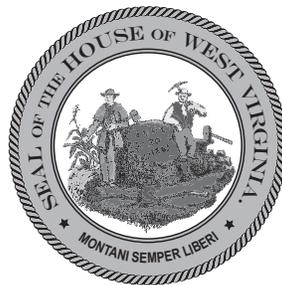


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Sixth Legislature
Second Regular Session

Held at Charleston
Published by the Clerk of the House



March 7, 2024
FIFTY-EIGHTH DAY



Thursday, March 7, 2024

FIFTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 6, 2024, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that S. B. 160, on Third Reading, Special Calendar, had been transferred to the House Calendar; and S. B. 461, on Second Reading, House Calendar, had been transferred to the Special Calendar.

Messages from the Executive

and Other Communications

The Clerk announced that Com. Sub. for H. B. 4809, Com. Sub. for H. B. 4850, Com. Sub. for H. B. 5057, H. B. 5268, Com. Sub. for S. B. 331, Com. Sub. for S. B. 370, S. B. 529, Com. Sub. for S. B. 539, S. B. 712 and S. B. 602 were presented to the Governor on March 6, 2024.

Communications from His Excellency, the Governor, advised that on March 6, 2024, he approved H. B. 5006, H. B. 5261, H. B. 5267, H. B. 5273, S. B. 658 and Com. Sub. for S. B. 668.

The following communications were laid before the House of Delegates and reported by the Clerk:



Jim Justice
Governor of West Virginia

March 7, 2024

Executive Message 2
2024 Regular Session

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

Accountancy, West Virginia Board of; Annual Report FY 2023

Administration, West Virginia Department of; State Building Commission Fund Month End of May 2023

Administration, West Virginia Department of; State Building Commission Fund Month End of June 2023

Administration, West Virginia Department of; State Building Commission Fund Month End of January 2022

Administration, West Virginia Department of; State Building Commission Fund Month End of August 2023

Administration, West Virginia Department of; State Building Commission Fund Month End of July 2023

Administration, West Virginia Department of; State Building Commission Fund End of Month October 2023

Administration, West Virginia Department of; State Building Commission Fund End of Month November 2023

Administration, West Virginia Department of; Shared Services Section within the Finance Division Annual Report

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

OFFICE OF THE GOVERNOR

Administration, West Virginia Department of; State Building Commission Fund Month End of December 2023

Administration, West Virginia Department of; State Building Commission Fund Month End of January 2024

Agriculture, West Virginia Department of; Farm-to-Food Bank Tax Credit 2021-2022

Architects, West Virginia Board of; Annual Report FY2023 & FY2022

Attorney General, West Virginia Office of the; Annual Report 2023

Attorney General, West Virginia Office of the; 2023 Annual Report on the Activities of the Consumer Protection and Antitrust Division

Auditors Office, West Virginia State; 2023 Annual Report

Auditors Office, West Virginia State; 2023 West Virginia State Dollar

City of Welch; First Semi-Annual Progress Report of 2023

City of Welch; Second Semi-Annual Progress Report of 2023

Claims Commission, West Virginia Legislative; Supplemental Report of the Legislative Claims Commission for December 2023

Coal Mine Health and Safety, State of West Virginia Board of; 2023 Annual Report of the Board of Coal Mine Health and Safety

Consolidated Public Retirement Board, West Virginia; West Virginia State Police Disability Experience Annual Report Fiscal Year 2023

Dentistry, West Virginia Board of; Report for the Biennium for Fiscal Years 2022 & 2023

Examiners in Counseling, West Virginia Board of; 2021-2023 Annual Report

Grievance Board, Public Employee; 2022 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; Occupational Pneumoconiosis Board 2022-2023 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; West Virginia State Agency Workers' Compensation Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2022 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2022 Annual Medical Malpractice Report

Insurance Commissioner, State of West Virginia Offices of the; Office of the Consumer Advocate Annual Report for Calendar Year 2023

Interstate Medical Licensure Compact; FY2023 Annual Report

Jobs Investment Trust, West Virginia; Fiscal Year 2023 Annual Report

Licensed Dietitians, West Virginia Board of; Annual Report for Fiscal Year's 2021/2022

OFFICE OF THE GOVERNOR

Licensed Dietitians, West Virginia Board of; Annual Report for Fiscal Year 2022-2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending May 31, 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending June 30, 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending August 31, 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending July 31, 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month End September 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month End April 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending November 30, 2023

Lottery, West Virginia; Monthly Report on Lottery Operations Month End January 2024

Lottery, West Virginia; 2023 Annual Comprehensive Financial Report for the Fiscal Years Ended June 30, 2023 and 2022

Medical Imaging & Radiation Therapy Technology Board of Examiners, West Virginia; FY 2023 Annual Report

Miners' Health, Safety and Training, West Virginia Office of; FY2023 Annual Report and Directory of Mines

Multimodal Transportation Facilities, West Virginia Department of Transportation/Division of; Annual Report for Fiscal Year 2022-2023

Municipal Bond Commission, West Virginia; Annual Receipts and Disbursements July 1, 2022-June 30, 2023

National Guard, West Virginia; Annual Report 2023

Natural Resources, West Virginia Division of; Annual Report 2022-2023

Natural Resources, West Virginia Division of; Annual Report 2022-2023

Occupational Therapy, West Virginia Board of; Annual Report 2022-2023

Osteopathic Medicine, West Virginia School of; Annual Report 2022-2023

Pharmacy, West Virginia Board of; Controlled Substances Monitoring Program 2023 Annual Report

Potomac River Basin, Interstate Commission on the; Eighty Second Financial Statement for the period of October 1, 2021 to September 30, 2022

Public Transit, West Virginia Department of Transportation/Division of; 2022 Annual Safety Status Report

Real Estate Appraiser Licensing and Certification Board, West Virginia; Annual Report Fiscal Years 2022 and 2023

Registration for Professional Engineers, West Virginia Board of; FY 2023 Annual Report

OFFICE OF THE GOVERNOR

Rehabilitation Council, West Virginia State; 2023 Annual Report

Respiratory Care, West Virginia Board of; Annual Report July 1, 2022 - June 30, 2023

State Fire Marshal, West Virginia; FY 2023 Annual Report

State Police, West Virginia; 2022-2023 Annual Report

State Privacy Office, West Virginia; 2023 Annual Report

State Resiliency Office, West Virginia; Annual Report 2023

Tax Department, West Virginia State; 2023 Tax Credit and Accountability Report for the West Virginia Innovative Mine Safety Technology Tax Credit

Tax Department, West Virginia State; Fifty-Fifth Biennial Report West Virginia Tax Laws

Tax Department, West Virginia State; Special Method for Appraising Qualified Capital Additions to Manufacturing Facilities Tax Year 2023

Tax Department, West Virginia State; Special Method for Appraising Qualified Capital Additions to Manufacturing Facilities Tax Year 2022

Tax Department, West Virginia State; West Virginia Tax Expenditure Study for 2024

Tax Department, West Virginia State; West Virginia Tax Credit Review and Accountability Report for the Economic Opportunity Tax Credit and the Manufacturing Investment Tax Credit

Treasurer, West Virginia Office of the; Cash Management Improvement Act CMIA

Treasury Investments, Board of; Operating Report June 2023

Treasury Investments, Board of; Operating Report May 2023

Treasury Investments, Board of; Operating Report August 2023

Treasury Investments, Board of; Operating Report September 2023

Treasury Investments, Board of; Operating Report October 2023

Treasury Investments, Board of; Audited Financial Statements with Supplementary & Other Financial Information Year Ended June 30, 2023

Treasury Investments, Board of; Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2023

Treasury Investments, Board of; Operating Report December 2023

Treasury Investments, Board of; Operating Report January 2024

Veterinary Medicine, West Virginia Board of; 2023 Fiscal Year Biennium Report

Water Development Authority, West Virginia; Fiscal Year 2023 Annual Report

Water Sanitation Commission, Ohio River Valley; 2023 Annual Report

OFFICE OF THE GOVERNOR

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice". The signature is fluid and cursive, with a large initial "J".

Jim Justice
Governor

cc: Steve Harrison, Clerk, West Virginia House of Delegates
Division of Culture and History



Jim Justice
Governor of West Virginia

March 7, 2024

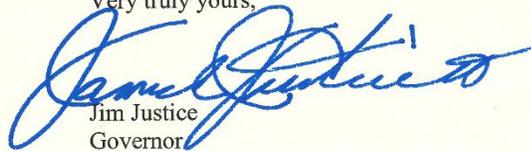
EXECUTIVE MESSAGE NO. 3
2024 REGULAR SESSION

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 11, 2023 through March 6, 2024.

Very truly yours,


Jim Justice
Governor

cc: Steve Harrison, Clerk, West Virginia House of Delegates
Division of Archives and History

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

The following proclamation by His Excellency, the Governor, was laid before the House and read by the Clerk:

EXECUTIVE DEPARTMENT**Charleston****A PROCLAMATION****By the Governor**

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January two thousand twenty-four; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand twenty-four regular session of the Legislature is scheduled to conclude on the ninth day of March, two thousand twenty-four; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this seventh day of March, two thousand twenty-four;

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand twenty-four regular session of the Legislature for an additional period not to exceed one day, through and including the tenth day of March, two thousand twenty-four; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except the matters detailed in section 14, article VII of this Constitution and a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, on this the Seventh Day of March, in the Year of our Lord, Two Thousand Twenty-Four, and in the One Hundred Sixty-First Year of the State.

GOVERNOR

SECRETARY OF STATE

Messages from the Senate

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2025, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4971, Relating to Critical Materials Manufacturing Tax.

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

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

“ARTICLE 6M. CRITICAL MATERIALS MANUFACTURING PROPERTY TAX TREATMENT.

§11-6M-1. Property Tax Treatment of Silicon and Silicon Carbide Manufacturing Equipment.

(a) Notwithstanding any other provision of this code to the contrary, for all assessments made on or after July 1, 2025, until July 1, 2035, the value of silicon and silicon carbide manufacturing equipment, for the purpose of ad valorem property taxation under this chapter, shall be its salvage value, being no more than five percent of its fair market value for which such equipment would sell in place if voluntarily offered for sale.

(b) As used in this article, "silicon and silicon carbide manufacturing equipment" means any personal or real property and fixtures thereon, which are designed, constructed, and installed primarily for the purpose of processing, concentrating, converting, transforming, or manufacturing silicon and silicon carbide into a raw material and directly and ancillary to the product process: *Provided*, That the personal or real property and fixtures used are not silicon and silicon carbide manufacturing equipment when it turns raw materials into finished goods through the use of tools or machinery, such as, without limitation, machining, casting, molding, or fabricating.

§11-6M-2. Rulemaking and Administration by Tax Commissioner.

The State Tax Commissioner shall promulgate rules, including emergency rules, and create forms for the administration of this article. The Tax Commissioner shall have the authority to make inquiries and procure information necessary to establish the salvage valuation for such property. Such rules may provide, among other things, for the identification and certification of silicon and silicon carbide manufacturing equipment that is directly and ancillary to the product process, the determination of whether such equipment is real or personal property, the determination of methods for the allocation or separation of values where the silicon and silicon carbide manufacturing equipment produces non-critical materials as by-products with commercial value, and such other matters as may be related to the administration of this article.

§11-6M-3. Effective Date and Sunset Date.

This article shall be effective for all assessments made on and after July 1, 2025, and shall be effective until July 1, 2035.”

And,

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

Com. Sub. for H. B. 4971 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6M-1, §11-6M-2, and §11-6M-3 all relating to limiting property tax on silicon and silicon carbide manufacturing property; providing for property tax treatment of silicon and silicon carbide manufacturing property as its salvage value; providing for rule making authority and administration by the Tax Commissioner; providing an effective date for assessments on or after July 1, 2025; and providing a sunset date.”

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. 514**), and there were--yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kirby, Pinson and C. Pritt.

Absent and Not Voting: Bridges, Hardy and Young.

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. 4971) passed.

Delegate Jeffries moved that the bill take effect July 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 515**), and there were--yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kirby.

Absent and Not Voting: Bridges, Hardy and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4971) 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, a bill of the House of Delegates, as follows:

H. B. 4998, Modifying penalties for third offense shoplifting.

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

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

“ARTICLE 3A. SHOPLIFTING.

§61-3A-3. Penalties.

A person convicted of shoplifting shall be punished as follows:

(a) *First offense conviction.* — Upon a first shoplifting conviction:

(1) When the value of the merchandise is less than or equal to \$500, the person is guilty of a misdemeanor and, shall be fined not more than \$250.

(2) When the value of the merchandise exceeds \$500, the person is guilty of a misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall not be suspended, or the person shall be confined in jail not more than ~~sixty~~ 60 days, or both.

(b) *Second offense conviction.* — Upon a second shoplifting conviction:

(1) When the value of the merchandise is less than or equal to \$500, the person is guilty of a misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall not be suspended, or the person shall be confined in jail not more than six months or both.

(2) When the value of the merchandise exceeds \$500, the person is guilty of a misdemeanor and, shall be fined not less than \$500 and shall be confined in jail for not less than six months nor more than one year.

(c) *Third offense conviction.* — Upon a third or subsequent shoplifting conviction, regardless of the value of the merchandise, the person is guilty of a felony and, shall be fined not less than \$500 nor more than \$5000, and shall be imprisoned in the penitentiary a state correctional facility for not less than one year nor more than ten 10 years. ~~At least one year shall actually be spent in confinement and not subject to probation: *Provided*, That an order for home detention by the court pursuant to the provisions of §62-11B-1 et seq. of this code may be used as an alternative sentence to the incarceration required by this subsection~~ If the court finds that probable cause exists that a person convicted of third or subsequent offense was abusing drugs or alcohol at the time of his or her arrest, it shall order an evaluation of the defendant to determine whether he or she has a substance use disorder. Upon a finding by the Court that the person convicted of a third or subsequent offense suffers from a substance use disorder, the Court may order that the defendant undergo treatment for the substance use disorder as part of his or her sentence.

