~twenty~~ 20 dollars.

(c) Notwithstanding any other provision of law to the contrary, no municipal license shall be required for an independent contractor or sole proprietor who earns less than \$2,500 in annual gross revenue and who does not maintain a permanent physical location within the municipality's city limits.

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

(a) Authorization to impose tax. — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et seq.* of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

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

(b) Maximum tax rates. — In no case shall the rate of the municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, §11-13-2b, §11-13-2c, §11-13-2d, §11-13-2e, §11-13-2g, §11-13-2h, §11-13-2i, and §11-13-2j of this code, as those rates were in effect under §11-13-1 *et seq.* of this code, on January 1, 1959, or in excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of §33-25A-1 *et seq.* of this code, shall not exceed one-half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq.* of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency, and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any company maintains its office or offices in this state, whether the income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for calendar year 1997 is not subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) Effective date of local tax. — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under §11-13-2e of this code, applies only to gross income derived from contracts entered into after the effective date of the imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least 60 days prior to the effective date of said tax or revision thereof.

(d) Exemptions. —

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association, or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by

the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of 1986, as amended.

(2) A municipality shall not impose its business and occupation or privilege tax on any business with a gross revenue below \$2,500 annually

~~(2)~~(3) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by 50 percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the remaining municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50 percent of the total amount of the tax: *Provided, however*, That July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this section, an automobile is a self-propelled vehicle used on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) Activity in two or more municipalities. — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with legislative rules as prescribed by the Tax Commissioner. It is the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

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

(g) Administrative provisions. — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of the tax, which shall be similar to those procedures in §11-13-1 *et seq.* of this code, as in existence on June 30, 1978, or to those procedures in §11-10-1 *et seq.* of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

(h) Timely payment. — Payments for taxes due under this section that are postmarked after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

(i) Any third-party vendors who contract with a city or municipality to collect business and occupation taxes authorized by this section on behalf of a municipality may not charge for their services more than 20% of the amount of taxes collected.

ARTICLE 40. HOME BASED BUSINESSES.

§8-40-1. Definitions.

(a) "Goods" means any merchandise, equipment, products, supplies, or materials.

(b) "Home-based business" means any business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of a residential dwelling

where the commercial activity takes place inside a residential dwelling and the commercial activities:

(1) Are limited to the sale of lawful goods and services;

(2) Do not generate on-street parking or a substantial increase in traffic through the residential area; and

(3) Do not have signage visible from the street.

§8-40-2. Permitted use.

(a) The use of a residential dwelling for a home-based business is a permitted use, except that this permission does not supersede or abrogate any of the following:

(1) Any deed restriction, covenant, or agreement restricting the use of land; or

(2) Any deed, by-law, or other document applicable to a common interest ownership community.

§8-40-3. Reasonable regulations.

(a) A municipality may establish reasonable regulations on a home-based business where the regulation is rationally related to a legitimate government interest including, but not limited to, any of the following purposes:

(1) The protection of the public health and safety, as defined in this code, including rules and regulations related to fire and building codes, health and sanitation, transportation, or traffic control, solid or hazardous waste, pollution, and noise control.

(2) Ensuring that the business activity is:

(A) Compatible with residential use of the property and surrounding residential use;

(B) Secondary to the use as a residential dwelling; or

(C) Complying with state and federal law and paying applicable taxes.

(3) Limiting or prohibiting the use of a home-based business that engages in any of the following activities:

(A) Selling illegal drugs or products containing alcohol or tobacco;

(B) Operating a sober living home;

(C) Selling pornography or otherwise obscene material;

(D) Operating a vape shop; or

(E) Operating a commercial establishment where nude or topless dancing occurs.

§8-40-4. Limited conditions.

(a) A municipality shall not require a person as a condition of operating a home-based business to:

(1) Rezone the property for commercial use;

(2) Install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units; or

(3) Obtain a license or permit that is not otherwise required for a similarly situated business.

§8-40-5. Review.In any proceeding alleging that a municipal regulation violates §8-40-3 or §8-40-4 of this code, the municipality that enacted the regulation shall be required to establish that the regulation complies with the provisions of this article.

ARTICLE 41. SMALL BUSINESS PROTECTION ACT.

§8-41-1. Short title.

This article may be cited as the Small Business Protection Act.

§8-41-2. Intent and legislative findings.

(a) It is the legislative intent and purpose of the Small Business Protection Act to improve state rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses.

(b) The legislature finds that:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy. Increased hiring in West Virginia's small businesses creates higher wages and better outcomes for West Virginia's citizens and families;

(2) Small businesses bear a disproportionate share of regulatory costs and burdens. Increased regulatory costs decrease the amount of capital that small businesses have to create new jobs;

(3) Fundamental changes that are needed in the regulatory and enforcement culture of state agencies to make them more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) When adopting rules to protect the health, safety, and economic welfare of West Virginia, state agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on small employers;

(5) Uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs upon small businesses with limited resources;

(6) The failure to recognize differences in the scale and resources of regulated businesses can adversely affect competition in the marketplace, discourage innovation, and restrict improvements in productivity;

(7) Unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;

(8) The practice of treating all regulated businesses as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation;

(9) Alternative regulatory approaches which do not conflict with the stated objective of applicable statutes may be available to minimize the significant economic impact of rules on small businesses;

(10) Prior to the adoption of regulations, the process by which state regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, to examine the impact of proposed and existing rules on such businesses, and to review the continued need for existing rules;

(11) Regulations affect small businesses differently than their larger counterparts. According to the United States Small Business Administration, evidence indicates that regulatory requirements at the federal and state level tend to create disproportionately heavier burdens for small businesses, putting them at a disadvantage relative to their larger competitors. Reasons that small businesses are at a disadvantage include the following:

(A) The cost of regulations is higher relative to available resources. The cost of regulations per employee is higher for businesses with fewer employees; and

(B) The cost per employee for the smallest businesses is typically one or more times greater than the equivalent cost for the largest businesses.

(12) Making small businesses aware of proposed state regulations prior to implementation is key to creating an effective partnership between state agencies and small businesses.

(c) Nothing in the Small Business Protection Act shall be interpreted or construed to limit the ability of an agency to propose rules.

CHAPTER 11. TAXATION.**ARTICLE 12. BUSINESS REGISTRATION TAX.****§11-12-3. Business registration certificate required; tax levied; exemption from registration; exemption from tax; penalty.**

(a) *Registration required.* -- No person shall, without a business registration certificate, engage in or prosecute, in the State of West Virginia, any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia. Additionally, before beginning business in this state, such person:

(1) If a transient vendor, shall comply with the provisions of sections ~~twenty~~ 20 through ~~twenty-five~~ 25 of this article.

(2) If a collection agency, shall comply with the provisions of ~~article sixteen, chapter forty-seven~~ §47-16-1 et seq. of this code.

(3) If an employment agency, shall comply with the provisions of ~~article two, chapter twenty-one~~ §21-2-1 et seq. of this code.

(4) If selling drug paraphernalia, as defined in ~~section three, article nineteen, chapter forty-seven~~ §47-19-3 of this code, shall comply with the provisions of ~~article nineteen, chapter forty-seven~~ §47-19-1 et seq. of this code.

Persons engaging in or prosecuting other business activities in this state may also be subject to other provisions of this code which they must satisfy before commencing or while engaging in a business activity in this state.

(b) *Tax levied.* — The business registration tax hereby levied shall be \$15 for each annual business registration certificate: *Provided*, That for registration periods beginning on or after July 1, 1999, the business registration tax shall be \$30, except as otherwise provided in this article: *Provided, however*, That after June 30, 2010, the business registration tax shall be \$30.00 for each business registration certificate, including business registration certificates granted upon application after cessation of a business, or after suspension, revocation, cancellation or lapse of a prior business registration certificate.

(1) A separate business registration certificate is required for each fixed business location from which property or services are offered for sale or lease to the public as a class, or to a limited portion of the public; or at which customer accounts may be opened, closed or serviced.

(2) A separate business registration certificate is not required for each coin-operated machine. A separate certificate is required for each location from which making coin-operated machines available to the public is itself a business activity.

(3) A business that sells tangible personal property or services from or out of one or more vehicles needs a separate business registration certificate for each fixed location in this state from or out of which business is conducted. A copy of its business registration certificate shall be carried in each vehicle and publicly displayed while business is conducted from or out of the vehicle.

(4) A business registration certificate is required by subsection (a) of this section for every person engaging in purposeful revenue generating activity in this state. If that activity is one for which an employment agency license or a collection agency license or a license to sell drug paraphernalia is required and no other business activity is conducted by that person at each business location for which the employment agency license or collection agency license or license to sell drug paraphernalia is issued, then only that license is required for each such activity conducted by the licensee at each business location. However, if, in addition to the activity for which each license is issued, some other business activity is conducted by the licensee at such business location, a separate business registration certificate is required to conduct the nonlicensed activity.

(c) *Exemption from registration.* — Any person engaging in or prosecuting business activity in this state:

(1) Who is not required by law to collect or withhold a tax administered under article ten of this chapter; and

(2) Who does not claim exemption from payment of taxes imposed by articles fifteen and fifteen-a of this chapter, shall be exempt from both registration and payment of the tax imposed by this article, if such person had gross income from business activity of \$4,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is otherwise required by this article.

(d) *Exemptions from payment of tax.* — Any person engaging in or prosecuting any business activity in this state who is required by law to collect or withhold any tax administered under article ten of this chapter; or who claims exemption from payment of the taxes imposed by articles fifteen and fifteen-a of this chapter, shall be required to obtain a business registration certificate, as herein before provided, but shall be exempt from payment of the tax levied by subsection (b) of this section, if such person is:

(1) A person who had ~~gross income from business activity of \$4,000~~ gross income of \$10,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is required under this article.

(2) An organization which qualifies, or would qualify, for exemption from federal income taxes under section 501 of the Internal Revenue Code of 1986, as amended.

(3) This state, or a political subdivision thereof, selling tangible personal property, admissions or services, when those activities compete with or may compete with the activities of another person.

(4) The United States, or an agency or instrumentality thereof, which is exempt from taxation by the states.

(5) A person engaged in the business of agriculture and farming: *Provided*, That no producer or grower selling products of the farm, garden or dairy and not included within the definition of business under subsection (a), section two of this article shall be required to obtain a business registration certificate or pay the business registration tax.

(6) A foreign retailer who is not a "retailer engaging in business in this state" as defined in section one, article fifteen-a of this chapter, who enters into an agreement with the Tax Commissioner to voluntarily collect and remit use tax on sales to West Virginia customers.

(e) *Money penalty.* — Any person required to obtain a business registration certificate under this section, who is exempt from payment of the tax, as provided in subsection (d) of this section, who does not obtain a registration certificate shall, in lieu of paying the penalty imposed by section nine of this article, pay a penalty of \$15 for each business location for which a certificate is needed: *Provided*, That application for business registration is made and the applicable money penalty tendered to the Tax Commissioner within ~~fifteen~~ 15 days after such person receives written notice from the Tax Commissioner that such person is required to obtain a business registration certificate.

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

Eng. Com. Sub. for House Bill 2451 — A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-40-1, §8-40-2, §8-40-3, §8-40-4, and §8-40-5; to further amend the code, by adding thereto a new article designated §8-41-1 and §8-41-2 and to amend and reenact §8-13-4, §8-13-5, and §11-12-3 relating to small businesses; exempting independent contractors and sole proprietors from business licenses under certain requirements; establishing an amount of annual gross revenue for businesses to be exempt from business and occupation taxes and privilege taxes; facilitating the creation of home based businesses; providing for definitions; providing for permitted use; providing for reasonable regulations; providing for limited conditions; providing for review; providing for the amount of income before a business has to obtain a business license; creating the Small Business Protection Act; providing intent and legislative findings; and providing a short title.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 637**), and there were yeas 82, nays 12, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Adkins, Fluharty, Hamilton, Hansen, Hite, Hornbuckle, Lewis, Martin, Miller, Moore, Pushkin, and Vance.

Absent and Not Voting: Linville, McGeehan, Phillips, Pritt, Williams, and Young.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2451) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 531, Relating to offenses of assault and battery on athletic officials.

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

Senator Martin moved to amend the amendment on pages 1 and 2, by striking out all of subsections (a), (b), and (c), and inserting in lieu of new subsections (a), (b) and (c), to read as follows:

(a) Definitions —

(1) For the purpose of this section, "athletic official" means a person at a sports event, or traveling to or from a sporting event, who enforces the rules of that event, including, but not limited to, an umpire or referee, or a person who supervises the participants, including, but not limited to, a coach, assistant coach, or any other athletic staff.

(2) For the purpose of this section, "participant" means a player on a sports team or any other team members during the course of a game or related sporting event.