(d) *Mandatory penalty.* — In addition to the fines and imprisonment imposed by this section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant to pay a penalty to the mercantile establishment involved in the amount of \$50, or double the value of the merchandise involved, whichever is higher. The mercantile establishment shall be entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be in addition to the mercantile establishment's rights to recover the stolen merchandise.

~~(e) In determining the number of prior shoplifting convictions for purposes of imposing punishment under this section, the court shall disregard all such convictions occurring more than seven years prior to the shoplifting offense in question.~~

(e) In determining the number of prior shoplifting convictions a defendant has, the court shall count convictions in other jurisdictions if that jurisdiction's offense has the same essential elements of this section, disregarding the value of the property shoplifted: *Provided*, That regardless of the jurisdiction, the court shall not count prior convictions that occurred more than seven years prior to the date of the third or subsequent offense."

And,

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

H. B. 4998- "A Bill to amend and reenact §61-3A-3 of the Code of West Virginia, 1931, as amended, relating to modifying the penalties for third offense conviction of shoplifting; eliminating requirement for third offense conviction that the person actually serve one year of confinement or in the alternative home confinement; directing courts to order substance abuse evaluation upon a finding that the defendant is a substance abuser; authorizing directed treatment; and specifying method to determine the number of convictions a defendant has."

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. 516**), and there were--yeas 89, nays 8, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Coop-Gonzalez, Dillon, Gearheart, Phillips, Pinson, Thorne and Vance.

Absent and Not Voting: Bridges, Hardy and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4998) 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. 5013, Relating to Timber Management.

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

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

“ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-2. Definitions.

For the purposes of this article, the following words shall have the meanings hereafter ascribed to them unless the context clearly indicates otherwise:

(a) ‘Timberland’ means any surface real property except farm woodlots of not less than ten contiguous acres which is primarily in forest and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site.

(b) ‘Managed timberland’ means surface real property, except farm woodlots, of not less than ten contiguous acres which is devoted primarily to forest use and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site and that is managed pursuant to a plan provided for in section ten of this article: *Provided*, That ~~none of the following may be considered as managed timberland within the meaning of this article:~~

~~(1) Any tract or parcel of real estate, regardless of its size, which is part of any subdivision that is approved or exempted from approval pursuant to the provisions of a planning ordinance adopted under the provisions of article twenty-four, chapter eight of this code; or~~

~~(2) Any any tract or parcel of real estate, regardless of its size, which is subject to contract, agreement, a deed restriction, deed covenant, or zoning regulation which limits the use of that~~

real estate in a way that precludes the commercial production and harvesting of timber upon it. may not be considered as managed timberland within the meaning of this article: *Provided, however,* That a landowner whose land is subject to, or may become subject to, a conservation or preservation easement may not be prevented from entering into a timberland management plan with the West Virginia Division of Forestry.

(c) 'Tax Commissioner,' 'commissioner' or 'tax department' means the State Tax Commissioner or a designee of the State Tax Commissioner.

(d) 'Valuation commission' or 'commission' means the commission created in section three of this article.

(e) 'County board of education' or 'board' means the duly elected board of education of each county.

(f) 'Farm woodlot' means that portion of a farm in timber but may not include land used primarily for the growing of timber for commercial purposes except that Christmas trees, or nursery stock and woodland products, such as nuts or fruits harvested for human consumption, shall be considered farm products and not timber products.

(g) 'Owner' means the person who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability is deemed the owner until the mortgagee or trust takes possession, after which such mortgagee or trustee shall be deemed the owner. A person who has an equitable estate of freehold or is a purchaser of a freehold estate who is in possession before transfer of legal title is also deemed the owner.

(h) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(i) 'Paper' means a tax map or document that is not electronic.

The definitions in subdivisions (f) and (g) of this section shall apply to tax years beginning on or after January 1, 2001."

And,

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

Com. Sub. for H. B. 5013 – "A Bill to amend and reenact §11-1C-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of managed timberland to be more inclusive of certain real estate by removing an exception to the program concerning subdivisions and planning ordinances; clarifying the definition an exception to the program concerning property precluded from development; and allowing land subject to, or that may become subject, to a conservation or preservation easement to enter into a timberland management agreement.

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. 517**), 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: Bridges and Young.

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. 5013) 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. 5017, Relating to mobile food establishment reciprocity.

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

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

“CHAPTER 16. PUBLIC HEALTH.

ARTICLE 2. LOCAL BOARDS OF HEALTH.

§16-2-18. In-state food service permit reciprocity. In-state food service statewide permit.

~~(a) A local or county health department shall issue a mobile food establishment reciprocity permit to a mobile food service establishment that is operating within the State of West Virginia and holds a valid mobile food establishment permit from the vendor's county of residence. The mobile food establishment reciprocity permit shall be valid for the length of time for which the first permit is issued and regardless of the number of days for which the vendor requires the mobile food establishment reciprocity permit.~~

~~(b) No A local or county health department within the state may not charge an additional a fee to any an in-state vendor that has received a mobile food establishment reciprocity permit. but may place conditions upon an issued permit to assure compliance with that health department's rules and standards for the type of permit being issued. Each vendor must provide notice to the local health department with jurisdiction at least 14 days prior to operating within the jurisdiction A mobile food establishment in compliance with rules of the issuing local or county health department is deemed in compliance in all other counties. The permit must shall be visibly posted while the mobile food establishment is operational.~~

~~(c) The secretary shall review and modernize legislative rules regarding local boards of health fees located in 64 CSR 30 in the next filing period~~

(a) A local or county health department shall issue a mobile food establishment statewide permit to a mobile food service establishment that is operating within the State of West Virginia. The permit will be issued from the vendor's county of residence local or county health department. The mobile food establishment statewide permit shall be valid for the fiscal year in which the permit is issued and regardless of the number of days for which the vendor requires the mobile food establishment.

(b) No local or county health department within the state may charge an additional fee to any in-state vendor that has received a mobile food establishment statewide permit but may place conditions upon an issued permit to assure compliance with that health department's rules and standards for the type of permit being issued. Each vendor must provide notice to the local health department with jurisdiction at least 72 hours prior to operating within the jurisdiction. A mobile food establishment, in compliance with rules of the issuing local or county health department, is deemed in compliance in all other counties. The permit shall be visibly posted while the mobile food establishment is operational."

And,

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

Com. Sub. for H. B. 5017 – “A Bill to amend and reenact §16-2-18 of the Code of West Virginia, 1931, as amended, relating to statewide permits for mobile food service establishment.”

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. 518**), 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: Bridges and Young.

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. 5017) 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. 5091, West Virginia Critical Infrastructure Protection Act.

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

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

“ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-34. CRITICAL INFRASTRUCTURE PROTECTION ACT; PROHIBITING CERTAIN ACTS, INCLUDING TRESPASS AND CONSPIRACY TO TRESPASS AGAINST PROPERTY DESIGNATED A CRITICAL INFRASTRUCTURE FACILITY; CRIMINAL PENALTIES; AND CIVIL ACTION.

(a) This section may be referred to as the ‘West Virginia Critical Infrastructure Protection Act’.

(b) For purposes of this section:

'Critical Infrastructure' means systems and assets, whether physical or virtual, so vital to the United States of America or the State of West Virginia that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, state economic security, national public health or safety, state public health or safety, or any combination of those matters, whether such systems or assets are in operation or are under any state of construction.

~~'Critical infrastructure facility' means one of the following: if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:~~

- (1) A petroleum or alumina refinery;
- (2) An electrical power generating facility, substation, switching station, electrical control center or electric power lines, and associated equipment infrastructure;
- (3) A chemical, polymer, or rubber manufacturing facility;
- (4) A water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (5) A natural gas compressor station;
- (6) A liquid natural gas terminal or storage facility;
- (7) Wireline and wireless telecommunications infrastructure;
- (8) A port, railroad switching yard, trucking terminal, or other freight transportation facility;
- (9) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
- (10) A transmission facility used by a federally licensed radio or television station;
- (11) A steelmaking facility that uses an electric arc furnace to make steel;
- (12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program;
- (13) A dam that is regulated by the state or federal government;
- (14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below- or above-ground pipeline or piping and truck loading or offloading facility, a natural gas storage facility, a natural gas transmission facility, or a natural gas utility distribution facility;
- (15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline or piping, and truck loading or offloading facility;

(16) Military facilities, including national guard facilities and equipment storage areas where non-military personnel are prohibited;

(17) Department of Highways facilities and locations near or on roads or highways where the public is prohibited;

(18) Health care facilities;

(19) Any above-ground portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, or other storage facility that is enclosed by a fence, other physical barrier, or is clearly marked with signs prohibiting trespassing that are obviously designed to exclude intruders; or

(20) A commercial service airport as defined by the Federal Aviation Administration;

(21) Any nuclear reactor and its associated components including, but not limited to, components related to modular or microreactors, cooling technologies, sensors, instrumentation, or storage involved in training or research opportunities; or

(22) The hardware, software, or other digital property of any critical infrastructure facility listed in this subsection.

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$250 nor more than \$1,000, or confined in jail not less than 30 days nor more than one year, or both fined and confined. If the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with the physical or digital equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in a jail for not more than one year, or both fined and confined.

(2) (A) Any person who willfully damages, destroys, vandalizes, defaces, or tampers with the physical or digital equipment in a critical infrastructure facility causing damage, including damage inflicted by cyber-attack or digital interference in excess of \$2,500 is guilty of a felony and, upon conviction thereof, shall be fined not less than ~~\$1,000~~ \$3,000 nor more than ~~\$5,000~~ \$10,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(B) Any person convicted of a second offense under the provisions of this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$15,000, or imprisoned in a state correctional facility for a term of not less than two years nor more than 10 years, or both fined and imprisoned.

(3) Any person who conspires with any person to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than ~~\$2,500~~ \$250 nor more than ~~\$10,000~~ \$1,000. Any person who conspires with any person to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility and the damage, destruction, vandalization, defacing, or tampering causes damage, including damage inflicted by cyber-attack or digital interference in excess of

\$2,500 is guilty of a felony and, shall, upon conviction thereof, be fined not less than ~~\$5,000~~ \$3,000 nor more than ~~\$20,000~~ \$10,000.

(d)(1) Any person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing, in addition to the penalties imposed by this section.

(2) Any person or entity that compensates, provides consideration to, or remunerates a person for trespassing as described in subdivision (1) of subsection (c) of this section may also be held liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

(e) A person who buys or receives from another person, aids in concealing, transfers to a person other than the owner thereof, or possesses any stolen goods or other thing of value from a critical infrastructure facility, which he or she knows or has reason to believe has been stolen from a critical infrastructure facility, is guilty of larceny, and may be prosecuted although the principal offender has not been convicted: *Provided*, That possession of stolen goods from a critical infrastructure facility while acting at the request of law enforcement or in cooperation with law enforcement does not constitute a violation of this section. Any person convicted of an offense under this subsection, in addition the criminal penalties imposed for larceny, is liable to the critical infrastructure facility owner for compensatory damages and, in addition, for punitive damages in an amount not less than three times the amount of the compensatory damages.

~~(e) (f)~~ The provisions of ~~this section~~ §61-10-34(c)(1) of this code do not apply to: ~~(1) Any any~~ person or organization:

(i) (1) Monitoring or attentive to compliance with public or worker safety laws, or, wage and hour requirements;

(ii) (2) Picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements; or

(iii) (3) Engaging in union organizing or recruitment activities, including attempting to reach workers verbally, in writing with pamphlets, and investigation of non-union working conditions, or both.

~~(2)~~ (g) The provisions of this section do not apply to:

(1) The right to free speech or assembly including, but not limited to, protesting and picketing;
or

~~(3)~~ (2) A contractor who has a contractual relationship with a critical infrastructure facility and the contractor's employees are acting within their scope of employment performing work at a critical infrastructure facility.

(h)(1) All items of personal property which are used, have been used, or are intended for use in perpetration of theft or damage to infrastructure are subject to forfeiture.

(2) The items of personal property subject to forfeiture include all conveyances, including aircraft, vehicles, or vessels, except that:

(A) A conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless it appears that the person owning the conveyance is a consenting party or privy to a violation of this section;

(B) A conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the person owning the conveyance knew, or had reason to know, that the conveyance was being employed or was likely to be employed in a violation of this section; and

(C) A bona fide security interest or other valid lien in any conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the holder of the security interest or lien either knew, or had reason to know, that the conveyance was being used or was likely to be used in a violation of this section.

(3) All procedures relating to the seizure and disposition of property subject to forfeiture under the authority of this section are governed by the applicable provisions of the West Virginia Contraband Forfeiture Act, §60A-7-701 et seq. of this code.”

And,

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

Com. Sub. for H. B. 5091 – “A Bill to amend and reenact §61-10-34 of the Code of West Virginia, 1931, as amended, relating to the ‘West Virginia Critical Infrastructure Protection Act’; defining terms; removing the requirement that a critical infrastructure facility be enclosed; including hardware, software, digital property, nuclear reactors, and nuclear components in definition of critical infrastructure facility; clarifying that digital and physical equipment is protected; including damage inflicted by cyber-attack or digital interference as punishable conduct; increasing criminal penalties; creating second offense penalties for a person who willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility causing damage in excess of \$2,500; providing person who buys or receives certain property stolen from a critical infrastructure facility is guilty of larceny; providing exception to larceny for persons acting at the request of law enforcement or in cooperation with law enforcement; providing liability for compensatory and punitive damages in certain circumstances; providing for forfeiture of items of personal property in certain circumstances; and providing that forfeiture be governed by the applicable provisions of the West Virginia Contraband Forfeiture 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. 519)**, and there were--yeas 94, nays 4, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Garcia, Hamilton, Hansen and Pushkin.

Absent and Not Voting: Bridges and Young.

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. 5091) 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. 5151, Relating to defining term fictive kin.

On motion of Delegate Jeffries, the House concurred in the following amendment by the Senate, with further amendment:

On page 7, section 206, line 163, after the word “custody.” by inserting the following:

“Restorative justice program” means a voluntary, community based program which utilizes evidence-based practices that provide an opportunity for a juvenile to accept responsibility for and participate in setting consequences to repair harm caused by the juvenile against the victim and the community by means of facilitated communication including, but not limited to, mediation, dialogues, or family group conferencing, attended voluntarily by the victim, the juvenile, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile.”