~~(a) (b) If any person commits an assault as defined in subsection (b), section nine of this article §61-2-9(b) of this code, to the person of an athletic official or participant, the offender is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250, nor more than \$500, or and confined in jail not less than five days nor more than six months, or both fined and confined.~~

~~(b) (c) If any person commits a battery, as defined in subsection (c), section nine of this article §61-2-9(c) of this code, against an athletic official or participant, the offender is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, nor more than \$1,000, or and confined in jail not less than 10 days nor more than twelve months. or both fined and confined.~~

~~(c) For the purpose of this section, "athletic official" means a person at a sports event who enforces the rules of that event, such as an umpire or referee, or a person who supervises the participants, such as a coach.~~

On page 2, subsection (d)(1), line 3, by striking out (a) after "under subsection" and inserting in (b), and

On page 2, subsection (d)(1), line 3, striking out (b) after "or subsection" and inserting in (c).

And,

On page 2, by striking out all of subsection (e).

On motion of Senator Martin, the title of the bill was amended to read as follows:

Eng. Senate Bill 531 — A BILL to amend and reenact §61-2-15a of the Code of West Virginia, 1931, as amended, relating to crimes against athletic officials; clarifying that victims include participants; creating definitions; establishing minimum criminal penalties; establishing minimum fines; authorizing county boards of education and governing boards for a state institution for higher education to give written notice banning any person convicted of an offense under this section from certain sports events; requiring written notice to the person banned; and establishing that a violation of the ban is a form of trespass.

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 638**), and there were--yeas 91, nays none, absent and not voting 9 with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, W. Clark, Dillon, Fluharty, Hite, Hornbuckle, Linville, McGeehan, and Sheedy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 531) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2054, Relating to liability of vendors in private farmers markets.

On motion of Delegate Kelly, the House concurred in the following amendment and title amendment of the bill by the Senate:

The Committee on Judiciary moved to amend the committee substitute on page 1, after the enacting clause, but striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 4. LICENSES.

§60-4-3a. Distillery, 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 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, 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 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 on-premises and 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.*, §60-4-1 *et seq.*, and §60-7-1 *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 fairs and festivals, for on-premises consumption sales served by the drink or glass, and off-premises consumption sales by the bottle 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 on-premises and off-premises consumption sales of its 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 and also all retail requirements of §60-7-1 *et seq.* of this code when applicable. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide samples to patrons who are 21 years of age and older and who are not intoxicated. The 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 sample servings per customer verified to be 21 years of age or older; and~~

~~(2) Six six 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 six 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. Any sales by a distillery, mini-distillery, or micro-distillery at a private fair and festival are treated as occurring on their licensed premises for purposes of this market zone calculation. 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 produce more than 50,000 gallons per calendar year. The commissioner may issue more than one distillery, 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.

(g) A political subdivision of this state may not regulate any of the following activities of a distillery, mini-distillery, or micro-distillery licensed and operating in accordance with this section:

(1) The on-premises sale, tasting, or consumption of liquor during business hours set forth in §60-7-12 of this code;

(2) The storage, warehousing, and wholesaling of liquor in accordance with the rules of the commissioner and federal law or regulations; or

(3) The sale of liquor related items including but not limited to the sale of pre-packaged food not requiring kitchen preparation that are incidental to the sale of liquor and on-premises consumption.

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 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 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 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 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 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 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 a club has been established, to which 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 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 where the applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, included: (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) from an infusion packet containing alcohol no greater than 10 milliliters where the purchaser adds the alcohol. ~~This~~ The applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises or off-premises consumption. The applicant or licensee may sell the baked goods with alcohol added as authorized for on-premises and off-premises consumption. Further, the applicant or licensee shall:

(i) Have at least 50 members;

(ii) 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) 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) 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. A person under 21 years of age may enter the shop and purchase other items not containing alcoholic liquors; and

(v) Meet and be subject to all other private club requirements.

(7) "Private cigar shop" means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu, which may be met by 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:

(A) Have at least 50 members;

(B) 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) Maintain, at any one time, not less than a food inventory capable of being prepared in the private club bar's kitchen or 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) 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, refuse to admit that person ~~may not be admitted~~ as a guest; and

(E) Meet and ~~is~~ be 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 and nonintoxicating beer or nonintoxicating craft beer 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

(I) 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, 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. 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.

~~(40)~~ "Private food truck" means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals for sale at various locations within the state while using a propane or electric generator powered kitchen. The private food truck applicant shall obtain county or municipal approval to operate a private food truck 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:

(A) Have at least 10 members;

(B) 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) Maintain, at any one time, 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) ~~Is~~ Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operated. 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) 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 paragraph (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

(F) 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) 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) 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 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) 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) Obtain all permits required by §60-6-12 of this code; and

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

~~(44)~~ "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 within the restaurant where seating requirements for members and guests are met by including the restaurant area. The applicant for a private club restaurant license is an applicant which:

(A) Has at least 100 members;

(B) ~~Operate~~ Operates 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, fresh food 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.

(42) "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 manufactures 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 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 food: *Provided*, That a licensee required by the provisions of this code to serve food on premises in order to lawfully serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft 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 fresh food capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may 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 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, hard cider, 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 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.

~~(43)~~ "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~~ provides 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, fresh food capable of being prepared in the private 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 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 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 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, 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, fresh food 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 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 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 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 \$400~~. 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 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 and nonintoxicating beer, wine, hard cider, or nonintoxicating craft beer throughout the licensed premises whether these activities ~~were~~ are 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 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 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 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.

~~(48)~~ "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 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.

~~(49)~~ "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 sports and that 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 and nonintoxicating beer or nonintoxicating craft beer 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 and nonintoxicating beer or nonintoxicating craft beer 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 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 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 and nonintoxicating beer or nonintoxicating craft beer 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 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 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 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 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.

~~(24)~~ "Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, and 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. All businesses that are members of the association shall agree in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors, nonintoxicating beer, 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~~ The applicant shall also:

(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 freshly prepared food at least 15 hours per week;

(C) Have one or more members operating a private club restaurant who maintain, at any one time, fresh food capable of being prepared for events conducted at the private farmers market 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) 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)~~ (J) 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)~~ (K) Use an age verification system approved by the commissioner; and

~~(M)~~ (L) 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 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 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 or barn'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 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 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 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, fresh food 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, and 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~~. The applicant shall also:

(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 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, 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 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 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~~ license 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~~. The applicant shall also:

(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 license who maintains, at any one time, fresh food capable of being prepared 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 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, patrons, 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)~~ (J) 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)~~ (K) Use an age verification system approved by the commissioner; and

~~(M)~~ (L) Meet and be subject to all other private club requirements.