With the further amendment, sponsored by Delegate Fast, amending the title of the bill to read as follows:

Com. Sub. for H. B. 5151 - “A Bill to amend and reenact §49-1-206 of the Code of West Virginia, 1931, as amended, relating to adding former foster parents to the definition of fictive kin; and also relating to adding a definition for restorative justice program.”

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. 520**), 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, Williams and Young.

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. 5151) 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, to take effect January 1, 2025, a bill of the House of Delegates, as follows:

H. B. 5298, Relating to prohibiting a candidate who failed to secure the nomination of a political party in a primary election from seeking the same elected office as an affiliate with a different political party in the subsequent general election.

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

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

“ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-4. Nomination of candidates in primary elections.

(a) At each primary election, the candidate or candidates of each political party for all offices to be filled at the ensuing general election by the voters of the entire state, of each congressional district, of each state senatorial district, of each delegate district, and of each county in the state shall be nominated by the voters of the different political parties, except that no presidential elector shall be nominated at a primary election.

(b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of candidates for office. Where only one candidate of a political party for any office in a political division, including party committeemen and delegates to national conventions, is to be chosen the candidate receiving the highest number of votes therefor in the primary election shall be declared the party nominee for such office. Where two or more such candidates are to be chosen in the primary election, the candidates constituting the proper number to be so chosen who shall receive the highest number of votes cast in the political division in which they are candidates shall be declared the party nominees and choices for such offices, except that:

(1) Candidates for the office of commissioner of the county commission shall be nominated and elected in accordance with the provisions of section ten, article nine of the Constitution of the State of West Virginia and the requirements of §7-1-1b of this code;

(2) Members of county boards of education shall be elected at primary elections in accordance with ~~the provisions of~~ §3-5-5 and §3-5-6 of this code;

(3) Candidates for the House of Delegates shall be nominated and elected in accordance with the residence restrictions provided in §1-2-2 of this code.

(c) In case of tie votes between candidates for party nominations or elections in primary elections, the choice of the political party shall be determined by the executive committee of the party for the political division in which such persons are candidates.

(d) A person who was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code may not, after failing to win the nomination of that political party at a primary election, become a candidate of any other recognized political party for the same political office in the next succeeding general election.

(e) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective January 1, 2025.”

And,

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

H. B. 5298 – “A Bill to amend and reenact §3-5-4 of the Code of West Virginia, 1931, as amended, relating to prohibiting a candidate who failed to secure the nomination of a recognized political party in a primary election from seeking the same elected office as candidate of any other recognized political party for the same political office in the next succeeding general election; and providing an internal effective date.

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. 521**), and there were--yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Brooks.

Absent and Not Voting: Bridges and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 5298) passed.

Delegate Jeffries moved that the bill take effect January 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 522**), and there were--yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks and Howell.

Absent and Not Voting: Bridges, E. Pritt and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 5298) takes effect January 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, a bill of the House of Delegates, as follows:

H. B. 5582, Modifying exceptions for real estate appraisal licensure..

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

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

“ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

§30-38-1. Real estate appraiser license required; exceptions.

(a) It is unlawful for any person, for compensation or valuable consideration, to prepare a valuation appraisal or a valuation appraisal report relating to real estate or real property in this state without first being licensed or certified as provided in this article. This section shall not be construed to apply to persons who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this article may be construed to prohibit any person who is licensed to practice in this state under any other law from engaging in the practice for which he or she is licensed.

(b) No person other than a person licensed or certified under this article may use the title of licensed appraiser or certified appraiser or any title, designation or abbreviation likely to create the impression that the person is licensed or certified by the state.

(c) This article does not apply to:

(1) A real estate broker or salesperson licensed by this state who, in the ordinary course of his or her business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate, when this opinion as to the listing price or the purchase price is not to be referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged;

(2) A casual or drive-by inspection of real estate in connection with a consumer loan secured by the real estate, when the inspection is not referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged for the inspection;

(3) An employee who renders an opinion as to the value of real estate for his or her full-time employer, for the employer's internal use only and performed in the regular course of the employee's position, when the opinion is not referred to as an appraisal and no fee is charged;

(4) Appraisals of personal property, including, but not limited to, jewelry, household furnishings, vehicles and manufactured homes not attached to real estate;

(5) Any officer or employee of the United States, or of the State of West Virginia or a political subdivision thereof, when the employee or officer is performing his or her official duties: *Provided*, That such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in West Virginia or any subdivision thereof in connection with the appraisal of real estate or real property: *Provided, however*, That this exception shall not apply with respect to federally related transactions as defined in Title XI of the United States Code, entitled 'Financial Institutions Reform, Recovery, and Enforcement Act of 1989'; or

(6) ~~Any evaluation~~ An individual not licensed in accordance with §30-38-1, et seq. of this code who completes an evaluation of the value of real estate serving as collateral for a loan made by a financial institution insured by the federal deposit insurance corporation: *Provided*, That the evaluation is in a format that includes the following statements in a conspicuous location and in bold print: 'This evaluation has been prepared in compliance with §30-38-1(c)(6) and the following conditions are satisfied. (A) The amount of the loan is equal to or less than \$250,000 the federal de minimus threshold; (B) the evaluation is used solely by the lender in its records to document the collateral value; (C) the evaluation clearly indicates on its face that it is for the lender's internal use only; (D) the evaluation is not labeled an appraisal and explicitly states that the evaluation was performed by an individual that is not licensed as an appraiser in accordance with §30-38-1, et seq. and ~~(E) the evaluation is on a form approved by the board.~~ Individuals performing these

evaluations may be compensated for their services. ~~The lender shall notify its customer if it intends to use an unlicensed evaluator and give the customer the opportunity to elect an evaluation, by a certified or licensed appraiser, the cost of which will be paid as agreed between the lender and the customer~~

§30-38-3. Definitions.

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

(a) 'Appraisal' means an analysis, opinion, or conclusion prepared by a real estate appraiser relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate or identified real property. An appraisal may be classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment.

(b) 'Analysis assignment' means an analysis, opinion, or conclusion prepared by a real estate appraiser that relates to the nature, quality, or utility of identified real estate or identified real property.

(c) 'Appraisal foundation' means the appraisal foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(d) 'Appraisal report' means any communication, written or oral, of an appraisal. An appraisal report may be classified by the nature of the assignment as a 'valuation report', 'analysis report', or 'review report'. For purposes of this article, the testimony of an appraiser dealing with the appraiser's analyses, conclusions, or opinions concerning identified real estate or identified real property is considered an oral appraisal report.

(e) 'Board' means the real estate appraiser licensing and certification board established by the provisions of this article.

(f) 'Certified appraisal report' means a written appraisal report that is certified by a state licensed or certified real estate appraiser. When a real estate appraiser identifies an appraisal report as 'certified', the real estate appraiser must indicate the type of licensure or certification he or she holds. By certifying an appraisal report, a state licensed residential real estate appraiser, a state certified general real estate appraiser, or a state certified residential real estate appraiser represents to the public that the report meets the appraisal standards established by this article.

(g) 'Certified real estate appraiser' means a person who holds a current, valid certification as a state certified residential real estate appraiser or a state certified general real estate appraiser issued to him or her under the provisions of this article.

(h) 'Complex appraisal' means an appraisal that: (1) For nonresidential property, relies on all three approaches to value, being the cost approach, the income approach, and the sales comparison approach, or does not have the characteristics of a noncomplex appraisal; and (2) for residential property, relies to any significant degree on at least two of the three approaches to value, with one approach being the sales comparison approach, or one in which the property to be appraised, the form of ownership, or the market conditions are atypical.

(i) 'Cost approach' means an approach to valuing real estate that requires an appraiser to: (1) Develop an opinion of site value by an appropriate appraisal method or technique; (2) analyze comparable cost data as are available to estimate the cost new of the improvements if any; and

(3) analyze comparable data as are available to estimate the difference between the cost new and the present worth of the improvements, also called accrued depreciation.

(j) 'Evaluation' means an opinion about the market value of real estate that is:

(1) Made in accordance with the 2010 'Interagency Appraisal and Evaluation Guidelines' developed by the following federal agencies that regulate financial institutions: The Federal Reserve Board; The Office of the Comptroller of the Currency; The Federal Deposit Insurance Corporation; The Office of Thrift Supervision; and the National Credit Union Administration,

(2) Provided to a financial institution for use in a real estate related transaction for which an appraisal is not required by the federal agencies listed in subsection (j)(1) of this section.

~~(j)~~ (k) 'Income approach' means an approach to valuing real estate that requires an appraiser to: (1) Analyze comparable rental data as are available to estimate the market rental of the property; (2) analyze comparable operating expense data as are available to estimate the operating expenses of the property; (3) analyze comparable data as are available to estimate rates of capitalization or rates of discount; and (4) base projections of future rent and expenses on reasonably clear and appropriate evidence.

(k) (l) 'Licensed real estate appraiser' means a person who holds a current, valid license as a state licensed residential real estate appraiser issued to him or her under the provisions of this article.

~~(l)~~ (m) 'Noncomplex appraisal' means an appraisal for which: (1) There is an active market of essentially identical properties; (2) adequate data is available to the appraiser; (3) adjustments to comparable sales are not large in the aggregate, specifically not exceeding the trading range found in the market of essentially identical properties; and (4) for residential properties, the contract sales price falls within the market norm or median sales price for homes or lots within the same area.

~~(m)~~ (n) 'Real estate' means an identified parcel or tract of land, including improvements, if any.

~~(n)~~ (o) 'Real estate appraisal activity' means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

~~(o)~~ (p) 'Real estate appraiser' means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

~~(p)~~ (q) 'Real property interests' means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

~~(q)~~ (r) 'Review assignment' means an analysis, opinion, or conclusion prepared by a real estate appraiser that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.

~~(r)~~ (s) 'Sales comparison approach' means an approach to valuing real estate that requires an appraiser to analyze such comparable sales data as are available to indicate a value conclusion.

~~(e)~~ (t) 'Valuation appraisal' means an analysis, opinion, or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.

§30-38-6. Board created; appointments, qualifications, terms, oath, removal of members; quorum; meetings; disqualification from participation; compensation; records; employing staff.

(a) The West Virginia Real Estate Appraiser Licensing and Certification Board, which consists of nine members appointed by the Governor with the advice and consent of the Senate, is continued.

(1) Each member shall be a resident of the State of West Virginia, except the appraisal management company representative is not required to be a resident of West Virginia.

(2) Four members shall be certified real estate appraisers having at least five years' experience in appraisal as a principal line of work immediately preceding their appointment, and shall remain certified real estate appraisers throughout their terms.

(3) Two members shall have at least five years' experience in real estate lending as employees of financial institutions.

(4) Two members may not be engaged in the practice of real estate appraisal, real estate brokerage or sales, or have any financial interest in these practices.

(5) One member shall be a representative from an appraisal management company registered under the provisions of §30-38A-1, *et seq.* of this code.

(6) No member of the board may concurrently be a member of the West Virginia Real Estate Commission.

(7) Not more than three appraiser members may be appointed from a congressional district.

(b) Members will be appointed for three-year terms, which are staggered in accordance with the initial appointments under prior enactment of this act.

(1) No member may serve for more than three consecutive terms.

(2) Before entering upon the performance of his or her duties, each member shall subscribe to the oath required by section five, article IV of the constitution of this state.

(3) The Governor shall, within 60 days following the occurrence of a vacancy on the board, fill the vacancy by appointing a person who meets the requirements of this section for the unexpired term.

(4) Any member may be removed by the Governor in case of incompetency, neglect of duty, gross immorality, or malfeasance in office.

(c) The board shall elect a chairman.

(d) A majority of the members of the board constitutes a quorum.

(e) The board shall meet at least once in each calendar quarter on a date fixed by the board.

(1) The board may, upon its own motion, or shall upon the written request of three members of the board, call additional meetings of the board upon at least 24 hours' notice.

(2) No member may participate in a proceeding before the board to which a corporation, partnership, or unincorporated association is a party, and of which he or she is or was at any time in the preceding 12 months a director, officer, owner, partner, employee, member, or stockholder.

(3) A member may disqualify himself or herself from participation in a proceeding for any other cause the member considers sufficient.

(f) The appointed members will receive compensation and expense reimbursement in accordance with the provisions of §30-1-11 of this code.

(g) The board may employ and authorize staff as necessary to perform the functions of the board, to be paid out of the board fund created by the provisions of this article. Persons employed by any real estate agent, broker, appraiser, or lender, or by any partnership, corporation, association, or group engaged in any real estate business, may not be employed by the board. The board may hire a licensed or certified appraiser whose license status is inactive or who is not employed by any of the prohibited employers listed.

§30-38-7. General powers and duties.

The board shall:

(a) Define by rule the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this article;

(b) Establish examination specifications as prescribed herein and provide for appropriate examinations;

(c) Establish registration requirements and procedures for appraisal management companies under the provisions of §30-38a-1, *et seq.*;

(d) Approve or disapprove applications for certification and licensure;

(e) Approve or disapprove applications for registration under the provisions of §30-38a-1, *et seq.*;

(f) Define by rule continuing education requirements for the renewal of certifications and licenses;

(g) Censure, suspend or revoke licenses and certification as provided in this article;

(h) Suspend or revoke registrations under the provisions of §30-38a-1, *et seq.*;

(i) Hold meetings, hearings and examinations;

(j) Establish procedures for submitting, approving and disapproving applications;

(k) Maintain an accurate registry of the names, addresses and contact information of all persons certified or issued a license to practice under this article;

(l) Maintain an accurate registry of the names, addresses and contact information of all persons and firms registered under the provisions of article thirty-eight-a of this chapter;

(m) Maintain accurate records on applicants and licensed or certified real estate appraisers;

(n) Maintain accurate records on applicants under the provisions of article thirty-eight-a of this chapter;

(o) Issue to each licensed or certified real estate appraiser ~~a pocket card with the appraiser's name and license or certification number. Pocket cards are the property of the State of West Virginia and, upon suspension or revocation of the license to practice pursuant to this article, will be returned immediately to the board~~ a copy of their current active license credential via an electronic format of the board's choosing;

(p) Issue registration numbers to registrants under the provisions of article thirty-eight-a of this chapter;

(q) Deposit all fees collected by the board to the credit of the West Virginia appraiser licensing and certification board fund established in the office of the State Treasurer. The board shall disburse moneys from the account to pay the cost of board operation. Disbursements from the account may not exceed the moneys credited to it;

(r) Keep records and make reports as required by article one of this chapter; and

(s) Perform any other functions and duties necessary to carry out the provisions of this article and article thirty-eight-a of this chapter.

§30-38-11. Applications for license or certification; renewals.

(a) An individual who desires to engage in real estate appraisal activity in this state shall make application for a license, in writing, on a form as the board may prescribe.

(b) To assist the board in determining whether grounds exist to deny the issuance of a license to an applicant, the board may require the fingerprinting of every applicant for an original license.

(c) The payment of the appropriate fee must accompany all applications for original certification and renewal of certification and all applications to take an examination.

(d) At the time of filing an application for original certification or for renewal of certification, each applicant shall sign a pledge to comply with the standards of professional appraisal practice and the ethical rules to be observed by an appraiser. Each applicant shall also certify that he or she understands the types of misconduct, as set forth in this article, for which disciplinary proceedings may be initiated.

(e) To obtain a renewal of license or certification under this article, the holder of a current license or certification shall make application and pay the prescribed fee to the board no earlier than 120 days nor later than 30 days prior to the expiration date of the current license or certification. Each application for renewal must be accompanied by evidence in the form

prescribed by the board that the applicant has completed the continuing education requirements for renewal specified in this article and the board's rules.

(f) If the board determines that an applicant for renewal has failed to meet the requirements for renewal of license or certification through mistake, misunderstanding, or circumstances beyond the control of the applicant, the board may extend the term of the applicant's license or certification for a period not to exceed six months upon payment by the applicant of a prescribed fee for the extension. If the applicant for renewal of license or certification satisfies the requirements for renewal during the extension period, the beginning date of his or her renewal license or certificate shall be the day following the expiration of the certificate previously held by the applicant.

(g) If a state-licensed or certified real estate appraiser under this article fails to renew his or her license or certification prior to its expiration or within any period of extension granted by the board pursuant to this article, the applicant may obtain a renewal of his or her license or certification by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee: ~~within two years of the date that his or her license or certification expired~~ Provided, That the applicant can demonstrate they could resume practicing with reasonable skill and safety in accordance with §30-1-8a of this code.

(h) The board may deny the issuance or renewal of a license or certification for any reason enumerated in this article or in the rules of the board, or for any reason for which it may refuse an initial license or certification.

(i)(1) If the board denies issuance of a renewal of a license or certification, or denies an initial license or certification application, the board shall provide a written statement to the applicant for an initial license or certification, or applicant for a renewal of a license or certification, clearly describing the deficiencies of the application for his or her license or certificate.

(2) The board shall provide this statement to an initial applicant or a renewal applicant within 15 calendar days of its decision to deny licensure or certification. The board may send its statement through the United States mail, electronic mail service, or both, to ensure it reaches the applicant or renewal applicant.

(3) If the basis for the denial is due to submitted appraisals failing to conform to the Uniform Standards of Professional Appraisal Practice (USPAP), the board shall provide written guidance to the applicant describing, in detail, each aspect of each submitted appraisal that does not conform to USPAP and the corrective action necessary to remedy nonconformity. The board shall provide 60 days to the applicant to remedy any nonconformity. The applicant shall resubmit any corrected appraisals on or before the 60th day and the board shall reevaluate the appraisals only pertaining to any nonconformity. If the nonconformity or nonconformities are remedied and resubmitted on or before the 60th day, the board shall accept the appraisal for purposes of issuing a license."

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. 523**), 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, E. Pritt and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 5582) 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. 5650, Allow suspended school personnel to enter school property functions open to the public.

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

On page 3, section 8, lines 46 through 51, by striking out all of subsection (g) and inserting in lieu thereof a new subsection (g) to read as follows:

“(g) Notwithstanding any other provisions of law, a suspended employee may not be barred from attending public events on school property while serving the suspension, nor may a suspended employee who has a dependent child, grandchild, foster child, or other family member be barred from entering the school to exercise normal functions of a parent or guardian while suspended: *Provided*, That the suspended employ’s presence does not jeopardize the health, safety, or welfare of students, employees, or visitors; impact the learning environment or the school-sponsored activity; prejudice an investigation or disciplinary proceedings involving the employee; violate an order of a court or any law; or threaten damage to property.”

And,

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

Com. Sub. for H. B. 5650 – “A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating to prohibiting a suspended employee from being barred from attending public events on school property while serving the suspension; prohibiting a suspended employee who has a dependent family member from being barred from entering the school to exercise normal functions of a parent or guardian while suspended; and providing exceptions.”

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. 524**), 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: Hansen, Pushkin, Rowe and Thorne.

Absent and Not Voting: Bridges, E. Pritt, Steele and Young.

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. 5650) 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. 5662, Relating to adding “person in a position of trust” to certain crimes.

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

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

“ARTICLE 8D. CHILD ABUSE.

§61-8D-1. Definitions.

In this article, unless a different meaning is plainly required:

(1) ‘Abuse’ means the infliction upon a minor of physical injury by other than accidental means.

(2) ‘Child’ means any person under eighteen years of age not otherwise emancipated by law.

(3) ‘Controlled substance’ means controlled substance as that term is defined in ~~subsection (d), section one hundred one, article one, chapter sixty-a of this code~~ §60A-1-101(d) of this code.

(4) ‘Custodian’ means a person over the age of ~~fourteen~~ 14 years who has or shares actual physical possession or care and custody of a child on a full-time or temporary basis, regardless of whether ~~such~~ that person has been granted custody of the child by any contract, agreement, or legal proceeding. ‘Custodian’ shall also include, but not be limited to, the spouse of a parent, guardian or custodian, or a person cohabiting with a parent, guardian or custodian in the relationship of husband and wife, where ~~such~~ the spouse or other person shares actual physical possession or care and custody of a child with the parent, guardian or custodian.

(5) ‘Guardian’ means a person who has care and custody of a child as the result of any contract, agreement or legal proceeding.

(6) ‘Gross neglect’ means reckless or intentional conduct, behavior, or inaction by a parent, guardian or custodian, or person in a position of trust in relation to a child, that evidences a clear disregard for a minor child's health, safety, or welfare.

(7) ‘Neglect’ means the unreasonable failure by a parent, guardian or custodian, or person in a position of trust in relation to a child, ~~of a minor child~~ to exercise a minimum degree of care to assure the minor child's physical safety or health. For purposes of this article, the following do not constitute ‘neglect’ by a parent, guardian or custodian, or person in a position of trust in relation to a child:

(A) Permitting a minor child to participate in athletic activities or other similar activities that if done properly are not inherently dangerous, regardless of whether that participation creates a risk of bodily injury;

(B) Exercising discretion in choosing a lawful method of educating a minor child; or

(C) Exercising discretion in making decisions regarding the nutrition and medical care provided to a minor child based upon religious conviction or reasonable personal belief.

(8) 'Parent' means the biological father or mother of a child, or the adoptive mother or father of a child.

(9) 'Sexual contact' means sexual contact as that term is defined in ~~section one, article eight-b, chapter sixty-one of this code~~ §61-8B-1 of this code.

(10) 'Sexual exploitation' means an act whereby:

(A) A parent, custodian, guardian or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices or coerces the child to engage in sexually explicit conduct as that term is defined in ~~section one, article eight-c, chapter sixty-one of this code~~ §61-8C-1 of this code; or

(B) A parent, guardian, custodian or other person in a position of trust in relation to a child persuades, induces, entices, or coerces the child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or other person in a position of trust knows ~~such~~ the display is likely to be observed by others who would be affronted or alarmed.

(11) 'Sexual intercourse' means sexual intercourse as that term is defined in ~~section one, article eight-b, chapter sixty-one of this code~~ §61-8B-1 of this code.

(12) 'Sexual intrusion' means sexual intrusion as that term is defined in ~~section one, article eight-b, chapter sixty-one of this code~~ §61-8B-1 of this code.

(13) A 'person in a position of trust in relation to a child' refers to any person who, under law or agreement, is acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a child or someone responsible for the general supervision of a child's welfare, or any person who by virtue of ~~their~~ his or her occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child.

61-8D-2. Murder of a child by a parent, guardian or custodian or other person, or person in a position of trust in relation to a child, by refusal or failure to supply necessities, or by delivery, administration or ingestion of a controlled substance; penalties.

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child, shall maliciously and intentionally cause the death of a child under his or her care, custody or control by his or her failure or refusal to supply ~~such~~ the child with necessary food, clothing, shelter, or medical care, then ~~such~~ the parent, guardian or custodian, or person in a position of trust in relation to a child shall be is guilty of murder in the first degree.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child, shall cause the death of a child under his or her care, custody, or control by knowingly allowing any other person to maliciously and intentionally fail or refuse to supply ~~such~~ the child with necessary food, clothing, shelter, or medical care, then ~~such~~ the other person and ~~such~~ the parent,

guardian or custodian, or person in a position of trust in relation to a child ~~shall~~ are each ~~be~~ guilty of murder in the first degree.

(c) The penalty for offenses defined by this section shall be that which is prescribed for murder in the first degree under the provisions of ~~section two article, two of this chapter~~ §61-2-2 of this code.

(d) The provisions of this section shall not apply to any parent, guardian or custodian, or person in a position of trust in relation to a child who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody, or control of such parent, guardian or custodian, or person in a position of trust in relation to a child with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which ~~such the~~ parent, guardian or custodian, or person in a position of trust in relation to a child is an adherent or member: Provided, That the provisions of this subsection do not apply to a person in a position of trust in relation to a child who, by virtue of his or her occupation or position, is charged with any duty or responsibility for the health, education, welfare, or supervision of a child.

§61-8D-2a. Death of a child by a parent, guardian or custodian or other person or person in a position of trust in relation to a child, by child abuse; criminal penalties.

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child maliciously and intentionally inflicts upon a child under his or her care, custody, or control substantial physical pain, illness, or any impairment of physical condition by other than accidental means, thereby causing the death of ~~such the~~ child, then ~~such the~~ parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child knowingly allows any other person to maliciously and intentionally inflict upon a child under the care, custody or control of such parent, guardian or custodian, or person in a position of trust in relation to a child substantial physical pain, illness or any impairment of physical condition by other than accidental means, which thereby causes the death of such child, then such other person and such parent, guardian or custodian, or person in a position of trust in relation to a child are each guilty of a felony.

(c) Any person convicted of a felony described in subsection (a) or (b) of this section shall be imprisoned in a state correctional facility for a period of ~~fifteen~~ 15 years to life. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of ~~fifteen~~ 15 years of his or her sentence.

(d) The provisions of this section are not applicable to any parent, guardian or custodian, ~~or other person~~ who, without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply a child under the care, custody or control of ~~such the~~ parent, guardian or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which ~~such the~~ parent, guardian or custodian is an adherent or member. The provisions of this section are not applicable to any health care provider who fails or refuses, or allows another person to fail or refuse, to supply a child with necessary medical care when ~~such the~~ medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the parent, guardian or custodian of the child is an adherent or member, or where such failure or refusal is pursuant to a properly executed do not resuscitate form.

§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall abuse a child and by ~~such the~~ abuse cause such the child bodily injury as ~~such the~~ term is defined in section one, article eight b of this chapter §61-8B-1 of this code, then such parent, guardian or custodian, or person in a position of trust in relation to a child shall be ~~is~~ is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall abuse a child and by ~~such the~~ abuse cause said the child serious bodily injury as ~~such that~~ term is defined in section one, article eight b of this chapter §61-8B-1 of this code, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and committed to the custody of the Division of Corrections not less than two nor more than 10 years.

(c) Any parent, guardian or custodian, or person in a position of trust in relation to a child who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in ~~section one, article eight b of this chapter §61-8B-1 of this code~~, to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian or custodian, or person in a position of trust in relation to a child who has not previously been convicted under this section, ~~section four of this article §61-8D-4 of this code~~, or a law of another state or the federal government with the same essential elements abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in §61-8B-1, to the child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both.

(2) For a second offense under this subsection or for a person with one prior conviction under this section, ~~section four of this article §61-8D-4 of this code~~, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,500 and confined in jail not less than 30 days nor more than one year, or both.

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, ~~section four of this article §61-8D-4 of this code~~, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both.

(e) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by ~~Department of Health and Human Resources, Bureau for Children and Families~~

Department of Human Services through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to ~~article thirteen, chapter fifteen of this code §15-13-1, et seq. of this code;~~ and

(3) Shall not, solely by virtue of the conviction, have ~~their~~ his or her custody, visitation, or parental rights automatically restricted.

(f) Nothing in this section shall preclude a parent, guardian or custodian from providing reasonable discipline to a child.

§61-8D-3a. Female genital mutilation; penalties; definitions.

(a) Except as otherwise provided in subsection (b) of this section, any person who circumcises, excises or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of a female under the age of ~~eighteen~~ 18, or any parent, guardian or custodian, or person in a position of trust in relation to a child, of a female under the age of 18 who allows the circumcision, excision or infibulation, in whole or in part, of ~~such the~~ female's labia majora, labia minora, or clitoris, shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years and fined not less than \$1,000 nor more than \$5,000.

(b) A surgical procedure is not a violation of this section if the procedure:

(1) Is necessary to preserve the health of the child on whom it is performed and is performed by a licensed medical professional authorized to practice medicine in this state; or

(2) The procedure is performed on a child who is in labor or has just given birth and is performed for legitimate medical purposes connected with that labor or birth by a licensed medical professional authorized to practice medicine in this state.