The Division 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.

§60-7-3. Sale of alcoholic liquors and nonintoxicating beer by licensee authorized.

(a) Notwithstanding any other provisions of this code to the contrary, licensees ~~are hereby authorized to~~ may sell, tender, and serve alcoholic liquors by the drink and as otherwise authorized by the provisions of §60-1-1 *et seq.*, §60-8-1 *et seq.*, and §60-8A-1 *et seq.* of this code, other than in sealed packages, for consumption on the premises of the licensees, to their members and their guests in accordance with the provisions of this article, rules of the commissioner and as authorized under §60-6-8 of this code. The licensees may keep and maintain on their premises a supply of those lawfully acquired alcoholic liquors in such quantities as may be appropriate for the conduct of their operations ~~thereof~~.

(b) Authorization for use of self-pour automated systems for nonintoxicating beer, hard cider, and wine.

(1) A licensee authorized pursuant to this article to sell alcoholic liquor and/or nonintoxicating beer, hard cider, or wine for on-premises consumption may use a self-pour automated system that, upon activation of a payment card by the licensee, may be operated to dispense nonintoxicating beer, hard cider, and wine to the following: (A) An employee of the licensee who is authorized by law to serve alcoholic beverages, or (B) a person whom the licensee has verified to be 21 years of age or older who displays a government-issued identification card that matches the name on the payment card. The verification that a person is 21 years of age or older shall be recorded by the licensee or an employee of the licensee.

(2) A self-pour automated system authorized by subsection (a) of this section may not dispense a serving of more than (1) 32 ounces of nonintoxicating beer, (2) 32 ounces of hard cider, or (3) 10 ounces of wine, before the payment card is reactivated by the licensee or an employee of the licensee.

§60-7-8c. Special license for a multi-vendor private fair and festival; license fee and application; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S3 private multivendor fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption at an event where multiple vendors shall share liability and responsibility, and apply for ~~this~~ the license. Each vendor may temporarily purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) To be eligible for the license authorized by subsection (a) of this section, the private multivendor 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 multivendor fair and festival or other event is located;

(2) Jointly apply to the commissioner for the special license at least 15 days prior to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of \$500 per event that may be divided among all the vendors attending the event;

(4) Be approved by the commissioner to operate the private multivendor fair, festival, or other event;

(5) Be limited to no more than 15 consecutive days;

(6) Have at least two separate and unrelated vendors applying for the license and certifying that at least 100 members will be in attendance;

(7) Freshly prepare and provide food or meals, or engage a food vendor to prepare and 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 provide any written documentation or agreements ~~of the~~ with a food caterer to the commissioner prior to approval of the license;

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

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members, patrons, and guests who will be attending the private multi-vendor festival, fair, or other event;

~~(10) Provide an executed agreement between the vendors and/or food caterers stating that each vendor is jointly and severally liable for any improper acts or conduct committed during the multi-vendor festival or fair event~~

~~(11)~~ (10) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members', patrons', and guests' ages, and whether a member, patron, or guest is intoxicated, to provide for the public health and safety of members, patrons, and guests;

~~(12)~~ (11) Provide a floorplan for the proposed premises with one defined and bounded indoor and/or outdoor area to safely account for the ingress and egress of stated members, patrons, and guests who will be attending the festival, fair, or other event, and the floorplan that would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of liquor, wine, 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 licensed premises and as noted on the floorplan;

~~(13)~~ (12) Meet and be subject to all other private club requirements; and

~~(14)~~ (13) Use an age verification system approved by the commissioner.

(c) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from the licensed distributor that services the area in which the private multi-vendor fair and festival will be held or from a resident brewer acting in a limited capacity as a distributor, in accordance with §11-16-1 *et seq.* of this code.

(d) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(e) 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 multi-vendor fair or festival will be held, all in accordance with §60-3A-1 *et seq.* of this code.

(f) A licensee authorized by this section may use bona fide employees, independent contractors, or volunteers to sell, furnish, tender, or serve the liquor, wine, nonintoxicating beer, or nonintoxicating craft beer; *Provided*, That the licensee shall train all employees, independent contractors, or volunteers to verify legal identification and to verify signs of intoxication.

(g) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor brokers may attend a private multi-vendor festival or fair and discuss their respective products but may not

engage in the selling, furnishing, tendering, or serving of any liquor, wine, nonintoxicating beer, or nonintoxicating craft beer.

(h) A licensee licensed 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 each private multi-vendor fair and festival. The commissioner may 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.

§60-7-8d. Where private clubs may sell and serve alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer.

(a) With prior approval of the commissioner, a private club licensee may sell, serve, and furnish alcoholic liquor and, if ~~also~~ licensed to also sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may include a temporary private outdoor dining area or temporary private outdoor street dining area. A temporary private outdoor street dining area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The private club licensee shall submit to the commissioner: (1) the municipal or county approval of the private outdoor dining area or private outdoor street dining area; and, (2) a revised floorplan requesting to sell alcoholic liquors, and when licensed, for nonintoxicating beer or nonintoxicating craft beer, ~~then nonintoxicating beer or nonintoxicating craft beer~~, subject to the commissioner's requirements, in an approved and bounded outdoor area. The approved and bounded area need not be adjacent to the licensee's licensed premises, but in close proximity, for private outdoor street dining or private outdoor dining. For purposes of this subsection, "close proximity" means an available area within 300 feet of a licensee's licensed premises and under the licensee's control and with right of ingress and egress.

(c) This private outdoor dining or private outdoor street dining may be operated in conjunction with a private wine outdoor dining or private wine outdoor street dining area set forth in §60-8-32a of this code and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, private outdoor dining and private outdoor street dining include 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.

(e) A private club restaurant or a private manufacturer club licensed for craft cocktail growler sales ~~must~~ shall provide food or a meal along with sealed craft cocktail growler sales as set forth in this article to a patron who is (i) in-person or in-vehicle while picking up food or a meal, or (ii) in-person having dined on food or a meal, and (iii) has ordered a sealed craft cocktail growler order-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.

§60-7-8e. Private club restaurant or private manufacturer club licensee's authority to sell craft cocktail growlers.