(c) A person's belief that the conduct described in subsection (a) of this section: ~~(i) (1)~~ Is required as a matter of custom, ritual or standard practice; or ~~(ii) (2)~~ was consented to by the female on which the circumcision, excision, or infibulation was performed shall not constitute a defense to criminal prosecution under subsection (a) of this section.

§61-8D-4. Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.

(a) If a parent, guardian or custodian, or person in a position of trust in relation to a child neglects a child and by ~~such the~~ neglect causes the child bodily injury, as bodily injury is defined in ~~section one, article eight b of this chapter §61-8B-1 of this code~~, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 dollars or imprisoned in a state correctional facility for not less than one nor more than three years, or in the discretion of the court, be confined in jail for not more than one year, or both.

(b) If a parent, guardian or custodian, or person in a position of trust in relation to a child neglects a child and by such neglect ~~cause~~ causes the child serious bodily injury, as serious bodily injury is defined in ~~section one, article eight b of this chapter §61-8B-1 of this code~~, then the

parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$300 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than ~~ten~~ 10 years, or both.

(c) If a parent, guardian or custodian, or person in a position of trust in relation to a child grossly neglects a child and by that gross neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in ~~section one, article eight b of this chapter~~ §61-8B-1 of this code, of the child then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian or custodian, or person in a position of trust in relation to a child who has not been previously convicted under this section, ~~section three of this article~~ §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in ~~section one, article eight b of this chapter~~ §61-8B-1 of this code, to the child, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.

(2) For a second offense under this subsection or for a person with one prior conviction under ~~section three of this article~~ §61-8D-3 of this code or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail not less than 30 days nor more than one year, or both.

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, ~~section three of this article~~ §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned.

(e) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian or person in a position of trust in relation to a child is due primarily to a lack of financial means on the part of ~~such~~ the parent, guardian or custodian or person in a position of trust in relation to a child.

(f) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by ~~Department of Health and Human Resources, Bureau for Children and Families~~ Department of Human Services through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to the requirements of ~~article thirteen, chapter fifteen of this code~~ §15-13-1 of this code; and

(3) Shall not, solely by virtue of the conviction, have ~~their~~ his or her custody, visitation or parental rights automatically restricted.

§61-8D-4a. Child neglect resulting in death; criminal penalties.

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall neglect a child under his or her care, custody or control and by such neglect cause the death of said child, then such parent, guardian or custodian, or person in a position of trust in relation to a child shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or committed to the custody of the Division of Corrections for not less than three nor more than 15 years, or both ~~such fine and imprisonment~~ fined and imprisoned.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with ~~such~~ the treatment are permitted to be deducted from taxable income as 'medical expenses' pursuant to regulations or rules promulgated by the United States Internal Revenue Service: Provided, That the provisions of this subsection do not apply to a person in a position of trust in relation to a child who, by virtue of his or her occupation or position, is charged with any duty or responsibility for the health, education, welfare, or supervision of a child.

(c) A child whose parent, guardian or legal custodian, or person in a position of trust in relation to that child has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

And,

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

H. B. 5662 - "A Bill to amend and reenact §61-8D-1, §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4, and §61-8D-4a of the Code of West Virginia, 1931, as amended, all relating to defining terms; providing that a person in position of trust in relation to a child may be held criminally liable for murder of a child by refusal or failure to supply necessities, or by allowing another person to fail or refuse to supply necessities, or the delivery, administration or ingestion of a controlled substance, death of a child by child abuse, child abuse resulting in injury, child abuse creating risk of injury, female genital mutilation, child neglect resulting in injury, child neglect creating risk of injury, child neglect resulting in death; and limiting application of exceptions to criminal penalties in 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. 525**), 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: Bridges, Ellington, E. Pritt, Steele and Young.

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. 5662) passed.

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

Special Calendar

Unfinished Business

Com. Sub. for H. C. R. 57, Resolution demanding Congress call a Convention of States to propose amendments to the Constitution of the United States to create fiscal responsibility by and within the federal government; coming up in regular order, as unfinished business, was reported by the Clerk.

Delegate Hite demanded the previous question, which demand was sustained.

On this question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 526**), and there were-- yeas 81, nays 17, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Anderson, Fluharty, Foster, Garcia, Griffith, Hamilton, Hansen, Hillenbrand, Hornbuckle, Kump, Lewis, Linville, Petitto, Pushkin, Rowe, Statler and Williams.

Absent and Not Voting: Bridges and Young.

So, a majority of the members present having voted in the affirmative, the motion for the previous question was adopted.

On the question of adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 527**), and there were-- yeas 79, nays 18, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Cannon, Criss, Dittman, Griffith, Hamilton, Hansen, Hardy, Hillenbrand, Hornbuckle, Kump, Lewis, C. Pritt, Pushkin, Riley, Rowe, Smith, Westfall and Williams.

Absent and Not Voting: Bridges, Nestor and Young.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution adopted.

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

Third Reading

Com. Sub. for S. B. 2, Authorizing DEP to promulgate rules; on third reading, coming up in regular order, was read a third time.

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and did not excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 528**), and there were--yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hall, Hansen, Longanacre, Pushkin, Williams and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 2) passed.

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

Com. Sub. for S. B. 2 - "A Bill to amend and reenact §64-3-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to alternative emission limitations during startup and shutdown operations; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of particulate matter air pollution from the combustion of fuel in indirect heat exchangers; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from the operation of hot mix asphalt plants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from the operation of coal preparation plants, coal handling operations and coal refuse disposal areas; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from combustion of refuse; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of particulate matter air pollution from manufacturing processes and associated operations; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from the emission of sulfur oxides; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from the emission of volatile organic compounds; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of greenhouse gas emissions from existing coal-fired electric utility generating units; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to administration of Drinking Water Treatment Revolving Fund and safe drinking water set-asides; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to hazardous waste management system; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to underground injection control."

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

On this question, the yeas and nays were taken (**Roll No. 529**), and there were--yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foggin, Gearheart, Hall, Hansen, Longanacre, Pushkin, Worrell and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 2) takes effect from its passage.

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

Com. Sub. for S. B. 36, Authorizing Department of Homeland Security to promulgate legislative rules; 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. 530**), 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: Akers.

Absent and Not Voting: Bridges, Foggin, Hall, Longanacre and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 36) passed.

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

On this question, the yeas and nays were taken (**Roll No. 531**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foggin, Hall and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 36) takes effect from its passage.

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

Com. Sub. for S. B. 50, Authorizing Department of Revenue to promulgate legislative rules; 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. 532**), 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: Coop-Gonzalez and Vance.

Absent and Not Voting: Bridges, Hall, Lewis and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 50) passed.

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

On this question, the yeas and nays were taken (**Roll No. 533**), and there were--yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dillon and Vance.

Absent and Not Voting: Bridges, Hall, Lewis and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 50) takes effect from its passage.

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

Com. Sub. for S. B. 60, Authorizing DOT to promulgate legislative rules; 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. 534**), 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: Bridges, W. Clark, Ferrell, Hall, Kelly, Shamblin, Street and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 60) passed.

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

Com. Sub. for S. B. 60 - "A Bill to amend and reenact §64-8-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain agencies of the Department of Transportation to promulgate legislative rules; authorizing the rules as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to motor vehicle titling; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to dealer licensing; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to handicapped parking permits; authorizing the Division of Highways to promulgate a legislative rule relating to construction and reconstruction of state roads; authorizing the Division of Highways to promulgate a legislative rule relating to traffic and safety rules; and authorizing the Division of Multimodal Transportation Facilities to promulgate a legislative rule relating to valuation of used rolling stock and equipment."

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

On this question, the yeas and nays were taken (**Roll No. 535**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hall, Shamblin, Street and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 60) takes effect from its passage.

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

S. B. 142, Clarifying deadline to file annual report for companies authorized to do business in WV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 536**), 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: Bridges and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 142) passed.

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

S. B. 149, Relating to municipalities required to be represented on county authority boards; 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. 537**), 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: Coop-Gonzalez, Dillon, Foggin, Kimble, Kirby, Longanacre, Nestor, Steele and Ward.

Absent and Not Voting: Bridges and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 149) passed.

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

S. B. 149 - "A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to the composition of county authority boards; removing the requirement that municipalities be represented on county authority boards; removing the requirement that certain board members must be representatives of business, industry, and labor. "

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

On this question, the yeas and nays were taken (**Roll No. 538**), and there were--yeas 92, nays 6, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Kirby, Longanacre, Martin, Steele and Ward.

Absent and Not Voting: Bridges and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 149) takes effect from its passage.

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

S. B. 155, Creating Violent Crime Prevention Act; 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. 539**), 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: Horst, McGeehan, Phillips, Pushkin and Young.

Absent and Not Voting: Bridges and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 155) passed.

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

S. B. 155 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-7-18, relating to the creation of the Violent Crime Prevention Act; and requiring law enforcement to submit ballistics data to the National Integrated Ballistic Information Network for alleged use of firearm in connection with convictions for certain crimes."

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

S. B. 166, Updating contested elections procedures; 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. 540**), 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: Bridges.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 166) passed.

Delegate Householder moved that the bill take effect January 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 541**), 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: Bridges.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 166) takes effect January 1, 2025.

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

S. B. 170, Relating to compensable diseases of certain firefighters covered by workers' compensation; 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. 542**), 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: Bridges.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 170) passed.

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

On this question, the yeas and nays were taken (**Roll No. 543**), 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: Bridges.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 170) takes effect from its passage.

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

S. B. 173, Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegates Pushkin and Lewis moved to amend the bill on pages 20 and 21, Section 8a, by striking out all of subdivision (20) on lines 234 through 266, and insert in lieu thereof, the following:

“(20) Unreasonably restrict a dealer’s ownership of a dealership through noncompetition covenants, site control, sublease, collateral pledge of lease, right of first refusal, option to purchase, or otherwise. A right of first refusal is created when:

(A) A manufacturer has a contractual right of first refusal to acquire the new motor vehicle dealer’s assets where the dealer owner receives consideration, terms and conditions that are either the same as or better than those they have already contracted to receive under the proposed change of more than 50 percent of the dealer’s ownership: Provided, That the manufacturer’s right of first refusal can be exercised for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose;

(B) The proposed change of the dealership’s ownership or the transfer of the new vehicle dealer’s assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one of the dealer’s owners to one of the following:

(i) A designated family member of one or more of the dealer owners;

(ii) A manager employed by the dealer in the dealership during the previous five years and who is otherwise qualified as a dealer operator;

(iii) A partnership or corporation controlled by a designated family member of one of the dealers; or

(iv) A trust established or to be established for the purpose of allowing the new vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards, or to provide for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or its principle owner or owners;

(C) Upon exercising the right of first refusal by a manufacturer, it eliminates any requirement under its dealer agreement or other applicable provision of this statute that the manufacturer evaluate, process, or respond to the underlying proposed transfer by approving or rejecting the proposal, is not subject to challenge as a rejection or denial of the proposed transfer by any party;

(D) Except as otherwise provided in this section, the manufacturer or distributor agrees to pay the reasonable expenses, including reasonable out-of-pocket professional fees which shall include, but not be limited to, accounting, legal, or appraisal services fees that are incurred by the proposed owner or transferee before the manufacturer's or distributor's exercise of its right of first refusal. Payment of the expenses and fees for professional services are not required if the dealer fails to submit an accounting of those expenses and fees within 20 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such a written account of fees and expenses may be requested by a manufacturer or distributor before exercising its right of first refusal;"

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. 544**), and there were-- yeas 11, nays 86, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Williams and Young.

Absent and Not Voting: Bridges, Jennings and Vance.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The bill was read a third time.

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and did not excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 545**), and there were-- yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Vance, Williams, Winzenreid and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 173) passed.

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

Com. Sub. for S. B. 261, WV Veterans' Home Loan Mortgage Program of 2024; 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. 546**), 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: Hornbuckle and Young.

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

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

Com. Sub. for S.B. 261 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-18F-1, §31-18F-2, §31-18F-3, §31-18F-4, §31-18F-5, and §31-18F-6; and to amend and reenact §36-8-13 of said code, all relating generally to creating the West Virginia Veterans' Home Loan Mortgage Program of 2024; establishing a fund known as the West Virginia Veterans' Home Loan Mortgage Fund; declaring the purpose of the fund; providing that the West Virginia Housing Development Fund shall administer the fund; setting forth terms of the program; authorizing the West Virginia Housing Development Fund to make certain mortgage loans from the fund; authorizing rulemaking; and authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the fund."

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

S. B. 262, Clarifying procedure for administrative dissolution of corporations by Secretary of State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 547**), 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: Hornbuckle.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 262) passed.

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

S. B. 378, Prohibiting smoking in vehicle when minor 16 or under is present; 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. 548**), and there were--yeas 66, nays 33, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Bridges, Brooks, Butler, W. Clark, Coop-Gonzalez, Crouse, Dean, Dittman, Foggin, Foster, Gearheart, Hardy, Hornby, Horst, Householder, Jennings, Kelly, Kimble, Kirby, Lucas, McGeehan, Phillips, C. Pritt, Ridenour, Steele, Street, Summers, Thorne, Vance, Ward, Willis and Winzenreid.

Absent and Not Voting: Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 378) passed.

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

S. B. 430, WV Rent-to-Own Act; 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. 549**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 430) passed.

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

On this question, the yeas and nays were taken (**Roll No. 550**), 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: Pushkin and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 430) takes effect from its passage.

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

Com. Sub. for S. B. 445, Reducing certification periods and renewal fees for EMS personnel; 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. 551**), 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: Pushkin and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 445) passed.

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

On this question, the yeas and nays were taken (**Roll No. 552**), 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: Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 445) takes effect from its passage.

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

S. B. 530, Removing requirement for counties to draft and adopt zoning ordinances; 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. 553**), and there were--yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Miller and Ross.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 530) passed.

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

Com. Sub. for S. B. 542, Amending procedure for filling vacancies in certain county offices having more than three commissioners; 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. 554**), and there were--yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Dillon.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 542) passed.

An amendment to the title of the bill, recommended by the Committee on the Judiciary, was reported by the Clerk.

Whereupon,

Delegate Fast asked and obtained unanimous consent to withdraw the amendment.

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

Com. Sub. for S.B. 542 - "A Bill to amend and reenact §3-10-7 of the Code of West Virginia, 1931, as amended, relating to amending procedure for filling vacancy in offices of county clerk, county commissioner, or county councilor; providing guidance for filling such vacancies by appointment; providing procedure to follow in commissions or councils having three commissioners or councilors if the county commission or council fails to make the appointment within the specified time; providing procedure to follow in commissions or councils having more than three commissioners or councilors if the county commission or council fails to make the appointment within the specified time; and, clarifying that political party committee naming persons to fill a vacancy is the party from which the vacating person was elected."

Delegate Householder moved that the bill take effect January 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 555**), and there were--yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Dillon, Foster and Howell.

Absent and Not Voting: Hite and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 542) takes effect January 1, 2025.

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

Com. Sub. for S. B. 557, Relating to compensation for firefighters required to work holidays; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was moved to the foot of bills on third reading.

Com. Sub. for S. B. 587, Enabling State Fire Commission to propose legislative rules; on third reading, coming up in regular order, was reported by the Clerk.

Whereupon,

Delegate Householder, asked and obtained unanimous consent to postpone the bill one day.

S. B. 610, Clarifying authority of Water Development Authority in certain circumstances; 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. 556**), and there were--yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Hite, Linville and Willis.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 610) passed.

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

On this question, the yeas and nays were taken (**Roll No. 557**), 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: Hite, Linville and Willis.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 610) takes effect from its passage.

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

Com. Sub. for S. B. 632, Relating to Dangerousness Assessment Advisory Board multi-disciplinary study group; 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. 558**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 632) passed.

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

On this question, the yeas and nays were taken (**Roll No. 559**), 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: Longanacre and Summers.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 632) takes effect from its passage.

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

S. B. 643, Supplementing and amending appropriations to Department of Education, School Building Authority; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 560**), 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: Adkins, Dillon, Garcia, Griffith, Hamilton, Hansen, Lewis, E. Pritt, Pushkin, Stephens, Williams and Young.

Absent and Not Voting: Longanacre and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 643) passed.

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

On this question, the yeas and nays were taken (**Roll No. 561**), 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: Dillon, Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, E. Pritt, Pushkin, Williams and Young.

Absent and Not Voting: Longanacre and Summers.

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

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

Com. Sub. for S. B. 649, Clarifying per diem compensation for certain judges recalled to service; on third reading, coming up in regular order, was read a third time.

Delegates Fast, Nestor and Kirby requested to be excused from voting 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 did not excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 562**), and there were--yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Ridenour.

Absent and Not Voting: Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 649) passed.

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

Com. Sub. for S. B. 652, Supplementing and amending appropriations to DHHR, Health Facilities; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 563**), and there were--yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Longanacre and 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 S. B. 652) passed.

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

On this question, the yeas and nays were taken (**Roll No. 564**), 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: Longanacre and Smith.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 652) takes effect from its passage.

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

S. B. 661, Expiring funds from Lottery Net Profits to General Revenue Surplus; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 565**), and there were--yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Longanacre and Smith.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 661) passed.

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

On this question, the yeas and nays were taken (**Roll No. 566**), 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: Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 661) takes effect from its passage.

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

S. B. 663, Supplementing and amending appropriations to Division of Administrative Services, Criminal Justice Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 567**), and there were--yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Street.

Absent and Not Voting: Longanacre.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 663) passed.

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

On this question, the yeas and nays were taken (**Roll No. 568**), 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: Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 663) takes effect from its passage.

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

S. B. 687, Clarifying Legislative Auditor's scope of authority; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk.

Whereupon,

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

An amendment offered by Delegates Phillips and Burkhammer, was reported by the Clerk, on page 1 by striking out the current article 2 heading and inserting in lieu thereof a new article 2 heading, to read as follows:

"ARTICLE 2. LEGISLATIVE AUDITOR; POWERS; FUNCTIONS; ~~DUTIES~~; COMPENSATION."

On page 2, section 4-2-4, line 1, by striking out the entire section and inserting in lieu thereof a new section 4-2-4, to read as follows:

"§4-2-4. Duties-Powers of Auditor; filing reports.

(a) ~~It is the duty of the~~ The Legislative Auditor shall have the following powers, which he or she may exercise as directed by the President of the Senate or the Speaker of the House of Delegates:

(1) ~~to~~ To compile fiscal information for the Senate and the House of Delegates;

(2) ~~to~~ To make ~~a continuous~~ an audit and analysis of the state budget, revenues, and expenditures during and between sessions of the Legislature;

(3) ~~to~~ To make post audits of the revenues and expenditures of the spending units of the state government; ~~at least once every two years, if practicable~~

(4) ~~to~~ To report any misapplication of state funds or erroneous, extravagant, or unlawful expenditures by any spending unit; and

(5) ~~to~~ To ascertain facts and ~~to~~ make recommendations to the Legislature concerning post-audit findings, the revenues and expenditures of the state, and of the organization and functions of the state and its spending units.

(b) In the exercise of these powers, as directed by the President of the Senate or the Speaker of the House of Delegates, the Legislative Auditor shall have the authority, by such means as are necessary, to require any person holding office in the state government or employed by the state to allow the Legislative Auditor to inspect the properties, equipment, facilities, and records of the various spending units, either before or after estimates are submitted, and before, during, and after sessions of the Legislature. Refusal by any person or the state government entity to allow such inspection shall be reported by the Legislative Auditor to the committee, the President of the Senate, or the Speaker of the House of Delegates.

~~(b)(c)~~ The Legislative Auditor may collect, and the ~~department, agency or board~~ spending unit shall pay, any or all of the costs associated with conducting the post audits from the ~~department, agency or board spending unit~~ being audited, when necessary and desirable. The Legislative Auditor shall render to the ~~department, agency or board~~ spending unit liable for the costs a statement of the costs as soon after the costs were incurred as practicable, and it is the duty of the ~~department, agency or board~~ spending unit to pay promptly in the manner that other claims and accounts are paid. All money received by the Legislative Auditor from this source shall be expended only for the purpose of covering the costs associated with such services, unless otherwise directed by the Legislature.

~~(c) A copy of each report of audit when completed and certified shall be filed in the office of the Department of Finance and Administration as a public record and a copy shall be filed with the Attorney General for any action he or she may consider necessary.~~

(d) Upon completion of a post audit, the Legislative Auditor shall report his or her findings and recommendations to the Legislature's Post Audit Subcommittee and, after presentation, publish the report on the Post Audit Division website.

(e) The Legislative Auditor shall conduct all examinations and audits and may not use external auditing firms or entities to conduct them except as otherwise directed by the President of the Senate or the Speaker of the House of Delegates."

On page 5, section 4-10-3, line 7, after the word "Senate" by striking out the remainder of the sentence and inserting in lieu thereof the following words ", the Speaker of the House of Delegates, or by recommendation of the joint standing committee pursuant to the provisions of this article."

On page 8, section 4-10-7, line 4, after the word "Senate" by striking out the remainder of the sentence and inserting in lieu thereof the following words ", the Speaker of the House of Delegates, or by recommendation of the joint standing committee."

And,

On page 11, section 4-10-10, line 26, after the word "Senate" by striking out the remainder of the sentence and inserting in lieu thereof the following words ", the Speaker of the House of Delegates, or by recommendation of the joint standing committee."

An amendment to the amendment sponsored by Delegate Pushkin, was reported by the Clerk, and at his request the following amendment was considered first.

Delegate Young moved to amend the amendment on page 2, Section 4, line 42 by striking out the words "after presentation,"

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. 569**), and there were-- yeas 47, nays 50, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Akers, Anderson, Barnhart, Brooks, Butler, T. Clark, Coop-Gonzalez, Dean, Devault, Dillon, Dittman, Fast, Fehrenbacher, Ferrell, Fluharty, Foggin, Forsht, Foster, Garcia, Green, Griffith, Hamilton, Hansen, Heckert, Holstein, Hornbuckle, Householder, Kirby, Lewis, Linville, Longanacre, Martin, Petitto, Pinson, E. Pritt, Pushkin, Ridenour, Riley, Ross, Rowe, Stephens, Warner, Williams, Winzenreid, Young and Zatezalo.

Absent and Not Voting: Bridges, Kump and C. Pritt.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The amendment to the amendment offered by Delegate Pushkin was then considered, on page 1, Section 4, line 9, following the word "Senate" by striking out the word "or" and inserting in lieu thereof a comma, and on page 1, Section 4, line 10, following the word "Delegates" by inserting the following: "and the Minority Leader of each House".

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. 570**), and there were-- yeas 15, nays 82, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Coop-Gonzalez, Dean, Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Kirby, Lewis, Longanacre, Pushkin, Rowe, Williams and Young.

Absent and Not Voting: Bridges, Kump and C. Pritt.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The amendment offered by Delegates Phillips and Burkhammer was then adopted.

Delegate Pushkin moved to amend the bill on page 9, Section 9, lines 3-5 by restoring the following stricken language to the bill "in accordance with generally accepted government auditing standards (GAGAS) as promulgated by the U.S. Government Accountability Office,"

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. 571**), and there were-- yeas 35, nays 61, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Akers, Brooks, Butler, Coop-Gonzalez, Criss, Dillon, Fast, Fehrenbacher, Ferrell, Fluharty, Forsht, Foster, Garcia, Griffith, Hamilton, Hansen, Heckert, Hillenbrand, Hite, Holstein, Hornbuckle, Householder, Kirby, Lewis, Linville, Longanacre, Petitto, E. Pritt, Pushkin, Ridenour, Rowe, Williams, Winzenreid and Young.

Absent and Not Voting: Bridges, Foggin, Kump and C. Pritt.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 572**), and there were--yeas 56, nays 41, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Akers, Brooks, Butler, T. Clark, W. Clark, Coop-Gonzalez, Dean, Dillon, Dittman, Fast, Ferrell, Fluharty, Foggin, Forsht, Foster, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Horst, Householder, Howell, Kimble, Kirby, Lewis, Linville, Longanacre, Petitto, E. Pritt, Pushkin, Ridenour, Ross, Rowe, Thorne, Toney, Vance, Ward, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Kump and C. Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 687) passed.

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

On this question, the yeas and nays were taken (**Roll No. 573**), and there were--yeas 62, nays 35, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Akers, Brooks, Butler, T. Clark, W. Clark, Coop-Gonzalez, Dean, Dillon, Ferrell, Fluharty, Foster, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Horst, Howell, Kimble, Kirby, Lewis, Linville, Longanacre, Martin, E. Pritt, Pushkin, Ridenour, Ross, Rowe, Thorne, Vance, Ward, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Kump and C. Pritt.

So, two thirds of the members elected to the House of Delegates not having 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.

Com. Sub. for S. B. 690, Establishing WV Agritourism Commission; 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. 574**), and there were--yeas 81, nays 14, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, T. Clark, Coop-Gonzalez, Dillon, Fast, Foggin, Gearheart, Kirby, Longanacre, Martin, Miller, Thorne and Ward.

Absent and Not Voting: Bridges, Fehrenbacher, Kump, E. Pritt and Ridenour.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 690) passed.

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

Com. Sub. for S. B. 695, Supplementing and amending appropriations to Energy Assistance, TANF, and Child Care and Development; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 575**), and there were--yeas 92, nays 2, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez and Dillon.

Absent and Not Voting: Bridges, Fehrenbacher, Kump, Linville, Ridenour and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 695) passed.

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

On this question, the yeas and nays were taken (**Roll No. 576**), 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: Bridges, Fehrenbacher, Hornby, Kump and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 695) takes effect from its passage.

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

S. B. 697, Supplementing and amending appropriations to DHHR, Consolidated Medical Service Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 577**), 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: Coop-Gonzalez and Dillon.

Absent and Not Voting: Bridges, Hornby, Kump and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 697) passed.

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

On this question, the yeas and nays were taken (**Roll No. 578**), 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, Hornby, Kump and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 697) takes effect from its passage.

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

S. B. 698, Supplementing and amending appropriations to DHHR, Division of Human Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 579**), 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: Coop-Gonzalez, Dillon, Longanacre and Ward.

Absent and Not Voting: Bridges, Kump and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 698) passed.

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

On this question, the yeas and nays were taken (**Roll No. 580**), and there were--yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez and Longanacre.

Absent and Not Voting: Bridges, Kump and Linville.

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

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

S. B. 699, Supplementing and amending appropriations to DHHR, Child Support Enforcement Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 581**), 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, Kump and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 699) passed.

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

On this question, the yeas and nays were taken (**Roll No. 582**), 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, Kump, Linville and Smith.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 699) takes effect from its passage.

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

S. B. 702, Supplementing and amending appropriations to DHHR, Laboratory Services Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 583**), 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, Kump, Linville and Smith.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 702) passed.

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

On this question, the yeas and nays were taken (**Roll No. 584**), 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, Kump, Linville and Smith.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 702) takes effect from its passage.

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

S. B. 704, Supplementing and amending appropriations to PSC, Motor Carrier Division; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 585**), 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: Longanacre.

Absent and Not Voting: Bridges, Hite, Kump, Linville and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 704) passed.

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

On this question, the yeas and nays were taken (**Roll No. 586**), 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: Bridges, Garcia, Hite, Kump and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 704) takes effect from its passage.

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

S. B. 705, Supplementing and amending appropriations to PSC; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 587**), 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, Garcia, Kump and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 705) passed.

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

On this question, the yeas and nays were taken (**Roll No. 588**), and there were--yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Forsht.

Absent and Not Voting: Bridges, Foggin, Garcia, Kirby, Kump and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 705) takes effect from its passage.

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

S. B. 732, Requiring cooperation between law-enforcement agencies and military authorities; 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. 589**), 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: Bridges, Foggin, Kirby, Kump and Linville.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 732) passed.

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

Com. Sub. for S. B. 786, Relating to massage therapy establishments; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 590**), 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, Kump and Linville.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 786) passed.

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

Com. Sub. for S. B. 826, Creating exemption from bond or security requirement of banking institutions holding certain funds for county commissions; on third reading, coming up in regular order, was read a third time.