(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 liquor and its industry in this state to protect the public health, welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed private club restaurant or private manufacturer club, to have certain abilities to promote the sale of liquor manufactured in this state for the benefit of the citizens of this state, the state's growing distilling industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of craft cocktail growlers.* — A licensed private club restaurant or private manufacturer club ~~is authorized~~ may under a current and valid license ~~and that~~ meets the requirements of this section may offer a craft cocktail growler in the ratio of up to one fluid ounce of liquor to four fluid ounces of nonalcoholic beverages or mixers, not to exceed 128 fluid ounces for the entire beverage in the craft cocktail growler, for retail sale to patrons from their licensed premises in a sealed craft cocktail growler for personal consumption only off of the licensed premises. Prior to the sale, the licensee shall verify in-person, using proper identification, that any patron purchasing the craft cocktail growler is 21 years of age or older and that the patron is not visibly or noticeably intoxicated. There ~~shall be~~ is a \$100 non-prorated, non-refundable annual fee to sell craft cocktail growlers.

(c) *Retail sales.* — Every licensee licensed under this section shall comply with all the provisions of this chapter ~~as~~ applicable to retail sale of liquor at retail liquor outlets, shall comply with markup specified in §60-3A-17(e)(2) of this code when conducting sealed craft cocktail growler sales, and ~~shall be~~ is subject to all applicable requirements and penalties in this article.

(d) *Payment of taxes.* — Every licensee licensed under this section shall pay all sales taxes required of retail liquor outlets, in addition to any other taxes required, and meet any applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) *Advertising.* — Every licensee licensed under this section may only advertise a particular brand or brands of liquor manufactured by a distillery, mini-distillery, or micro-distillery upon written approval from the distillery, mini-distillery, micro-distillery, or an authorized and licensed broker to the licensee. Advertisements may not encourage intemperance or target minors.

(f) *Craft cocktail growler defined.* — For purposes of this chapter, "Craft Cocktail Growler" means a container or jug that is made of glass, ceramic, metal, plastic, 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~~ may be used by an authorized licensee for purposes of off-premises sales only of liquor and a nonalcoholic mixer or beverage for personal consumption not on a licensed premise. Notwithstanding any other provision of this code to the contrary, a securely sealed craft cocktail growler is not an open container under state and local

law. A craft cocktail growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. A craft cocktail growler is not an original container of liquor, but once sanitized, filled, properly sealed, and sold, all as set forth in this article, is a sealed container.

~~(h)~~ (g) *Craft cocktail growler requirements.* — A licensee licensed under this section ~~must~~ shall prevent patrons from accessing the secure area where the filling of the craft cocktail or craft cocktail growler occurs ~~or to fill a craft cocktail growler~~. A licensee licensed under this section ~~must~~ shall sanitize, fill, securely seal, and label any craft cocktail growler prior to its sale. A licensee licensed under this section may refill a craft cocktail growler subject to the requirements of this section. A licensee licensed under this section shall visually inspect any craft cocktail growler before filling or refilling it. A licensee licensed under this section may not fill or refill any craft cocktail growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container. For purposes of this article, a secure sealing means using a tamper-evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of craft cocktail growler to form a seal that must be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the craft cocktail growler is opened.

~~(i)~~ (h) *Craft cocktail growler labeling.* — A licensee licensed under this section selling craft cocktail growlers shall affix a conspicuous label on all sold and securely sealed craft cocktail growlers listing the name of the licensee selling the craft cocktail growler, the brand of the liquor in the craft cocktail growler, the type of craft cocktail or name of the craft cocktail, the alcohol content by volume of the liquor in the craft cocktail growler, and the date the craft cocktail growler was filled or refilled, ~~and, all.~~ All labeling on the craft cocktail growler shall be consistent with all federal labeling and warning requirements.

~~(j)~~ (i) *Craft cocktail growler sanitation.* — A licensee licensed under this section shall clean and sanitize all craft cocktail growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensee licensed under this section shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill craft cocktail growlers. Failure to comply with this subsection may result in penalties under this article: *Provided*, That, if the reuse or refilling of a craft cocktail growler would violate federal law such craft cocktail growler ~~must~~ may only be used one-time, for one filling, and shall be discarded after the one-time use.

~~(k)~~ (j) *Pre-mixing of craft cocktail.* — A licensee licensed under this section may pre-mix the nonalcoholic beverages or mixers in the advance of a craft cocktail growler purchase and sealing, and add the liquor, as set forth in this section, upon a member or guest's purchase of a craft cocktail growler. A licensee licensed under this section ~~must~~ shall dispose of any expired premixed nonalcoholic beverages or mixers pursuant to Bureau for Public Health requirements when such premixed nonalcoholic beverages or mixers are no longer fit for human consumption. A licensee authorized under §60-6-8(7) of this code may use a premixed beverage meeting the requirements ~~therein~~ of that section and is also subject to the requirements of this section for a craft cocktail growler.

~~(l)~~ (k) *Limitations on licensees.* — A licensee licensed under this section shall not sell craft cocktail growlers to other licensees, but only to its members and guests. A licensee licensed under this section ~~must~~ shall provide food or a meal along with one sealed craft cocktail growler to a patron who is in-person or in-vehicle while picking up food or a meal, or who dined in-person on food or a meal and has ordered and a sealed craft cocktail growler ~~order-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. A licensee licensed under this section may only sell one sealed craft cocktail growler to a patron ~~who has not been consuming alcoholic liquors or nonintoxicating beer on its licensed premises~~ or one craft cocktail growler per food or meal in the order delivered per §60-7-8f of this code. A licensee licensed under this section shall be subject to the applicable penalties under this article for violations of this article.

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

§60-7-8g. Special permit for a qualified permit holder 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 the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that has been approved by a municipality pursuant to §8-12-26 of this code. Each Class S4 permittee 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, Class B, or Class S2 license issued under this article that elects to operate within a private outdoor designated area, and a Class S4 special permit pursuant to §60-7-1 *et seq.* of this code~~ any of the following:

(i) A Class A private club type license or Class S2 or Class S3 license issued under this article;

(ii) A Class A tavern or brewpub license or Class S or Class S1 license issued under §11-16-1 *et seq.* of this code;

(iii) A Class A private wine restaurant, private wine bed and breakfast, or private wine spa license issued under §60-8-1 *et seq.* of this code;

(iv) A Class A hard cider license issued under §60-8A-1 *et seq.* of this code; or

(v) A Class S4N permit issued under §60-7-8h of this code.

(c) To be eligible for the special Class S4 permit 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 special permit fee of \$100 to the commissioner: Provided, That this fee does not apply to qualified permit holders with a Class S1, Class S2, or Class S3 license, which are subject only to the applicable fees in §11-16-1 et seq. and §60-7-1 et seq. of this code;

(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 outdoor designated area;

(7) Provide, in conjunction with the municipality, adequate restroom facilities, whether permanent or portable, to serve the members, patrons, and guests who will be attending the private outdoor designated area;

(8) 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;

(9) Provide a floorplan for the private outdoor designated area indicating a legally demarcated area that is bounded or ~~utilizes~~ uses 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: Provided, That customers within the private outdoor designated area may carry alcoholic beverages purchased from any holder of a Class S4 or S4N permit and served in an approved non-glass container into and out of, and consume the beverages within, the establishment of any other holder of a Class S4 or S4N permit within the applicable private outdoor designated area. 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;

(10) Meet and be subject to all other applicable license requirements;

(11) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or selling alcohol not in an approved non-glass container in the private outdoor designated area; and

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

(d) Notwithstanding the requirement to acquire a Class S4 or S4N permit to operate within a private outdoor designated area set forth in §60-7-8g(c) of this code, the holder of a Class S, Class S1, Class S2, or Class S3 license may participate in a private outdoor designated area on the premises of a Class S4 or S4N permit holder if that Class S4 or S4N permit holder grants permission, in writing, for the Class S, Class S1, Class S2, or Class S3 licensee to participate. A Class S, Class S1, Class S2, or Class S3 licensee may not participate in a private outdoor designated area pursuant to such written permission unless it has first met all applicable permit and fee requirements found in §11-16-1 et seq. and §60-7-1 et seq. of this code.

~~(d)(e)~~ 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 a private outdoor designated area by qualified permit holders.

~~(e)(f)~~ A municipality ~~shall be~~ is responsible for the enforcement of any criminal violations occurring in a private outdoor designated area and shall report such violations to the commissioner for a determination of any violation of §11-16-1 *et seq.* and chapter 60 of this code.

~~(f)(g)~~ The commissioner shall enforce any violations of §11-16-1 *et seq.* and ~~chapter 60~~ §60-1-1 *et seq.* of this code committed by individual qualified permit holders against their permit and ~~Class A, Class B, or Class S2~~ any other current license issued by the commissioner to the qualified permit holder alleged to be in violation.

~~(g)(h)~~ 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. Notwithstanding any other section of the code, a private outdoor designated area is authorized to simultaneously host multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code.

~~(h)(i)~~ A licensee permitted under this section is subject to all other provisions of ~~this~~ the article under which the licensee's license is issued, as well as to ~~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.

§60-7-8h. Special permit for a qualified non-profit permit holder 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 S4N, for the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that has been approved by a municipality pursuant to §8-12-26 of this code by qualified non-profit corporate entities organized pursuant to §31E-1-1 *et seq.* of this code. Each Class S4N permittee may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) Definitions:

Except as set forth in this section, the definitions of §60-7-8g of this code also apply to this section.

"Qualified non-profit permit holder" means a non-profit corporate entity organized pursuant to §31E-1-1 *et seq.* of this code that elects to operate its events solely within a private outdoor designated area, and who has applied and been approved for a Class S4N special permit pursuant to §60-7-1 *et seq.* of this code.

(c) To be eligible for the special S4N permit authorized by subsection (a) of this section, the qualified non-profit permit holder shall:

(1) Have an approved outdoor location that operates solely in a private outdoor designated area created by a municipal ordinance as set forth in §8-12-26 of this code, provide the commissioner a copy of the certified ordinance from the municipality, and operate only on dates designated within the dates of operation for the private outdoor designated area;

(2) Apply to the commissioner for the special S4N permit prior to operating in an approved private outdoor designated area on an application provided by the commissioner which will provide verification of non-profit corporate status with the West Virginia Secretary of State;

(3) Pay a one-time, nonrefundable non-prorated annual special permit fee of \$1,500 to the commissioner: *Provided*, That in the first year following the effective date of this section, this special permit fee may be pro-rated for the period between effective date and June 30 of that year. The one-time permit covers as many approved events that can be held during the permit annual time period;

(4) Be in compliance with all state and federal laws and be in good standing with the commissioner;

(5) Provide the dates, days, and hours of operation of all events to be held in the private outdoor designated area between July 1 of the application year and June 30 of the year following the application year within the dates of operation of the private outdoor designated area within that timeframe: *Provided*, That the S4N permit applicant may list future dates within the permit annual time period as to be determined so long as the qualified non-profit permit holder notifies the commissioner of the specific future event dates not later than 60 days prior to the event.

(d) The commissioner shall enforce any violations of §11-16-1 *et seq.* and §60-1-1 *et seq.* of this code committed by qualified non-profit permit holders against their permit and their Class A, Class B, Class S, Class S1, Class S2 or Class S3 license.

ARTICLE 8. SALE OF WINES.

§60-8-2. Definitions.

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

"Commissioner" or "commission" means the West Virginia Alcohol Beverage Control Commissioner.

"Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute wine to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops and that sells or distributes nonfortified dessert wine, port, sherry, and Madeira wines to wine specialty shops, private wine restaurants, private clubs, or retailers under authority of this article and maintains a warehouse in this state for the distribution of wine. For the purpose 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 this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Fortified wine" means any wine to which brandy or other alcohol has been added where the alcohol content by volume does not exceed 24 percent, and includes nonfortified dessert wines where the alcohol content by volume is greater than 17 percent and does not exceed 24 percent.

"Grocery store" means any retail establishment, commonly known as a grocery store, supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of wine) of not less than \$500. The term "grocery store" also includes and means 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 with average monthly sales with respect to the separate or segregated portion, exclusive of sales of wine, of not less than \$500 and an average monthly inventory, exclusive of inventory of wine, of not less than \$500.

"Hard Cider" means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey, or another fruit, or from apple, pear, peach, or another fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent and less than 12 and one-half percent alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as wine, wine product, or as a substitute for wine.

"Hard Cider Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute hard cider, but not other types of wine, to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops under authority of this code and maintains a warehouse in this state for the distribution of hard cider, but not other types of wine. For the purpose of a hard cider distributor, 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 any other person or 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 this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Licensee" means the holder of a license granted under the provisions of this article.

"Nonfortified dessert wine" means a wine that is a dessert wine to which brandy or other alcohol has not been added, and which has an alcohol content by volume of at least 15.6 percent and less than or equal to 17 percent.

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

"Private wine bed and breakfast" means any business with the sole purpose of providing, in a residential or country setting, a hotel, motel, inn, or other such establishment properly zoned as to its municipality or local ordinances, lodging and meals to its customers in the course of their stay at the establishment, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the

serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public.