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and did not excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 591**), 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, Kelly and Kump.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 826) passed.

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

S. B. 868, Supplementary appropriation to Department of Commerce, Geological and Economic Survey; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 592**), and there were--yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Foster and Kirby.

Absent and Not Voting: Bridges, Chiarelli and Kump.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 868) passed.

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

On this question, the yeas and nays were taken (**Roll No. 592**), and there were--yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Foster and Kirby.

Absent and Not Voting: Bridges, Chiarelli and Kump.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 868) takes effect from its passage.

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

S. B. 871, Supplementary appropriation to Department of Veterans' Assistance, Veterans' Facilities; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 594**), 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, Chiarelli, Griffith and Kump.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 871) passed.

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

On this question, the yeas and nays were taken (**Roll No. 595**), 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, Chiarelli, Griffith and Kump.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 871) takes effect from its passage.

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

S. B. 876, Supplementing and amending appropriations to Department of Health and Human Resources, Health Facilities; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 596**), and there were--yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Bridges and Kump.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 876) passed.

Delegate Householder 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Bridges and Kump.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 876) takes effect from its passage.

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

S. B. 877, Supplementing and amending appropriations to Higher Education Policy Commission; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 598**), and there were--yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Dillon and Longanacre.

Absent and Not Voting: Bridges and Kump.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 877) passed.

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

On this question, the yeas and nays were taken (**Roll No. 599**), 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: Bridges and Kump.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 877) takes effect from its passage.

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

Com. Sub. for S. B. 557, Relating to compensation for firefighters required to work holidays; on third reading, having been moved to the foot of third reading, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 600**), and there were--yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Foster.

Absent and Not Voting: Bridges and Kump.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 557) passed.

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

At 3:08 p.m., on motion of Delegate Householder, the House of Delegates recessed until 3:30 p.m.

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Afternoon Session

* * * * *

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

S. B. 219, Relating to Uniform Controlled Substances Act.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Weld, Deeds and Woelfel.

Special Calendar

-continued-

Second Reading

S. J. R. 10, Homestead Exemption for Disabled Veterans Amendment; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 1, following the resolving clause, by striking the remainder of the joint resolution and inserting in lieu thereof the following:

“That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2024, which proposed amendment is that article X thereof, be amended by adding thereto a new section, designated section thirteen, to read as follows:

ARTICLE X. TAXATION AND FINANCE.

§13. Homestead exemption for disabled veterans amendment.

Notwithstanding any other provisions of this Constitution to the contrary, any real property, or personal property in the form of a mobile home, used exclusively for residential purposes and occupied by the owner, or one of the owners thereof, as his or her residence who is a citizen of this state and a veteran of the armed forces of the United States of America and who has a 90 percent or greater service-connected disability as determined by the United States Department of Veterans Affairs or its successor, is exempt from ad valorem property taxation, subject to any requirements, limitations and conditions as may be prescribed by general law: *Provided*, That in no event shall any one person or his or her spouse, or one homestead be entitled to more than one exemption under these provisions.

Resolved further, That in accordance with the provisions of article eleven, chapter 3 of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered "Amendment 1" and designated as the "Homestead Exemption for Disabled Veterans Amendment" and the purpose of the proposed amendment is summarized as follows: "To provide for a homestead exemption for veterans with at least 90 percent service-connected disabilities."

The resolution was ordered to third reading.

Com. Sub. for S. B. 152, Displaying official US motto in public schools; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page 1, after the enacting clause by striking out the remainder of the recommitted committee substitute and inserting, in lieu thereof, the following:

“§18-5G-3. Public charter school criteria, governance structure and statutory compliance requirements; applicable federal and state laws.

(a) Public charter schools authorized pursuant to this article shall meet the following general criteria:

(1) Are part of the state's system of public schools and are subject to general supervision by the West Virginia Board of Education for meeting the student performance standards required of other public school students under §18-2E-5(d) and (e) of this code;

(2) Are subject to the oversight of the school's authorizer for operating in accordance with its approved charter contract and for meeting the terms and performance standards established in the charter contract;

(3) Are not home school-based;

(4) Are not affiliated with or espouse any specific religious denomination, organization, sect, or belief and do not promote or engage in any religious practices in their educational program, admissions, employment policies, or operations;

(5) Are not affiliated with any organized group whose espoused beliefs attack or malign an entire class of people, typically for immutable characteristics, as identified through listings of such groups as may be made by the U. S. Department of Justice, the Federal Bureau of Investigation, or officials having similar jurisdiction in this state;

(6) Are public schools to which parents or legal guardians choose to send their child or children;

(7) Do not charge tuition and may only charge such fees as may be imposed by noncharter public schools in this state; and

(8) Have no requirements that would exclude any child from enrollment who would not be excluded at a noncharter public school.

(b) A public charter school authorized pursuant to this article shall be governed by a board that meets the requirements established in §18-5G-7 of this code and:

(1) Has autonomy over key decisions, including, but not limited to, decisions concerning finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

(2) Has no power to levy taxes;

(3) Operates in pursuit of a specific set of educational objectives as defined in its charter contract;

(4) Provides a program of public education that:

(A) Includes one or more of the following: Prekindergarten and any grade or grades from kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit, advanced placement, internship, and industry or workforce credential programs that the public charter school chooses to incorporate into its programs;

(B) May include in its mission a specific focus on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system; and

(C) May include a specific academic approach or theme including, but not limited to, approaches or themes such as STEM education, mastery-based education, early college, or fine and performing arts;

(5) Provides programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, regulations, rules and policies. A charter school shall deliver the services directly or contract with a county board or another provider to deliver the services as set forth in its charter contract;

(6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools;

(7) Employs its own personnel as employees of the public charter school and is ultimately responsible for processing employee paychecks, managing its employees' participation in the applicable retirement system, and managing its employees' participation in insurance plans: *Provided*, That nothing in this subdivision prohibits the public charter school from contracting with another person or entity to perform services relating to managing its employees' participation in the retirement system or insurance plan. A county board may not require any employee of its school system to be employed in a public charter school. A county board may not

harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system employee involved directly or indirectly with an application to establish a public charter school as authorized under this section. All personnel in a public charter school who were previously employed by the county board shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools; and

(8) Is responsible for establishing a staffing plan that includes the requisite qualifications and any associated certification and/or licensure necessary for teachers and other instructional staff to be employed at the public charter school and for verifying that these requirements are met.

(c) A public charter school authorized pursuant to this article is exempt from all statutes and rules applicable to a noncharter public school or board of education except the following:

(1) All federal laws and authorities applicable to noncharter public schools in this state including, but not limited to, the same federal nutrition standards, the same civil rights, disability rights and health, life and safety requirements applicable to noncharter public schools in this state;

(2) The provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings;

(3) The same immunization requirements applicable to noncharter public schools;

(4) The same compulsory school attendance requirements applicable to noncharter public schools;

(5) The same minimum number of days or an equivalent amount of instructional time per year as required of noncharter public school students under §18-5-45 of this code;

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements;

(7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-2-5h of this code;

(8) Use of the electronic education information system established by the West Virginia Department of Education for the purpose of reporting required information;

(9) Reporting information on student and school performance to parents, policy-makers, and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education. Nothing precludes a public charter school from utilizing additional measures for reporting information on student and school performance that go beyond state requirements;

(10) All applicable accounting and financial reporting requirements as prescribed for public schools, including adherence to generally accepted accounting principles. A public charter school shall annually engage an external auditor to perform an independent audit of the school's finances. The public charter school shall submit the audit to its authorizer and to the state

superintendent of schools within nine months of the end of the fiscal year for which the audit is performed;

(11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that would be required if the person was employed in a noncharter public school, unless a criminal history check has already been completed for that staff person pursuant to that section. Governing board members and other public charter school personnel are subject to criminal history record checks and fingerprinting requirements applicable to noncharter public schools in this state. Contractors and service providers or their employees are prohibited from making direct, unaccompanied contact with students and from access to school grounds unaccompanied when students are present if it cannot be verified that the contractors, service providers or employees have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

(12) The same zoning rules for its facilities that apply to noncharter public schools in this state;

(13) The same building codes, regulations and fees for its facilities that apply to noncharter public schools in this state, including any inspections required for noncharter public schools under this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate of occupancy for any facility used by the public charter school; ~~and~~

(14) The same student transportation safety laws applicable to public schools when transportation is provided; and

(15) The display of national motto requirements pursuant to §18-9H-1 of this code.

ARTICLE 9H. DISPLAY OF NATIONAL MOTTO.

§18-9H-1. Display of the National Motto in public schools.

(a) A public elementary or secondary school shall display in a conspicuous place in the main building of the school, and may display in other buildings of the school, a durable poster or framed copy of the United States national motto, "In God We Trust": *Provided*, That the poster or framed copy of the national motto described in this section shall contain a representation of the United States flag centered under the national motto and may not depict any words, images, or other information.

(b) A public elementary or secondary school may accept and use private donations for the purposes of meeting the provisions of subsection (a) of this section.

ARTICLE 14. MISCELLANEOUS.

§18B-14-12. Display of the National Motto in institutions of higher education

(a) A state institution of higher education, as defined by §18B-1-2 of this code, shall display in a conspicuous place in the main building of the institution of higher education, and may display in other buildings of the institution of higher education, a durable poster or framed copy of the United States national motto, "In God We Trust": *Provided*, That the poster or framed copy of the national motto described in this section shall contain a representation of the United States flag centered under the national motto and may not depict any words, images, or other information.

(b) An institution of higher education may accept and use private donations for the purposes of meeting the provisions of subsection (a) of this section.

On motion of Delegate Foster, the committee amendment was amended on page 6, section 1, line 4, after the word "section" by inserting the words "is a minimum of 8.5 by 11 inches, and"

And,

On page 6, section 12, line 5, after the words, "section" by inserting the words "is a minimum of 8.5 by 11 inches, and"

Delegate Williams moved to amend the committee amendment on page 1, line 1, following the enacting clause, by striking out the amendment in its entirety and inserting in lieu thereof, the following:

"§18-5G-3. Public charter school criteria, governance structure and statutory compliance requirements; applicable federal and state laws.

(a) Public charter schools authorized pursuant to this article shall meet the following general criteria:

(1) Are part of the state's system of public schools and are subject to general supervision by the West Virginia Board of Education for meeting the student performance standards required of other public school students under §18-2E-5(d) and (e) of this code;

(2) Are subject to the oversight of the school's authorizer for operating in accordance with its approved charter contract and for meeting the terms and performance standards established in the charter contract;

(3) Are not home school-based;

(4) Are not affiliated with or espouse any specific religious denomination, organization, sect, or belief and do not promote or engage in any religious practices in their educational program, admissions, employment policies, or operations;

(5) Are not affiliated with any organized group whose espoused beliefs attack or malign an entire class of people, typically for immutable characteristics, as identified through listings of such groups as may be made by the U. S. Department of Justice, the Federal Bureau of Investigation, or officials having similar jurisdiction in this state;

(6) Are public schools to which parents or legal guardians choose to send their child or children;

(7) Do not charge tuition and may only charge such fees as may be imposed by noncharter public schools in this state; and

(8) Have no requirements that would exclude any child from enrollment who would not be excluded at a noncharter public school.

(b) A public charter school authorized pursuant to this article shall be governed by a board that meets the requirements established in §18-5G-7 of this code and:

(1) Has autonomy over key decisions, including, but not limited to, decisions concerning finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

(2) Has no power to levy taxes;

(3) Operates in pursuit of a specific set of educational objectives as defined in its charter contract;

(4) Provides a program of public education that:

(A) Includes one or more of the following: Prekindergarten and any grade or grades from kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit, advanced placement, internship, and industry or workforce credential programs that the public charter school chooses to incorporate into its programs;

(B) May include in its mission a specific focus on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system; and

(C) May include a specific academic approach or theme including, but not limited to, approaches or themes such as STEM education, mastery-based education, early college, or fine and performing arts;

(5) Provides programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, regulations, rules and policies. A charter school shall deliver the services directly or contract with a county board or another provider to deliver the services as set forth in its charter contract;

(6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools;

(7) Employs its own personnel as employees of the public charter school and is ultimately responsible for processing employee paychecks, managing its employees' participation in the applicable retirement system, and managing its employees' participation in insurance plans: *Provided*, That nothing in this subdivision prohibits the public charter school from contracting with another person or entity to perform services relating to managing its employees' participation in the retirement system or insurance plan. A county board may not require any employee of its school system to be employed in a public charter school. A county board may not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system employee involved directly or indirectly with an application to establish a public charter school as authorized under this section. All personnel in a public charter school who were previously employed by the county board shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools; and

(8) Is responsible for establishing a staffing plan that includes the requisite qualifications and any associated certification and/or licensure necessary for teachers and other instructional staff to be employed at the public charter school and for verifying that these requirements are met.

(c) A public charter school authorized pursuant to this article is exempt from all statutes and rules applicable to a noncharter public school or board of education except the following:

(1) All federal laws and authorities applicable to noncharter public schools in this state including, but not limited to, the same federal nutrition standards, the same civil rights, disability rights and health, life and safety requirements applicable to noncharter public schools in this state;

(2) The provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings;

(3) The same immunization requirements applicable to noncharter public schools;

(4) The same compulsory school attendance requirements applicable to noncharter public schools;

(5) The same minimum number of days or an equivalent amount of instructional time per year as required of noncharter public school students under §18-5-45 of this code;

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements;

(7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-2-5h of this code;

(8) Use of the electronic education information system established by the West Virginia Department of Education for the purpose of reporting required information;

(9) Reporting information on student and school performance to parents, policy-makers, and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education. Nothing precludes a public charter school from utilizing additional measures for reporting information on student and school performance that go beyond state requirements;

(10) All applicable accounting and financial reporting requirements as prescribed for public schools, including adherence to generally accepted accounting principles. A public charter school shall annually engage an external auditor to perform an independent audit of the school's finances. The public charter school shall submit the audit to its authorizer and to the state superintendent of schools within nine months of the end of the fiscal year for which the audit is performed;

(11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that would be required if the person was employed in a noncharter public school, unless a criminal history check has already been completed for that staff person pursuant to that section. Governing board members and other public charter school personnel are subject to criminal history record checks and fingerprinting requirements applicable to noncharter public schools in this state. Contractors and service providers or their employees are prohibited from making direct, unaccompanied contact with students and from access to school grounds unaccompanied when students are

present if it cannot be verified that the contractors, service providers or employees have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

(12) The same zoning rules for its facilities that apply to noncharter public schools in this state;

(13) The same building codes, regulations and fees for its facilities that apply to noncharter public schools in this state, including any inspections required for noncharter public schools under this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate of occupancy for any facility used by the public charter school; ~~and~~

(14) The same student transportation safety laws applicable to public schools when transportation is provided; and

(15) The display of motto requirements pursuant to §18-9H-1 of this code.