"Private wine restaurant" means a restaurant which: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which has, as its principal purpose, the business of serving meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public. Private clubs that meet the private wine restaurant requirements in this definition shall be considered private wine restaurants: *Provided, That, a private wine restaurant shall have at least two restrooms: Provided, however, That the two restroom requirement may be waived by a written waiver provided from a local health department to the commissioner: And provided further, That a private wine restaurant located in an historic building may also be relieved of the two restroom requirement if a historic association or district with jurisdiction over a historic building provides a written waiver of the requirement to the commissioner: And provided further, That in no event shall a private wine restaurant have less than one restroom. And provided further, That a winery or farm winery holding a private wine restaurant license or a multi-capacity winery or farm winery license is not subject to the food service requirements of this subdivision.*

"Private wine spa" means any business with the sole purpose of providing commercial facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and relaxation, and may also be a licensed massage parlor or a salon with licensed beauticians or stylists, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve up to two glasses of wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member, and does not admit the general public.

"Retailer" means any person licensed to sell wine at retail to the public at his or her established place of business for off-premises consumption and who is licensed to do so under authority of this article.

"Supplier" means any manufacturer, producer, processor, winery, farm winery, national distributor, or other supplier of wine who sells or offers to sell or solicits or negotiates the sale of wine to any licensed West Virginia distributor.

"Table wine" means a wine with an alcohol content by volume between 0.5 percent and 15.5 percent.

"Tax" includes within its meaning interest, additions to tax, and penalties.

"Taxpayer" means any person liable for any tax, interest, additions to tax, or penalty under the provisions of this article, and any person claiming a refund of tax.

"Varietal wine" means any wine labeled according to the grape variety from which the wine is made.

"Vintage wine" or "vintage-dated wine" means wines from which the grapes used to produce the wine are harvested during a particular year, or wines produced from the grapes of a particular harvest in a particular region of production.

"Wine" means any alcoholic beverage obtained by the natural fermentation of the natural content of grapes, other fruits, or honey or other agricultural products containing sugar to which no alcohol has been added and includes table wine, hard cider, nonfortified dessert wine, wine coolers, and other similar wine-based beverages. Fortified wine and any product defined as or contained within the definition of nonintoxicating beer under the provisions of §11-16-1 *et seq.*, of this code are excluded from this definition of wine.

"Wine specialty shop" means a retailer who deals principally in the sale of table wine, nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine and: (1) Who maintains a representative number of wines for sale in his or her inventory which are designated by label as varietal wine, vintage, generic, and/or according to region of production and the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle count; and (2) who, any other provisions of this code to the contrary notwithstanding, may maintain an inventory of port, sherry, and Madeira wines having an alcoholic content of not more than ~~22~~ 24 percent alcohol by volume and which have been matured in wooden barrels or casks. All wine available for sale shall be for off-premises consumption except where wine tasting or wine sampling is separately authorized by this code.

§60-8-32a. Where wine may be sold and consumed for on-premises consumption.

(a) With prior approval of the commissioner, a Class A wine licensee may sell, serve, and furnish wine for on premises consumption in a legally demarcated area which may include a temporary private wine outdoor dining area or a temporary private wine outdoor street dining area. A temporary private wine outdoor street area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The Class A wine licensee shall submit to a municipality or county commission for the approval of the private wine outdoor dining area or private wine outdoor street dining area and submit to the municipality or county commission a revised floorplan requesting to sell wine, subject to the commissioner's requirements, in an approved and bounded outdoor area. For private wine outdoor street dining or private wine 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 and with right of ingress and egress. For purposes of this section, "close proximity," means an available area within 300 feet of the licensee's licensed premises.

(c) This private wine outdoor dining or private wine outdoor street dining may be operated in conjunction with a private outdoor dining or private outdoor street dining area set forth in §60-7-8d of this code, and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, "private wine outdoor dining and private wine outdoor street dining" include 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 areas where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) Class A licensees licensed for on-premises sales shall provide food, which may be pre-packaged food not requiring kitchen preparation, or a meal along with sealed wine in the original container or a sealed wine growler sales and service as set forth in this section and in §60-8-3 of this code, to a patron who is (i) in-person or in-vehicle while picking up food and sealed wine in the original containers or sealed wine growlers ordered-to-go, or (ii) in-person to a patron who dined on food or a meal and has ordered sealed wine in the original containers of sealed wine growlers 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.

(f) West Virginia farm wineries possessing a Class A license may serve and sell wine by the glass or by the bottle in accordance with §60-4-3b and §60-8-32a of this code.

On motion of Senator Stuart, the title of the bill was amended to read as follows:

Eng. Com. Sub. For House Bill 2054—A Bill to amend and reenact §60-4-3a, §60-7-2, §60-7-3, §60-7-8c, §60-7-8d, §60-7-8e, §60-7-8g, §60-8-2, and §60-8-32a of the Code of West Virginia, 1931, as amended, amending liquor sampling requirements; revising definitions; addressing and making minor corrections in the Alcohol Beverage Control Administration ("ABCA") code sections correcting mistakes relating to a \$100 requirement for canned or packaged food; removing the requirement that a private farmers market or private food court with two or more unrelated vendors applying for a license must certify that all vendors have agreed to liability responsibility therein and removing the requirement that a private farmers market or private food court provide a written copy of the agreement between all vendors acknowledging that each vendor is jointly and severally liable for any violations; authorizing the use of self-pour automated systems for nonintoxicating beer, cider, and wine by the drink on licensee premises; removing the requirement that a joint and several liability agreement be executed between the multiple vendors at a multi-vender fair or festival; regulating private clubs sale and service of alcoholic and non-intoxicating beverages; providing limitations on sealed craft cocktail or wine growlers sold to persons who have dined in an establishment, or a patron who is in vehicle while picking up food or a meal and ordered a sealed craft cocktail or wine growler; clarifying and expanding the types of licensed entities authorized to participate in a duly permitted private outdoor designated area ("PODA"); defining terms; exempting certain licensees from certain fees; authorizing consumer activity within a PODA; authorizing a new S4N license for qualified nonprofits; authorizing S1, S2, and S3 licensees to participate in a private outdoor designated area on the premises of a participating Class S4 permit holder upon written invitation of the Class S4 permit holder; correcting mistaken listed percentage for fortified wine; all generally relating to the licensing, sale and service of alcoholic liquor, nonintoxicating beer or nonintoxicating craft beer, wine, cider, craft and cocktails as beverages or sealed containers, and where same may be sold and served.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 639)**, and there were--yeas 59, nays 39, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Brooks, Burkhammer, Butler, D. Cannon, J. Cannon, Canterbury, Coop-Gonzalez, Cooper, Dittman, Drennan, Ferrell, Fluharty, Garcia, Green, Hillenbrand, Holstein, G. Howell, T. Howell, Jeffries, Jennings, Kelly, Leavitt, Linville, Martin, Mazzochi, Miller, Moore, Parsons, Pinson, Pritt, Steele, Street, Toney, Vance, Ward, White, Worrell, and Hanshaw (Speaker).

Absent and Not Voting: Dillon and McGeehan.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2054) passed.

Delegate Martin moved to amend the effective date to July 1, 2025.

Delegate Kelly moved that the motion be tabled.

On the question that the motion be tabled, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 640**), and there were -yeas 62, nays 36, and absent/not voting 2, with the nays and the absent and not voting being as follows:

Nays: Bridges, Brooks, Burkhammer, Butler, Coop-Gonzalez, Criss, Crouse, Devault, Dillon, Fehrenbacher, Ferrell, Green, Hansen, Heckert, T. Howell, Jeffries, Jennings, Kimble, Kump, Mallow, Martin, Mazzocchi, Miller, Parsons, Pinson, Pritt, Riley, Roop, Sheedy, Steele, Street, Toney, Vance, Ward, White, and Williams.

Absent and Not Voting: Hamilton and McGeehan.

So, a majority of the members present having not voted in the affirmative, the motion failed.

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

On this question, the yeas and nays were taken (**Roll. No. 641**) and there were – yeas 65, nays 33, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Brooks, Burkhammer, Butler, D. Cannon, Canterbury, Coop-Gonzalez, Cooper, Devault, Dillon, Ferrell, Green, Holstein, T. Howell, Jeffries, Jennings, Kump, Mallow, Martin, Mazzocchi, Miller, Moore, Parsons, Pinson, Pritt, Roop, Steele, Street, Toney, Vance, Ward, White, and Worrell.

Absent and Not Voting: Hamilton and McGeehan.

So, two thirds of the members having not voted in the affirmative, the Speaker declared the motion rejected.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate requested the House to concur with Senate amendment on a bill of the House of Delegates, as follows:

H. B. 3162, Providing that causes of action under Chapter 46A of the Code of West Virginia survive the death of the party.

On motion of Delegate Kelly, the House concurred in the following amendment by the Senate,

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-122. Definitions.

For the purposes of this section and sections one hundred twenty-three, one hundred twenty-four, one hundred twenty-five, one hundred twenty-six, one hundred twenty-seven, one hundred twenty-eight, one hundred twenty-nine and one hundred twenty-nine-a of this article, the following terms shall have the following meanings:

(a) "Consumer" means any natural person obligated or allegedly obligated to pay any debt and includes any duly appointed personal representative of the estate of a natural person obligated or allegedly obligated to pay any debt.

(b) "Claim" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or service which is the subject of the transaction is primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment.

(c) "Debt collection" means any action, conduct or practice of soliciting claims for collection or in the collection of claims owed or due or alleged to be owed or due by a consumer.

(d) "Debt collector" means any person or organization engaging directly or indirectly in debt collection. The term includes any person or organization who sells or offers to sell forms which are, or are represented to be, a collection system, device or scheme, and are intended or calculated to be used to collect claims. The term excludes attorneys representing creditors provided the attorneys are licensed in West Virginia or otherwise authorized to practice law in the state of West Virginia and handling claims and collections in their own name as an employee, partner, member, shareholder or owner of a law firm and not operating a collection agency under the management of a person who is not a licensed attorney.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-8a. Actions which survive; limitations; law governing such actions.

(a) In addition to the causes of action which survive at common law, causes of action for injuries to property, real or personal, ~~or~~ injuries to the person and not resulting in death, ~~or for~~ deceit or fraud, or any violations of §46A-1-101 et. seq. of this code, also shall survive; and such actions may be brought notwithstanding the death of the person entitled to recover or the death of the person liable.

(b) If any ~~such~~ action is begun during the lifetime of the injured party, and within the period of time permissible under the applicable statute of limitations as provided by §55-2-1 *et seq.* of this code and §55-2A-1 *et seq.* of this code, (either against the wrongdoer or his or her personal representative), and ~~such the~~ injured party dies pending the action it may be revived in favor of the personal representative of ~~such the~~ injured party and prosecuted to judgment and execution against the wrongdoer or ~~his or her~~ personal representative.

(c) If the injured party dies before having begun ~~any such an~~ action and it is not at the time of his or her death barred by the applicable statute of limitations under the provisions of §55-2-1 *et seq.* of this code and §55-2A-1 *et seq.* of this code ~~such the~~ action may be begun by the personal representative of the injured party against the wrongdoer or ~~his or her~~ personal representative and prosecuted to judgment and execution against the wrongdoer or his or her personal representative. Any ~~such~~ action shall be instituted within the same period of time that would have been applicable had the injured party not died.

(d) If ~~any such an~~ action mentioned in the ~~preceding~~ subsections (a), (b) and/or (c) of this section ~~shall~~ have been begun against the wrongdoer and he or she dies during the pendency thereof, it may be revived against the personal representative of the wrongdoer and prosecuted to judgment and execution.

(e) The applicable provisions of §56-8-1 *et seq.* of this code ~~shall~~ govern the actions hereinabove mentioned, with reference to their abatement, revival, discontinuance, reinstatement, and substitution of parties.

(f) Nothing contained in this section shall be construed to extend the time within which an action for any other tort shall be brought, nor to give the right to assign a claim for a tort not otherwise assignable.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 642**), and there were – yeas 98, nays none, and absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hamilton and McGeehan.

So, a majority of the members having voted in the affirmative, the Speaker declared the bill (H. B. 3162) passed.

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

Miscellaneous Business

Pursuant to House Rule 132, consent was obtained to print the following in the Appendix to the Journal:

- Vote explanation by Delegate Butler regarding Roll Nos. 565 and 566

Delegate G. Howell noted to the Clerk, that he was absent when the vote was taken on Com. Sub. for S. B. 128 and S. B. 856, and had he been present he would have voted “Yea” thereon.

On motion of Delegate Vance, the House of Delegates adjourned *sine die* at 11:59 p.m.

We hereby certify that the forgoing record of the proceedings of the House of Delegates, First Regular Session, 2025, is the Official Journal of the House of Delegates for said session.

**HOUSE OF DELEGATES
JEFFREY PACK, Clerk
Building 1, Room M-212
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Charleston, WV 25305-0470**

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