ARTICLE 9H. DISPLAY OF MOTTO.

§18-9H-1. Display of Motto in public schools.

(a) A public elementary or secondary school shall display in a conspicuous place in the main building of the school, and may display in other buildings of the school, a durable poster or framed copy of the United States national motto, "In God We Trust" and the West Virginia state motto, "Montani Semper Liberi": *Provided*, That the poster or framed copy of the national and state motto described in this section shall contain a representation of the United States flag centered under the national motto and a representation of the West Virginia state flag center under the state motto and may not depict any words, images, or other information.

(b) A public elementary or secondary school may accept and use private donations for the purposes of meeting the provisions of subsection (a) of this section.

ARTICLE 14. MISCELLANEOUS.

§18B-14-12. Display of Motto in institutions of higher education

(a) A state institution of higher education, as defined by §18B-1-2 of this code, shall display in a conspicuous place in the main building of the institution of higher education, and may display in other buildings of the institution of higher education, a durable poster or framed copy of the United States national motto, "In God We Trust" and the West Virginia state motto, "Montani Semper Liberi": *Provided*, That the poster or framed copy of the national and state motto described in this section shall contain a representation of the United States flag centered under the national motto and a representation of the West Virginia state flag center under the state motto and may not depict any words, images, or other information.

(b) An institution of higher education may accept and use private donations for the purposes of meeting the provisions of subsection (a) of this section."

Delegate Summers arose to inquire regarding the germaneness of the amendment offered by Delegate Williams.

The Speaker ruled that the amendment was germane.

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. 601**), and there were-- yeas 23, nays 68, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Campbell, Fluharty, Griffith, Hall, Hamilton, Hansen, Hornbuckle, Kirby, Lewis, Pushkin, Riley, Rowe, Shamblyn, Statler, Summers, Tully, Vance, Williams, Willis, Winzenreid, Young and Zatezalo.

Absent and Not Voting: Bridges, Foggin, Garcia, Gearheart, Hott, Kump, Nestor, C. Pritt and Steele.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

S. B. 159, Prohibiting persons convicted of certain crimes against minors from holding positions on boards of education; on second reading, coming up in regular order, was read a second time.

Delegate Hansen moved to amend the bill on page 3, Section 7, line 48, by inserting a new subsection (9) to read as follows:

"(9) For candidates for sheriff or prosecutor, a statement that the candidate discloses any prior criminal history record, regarding arrest, prosecution or conviction in this or any other jurisdiction.;

And, renumbering the following subsections accordingly.

Delegate Hansen asked unanimous consent to reform his amendment, objection being heard.

Delegate Hansen then moved to amend his amendment on line 2 by striking out the words "arrest, prosecution or" and inserting in lieu thereof "any felony".

On the question of adoption of the amendment to the amendment, the same was put and rejected.

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. 602**), and there were-- yeas 13, nays 79, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Akers, Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Kirby, Lewis, Petitto, Williams, Winzenreid and Young.

Absent and Not Voting: Bridges, Foggin, Gearheart, Hott, Kump, C. Pritt, Ross and Steele.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 190, Modifying definition of sexual contact; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 217, Authorizing state and subdivisions to negotiate price for construction when all bids received exceed maximum budget; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Government Organization was adopted, on page 1 by striking out everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.

§5-22-4. Negotiation when all bids exceed budgeted amount.

(a) The state and its subdivisions may establish a maximum budgeted amount for each construction project. In the event the bids for a construction project exceed the funds available, the contracting public agency may negotiate with the lowest qualified responsible bidder pursuant to the provisions of this section.

(b) To utilize the provisions of this section, the contracting public agency shall:

(1) establish a maximum budgeted amount;

(2) maintain confidentiality of the maximum budgeted amount prior to the award of a contract;
and

(3) not proceed with a negotiated award if that results in more than a ten percent change in scope or cost from the original base bid.

(c) A negotiated award made pursuant to the provisions of this section shall be made within 30 calendar days of the original bid opening date.

(d) Negotiations under this section shall be completed in the following manner:

(1) If only one responsive and responsible bidder responds to a solicitation the contracting agency may negotiate an award based solely on the specifications contained within the original solicitation;

(2) If more than one bidder responds to a solicitation, the contracting public agency may negotiate with the apparent lowest qualified responsible bidder, as defined in §5-22-1 of this code:

Provided, any such negotiation must be based on the scope and specifications contained within the original solicitation;

(3) The contracting public agency shall make available for public inspection all negotiated contracts; and

(4) The contracting public agency shall memorialize any change to the original project specifications that occur as a result of a negotiated award made pursuant to the provisions of this section.

(e) The provisions of this section are permissive and not mandatory for any contracting public agency.

(f) An award of a negotiated contract pursuant to the provisions of this section may not be made to a bidder who fails to meet the other qualifications set forth in this article.

(g) For the purposes of this section, "construction project" does not mean the construction of a road, bridge, or highway.

(h) The provisions of this section expire and shall have no force and effect after December 31, 2029."

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 603**), and there were--yeas 92, nays 2, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: E. Pritt and Vance.

Absent and Not Voting: Bridges, Foggin, Kump, C. Pritt, Ross and Steele.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 604**), and there were--yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foggin, Kump, C. Pritt, Ross and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 217) passed.

Com. Sub. for S. B. 222, Exempting WV veterans from certain fees and charges at state parks; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 1, section 23, line 8, by striking "36"; and

On page 1, section 23, line 13, by striking "13".

The bill was then ordered to third reading.

Com. Sub. for S. B. 280, Allowing teachers in public schools to discuss scientific theories; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk, on page 1, after the enacting clause, by striking everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-41a. Allowing discussion of certain scientific theories.

No public school board, school superintendent, or school principal may prohibit a public school classroom teacher from responding to student inquiries or answering questions from students about scientific theories of how the universe and/or life came to exist."

Delegate Young moved to amend the amendment on page 1, Section 41a, 3 by striking out the period, inserting a colon and the following: "Provided, That no public school classroom teacher may confirm or endorse scientific theories related to Zetetic astronomy."

Delegate E. Pritt arose to inquire regarding the germaneness of the amendment.

The Speaker ruled that the amendment was germane.

On the question of adoption of the amendment, the yeas and nays were demanded and the Speaker ruled that the demand was not sustained. The amendment was rejected.

Delegate Young moved to amend the amendment on page 1, Section 41a, line 2, following the word "question" by inserting the following: "in an objective manner and without endorsement".

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. 605**), and there were-- yeas 18, nays 78, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Dittman, Fluharty, Garcia, Griffith, Hamilton, Hansen, Hite, Hornbuckle, Kirby, Lewis, Pushkin, Riley, Rowe, Stephens, Summers, Williams, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Foggin, Kump and Steele.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The committee amendment was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 325, Relating to distribution of drugs to safety net providers and contract pharmacies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 352, Modifying Unborn Child Protection Act; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of the amendments on that reading.

Com. Sub. for S. B. 429, WV Farm Use Vehicle Tag Placement Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 439, Authorizing certain 911 personnel to be members of Emergency Medical Services Retirement System under certain circumstances; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 16, following section six, by striking sections 6c and 6d in their entirety and inserting in lieu thereof the following:

“§16-5V-6c. 911 personnel.

(a) In accordance with the provisions of this article, the board shall administer the voluntary transfer of 911 personnel who are members of the Public Employees Retirement System to the Emergency Medical Services Retirement System.

(b) 911 personnel, employed by a participating public employer, who are actively contributing members of the Public Employees Retirement System shall be eligible to participate in a vote directly to the board pursuant to subsection (c) of this section: *Provided*, That the 911 personnel are employed with a participating public employer in the month prior to the election and for the duration of the election and that their participating public employer does not choose to opt-out of this option to transfer existing employees. The board will notify all participating public employers with 911 personnel of their option to opt-out of transferring existing employees prior to the election. Participating public employers with 911 personnel have until June 28, 2024, to opt out. Participating public employers with 911 personnel who opt out and Public Employees Retirement System employers who are not participating public employers in this plan in the month prior to the election will be barred from future options to transfer existing 911 personnel into this plan for a period of no less than three years from the election and must pay any future transfer costs to the board. In addition, for any future transfers, the board will calculate the initial pro rata share of costs that would have been assessed at the initial transfer and those costs must be paid to the plan.

(c) The election period for the vote shall conclude on August 30, 2024. All election forms received by the board on or before August 30, 2024, shall be counted, and any members eligible to vote who do not submit an election form to the board prior to or on August 30, 2024, shall be counted as not electing to transfer to the plan. If at least 75 percent of members eligible to vote pursuant to subsection (b) of this section affirmatively elect to transfer to the plan within the period provided in this subsection, then the board shall notify the employers of all members who affirmatively elected to do so during that period, and contributions to the plan shall begin during

October 2024 for those electing to transfer. If more than 25 percent of those members eligible to vote pursuant to subsection (b) of this section do not affirmatively elect to transfer to the plan within that period, the Public Employees Retirement System continues as the retirement system for all 911 members eligible to vote. The vote pursuant to this subsection shall be directly to the board and the results shall be unknown to all employers until the time period for voting ends: *Provided*, That any employee eligible to vote pursuant to subsection (b) of this section shall have access through his or her employer to educational materials regarding the vote provided by the board. All members who complete an election form and all participating public employers with 911 personnel eligible to vote shall be notified in writing by the board by September 30, 2024, of the results of the election.

(d) Any costs incurred by the board attributable to this section shall be borne by all 911 personnel employers of persons eligible to transfer in proportion to the number of persons employed by that employer who are eligible to transfer. The board shall determine its costs incurred attributable to this election to transfer and shall determine the pro rata share of these costs to be borne by the 911 personnel participating employers.

(e) Notwithstanding any other provision of this article to the contrary, a person employed as 911 personnel may be a member of this retirement plan subject to the provisions of this section. Full-time employment as 911 personnel satisfies the definition of "covered employment" as defined in this article.

(f) Any 911 personnel 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 911 personnel who has concurrent employment in an additional job or jobs which would require the 911 personnel 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 911 personnel 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.

(g) Any 911 personnel who was employed as 911 personnel prior to July 1, 2024, but was not employed on July 1, 2024, shall become a member upon rehire as 911 personnel. For purposes of this section, the member's years of service and credited service prior to July 1, 2024, may be counted so long as the 911 personnel 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 911 personnel's covered employment shall be counted as years of service for the purposes of this article.

(h) Any 911 personnel employed in covered employment on July 1, 2024, who has timely elected to transfer into this plan as provided in subsection (b) of this section shall be given credited service at the time of transfer for all credited service then standing to the 911 personnel'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 911 personnel. All credited service standing to

the transferring 911 personnel'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 911 personnel 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 911 personnel 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 911 personnel receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: *Provided*, That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (g) of this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as a 911 personnel and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(i) Once made, the election made under this section is irrevocable. All 911 personnel electing to become members as described in this section, shall be members as a condition of employment and shall make the contributions required by this article.

§16-5V-6d. Transfer of 911 personnel assets from Public Employees Retirement System.

(a) If at least 75 percent of those actively contributing members of the Public Employees Retirement System currently employed as 911 personnel eligible to vote affirmatively elect to transfer to the Emergency Medical Services Retirement System within the period provided in §16-5V-6c of this code, then the board shall transfer to the Emergency Medical Services Retirement System all members who affirmatively elected to do so during that period. If more than 25 percent of actively contributing members of the Public Employees Retirement System currently employed as 911 personnel eligible to vote do not affirmatively elect to transfer to the Emergency Medical Services Retirement System within that period, the Public Employees Retirement System continues as the retirement system for all 911 members eligible to vote. Any costs incurred by the board attributable to this section shall be borne by all employers of persons transferring. The board shall determine its costs incurred attributable to this transfer and shall determine the pro rata share of these costs to be borne by the participating public 911 personnel employers.

(b) The Consolidated Public Retirement Board shall transfer assets from the Public Employees Retirement System Trust Fund into the West Virginia Emergency Medical Services Trust Fund no later than December 31, 2024.

(c) The amount of assets to be transferred for each transferring 911 personnel shall be computed using the July 1, 2023, 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 911 personnel 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, 2023, 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, 2023, actuarial valuation date;

(3) Compute the market value of active member assets in the Public Employees Retirement System as of July 1, 2023, 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, 2023, 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, 2023, 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, 2023, for active 911 personnel 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, 2023, through the first day of the month in which the asset transfer is to be completed.

(d) Once a 911 personnel has elected to transfer from the Public Employees Retirement System, transfer of that amount as calculated in accordance with the provisions of subsection (c) 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 911 personnel 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.

(e) 911 personnel 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 911 service 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 911 service. 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 911 personnel for eligible 911 years under Public Employees Retirement System.

(2) Compute the contributions that would have been required under Emergency Medical Services Retirement System for eligible 911 years.

(3) Compute the difference with interest at 7.25 percent that each 911 personnel would have been required to pay had he or she originally participated in Emergency Medical Services Retirement System for eligible 911 years.

(4) Full reinstatement amount must be repaid no later than December 31, 2029, or prior to the member's effective retirement date, whichever occurs first.

(f) Commencement of retirement for transferring 911 personnel may occur on or after January 1, 2025.

(g) Any administrative costs to the board associated with this transfer shall be borne by the participating public 911 personnel employers of the transferring members, in relative proportion to the number of members employed."

The bill was then ordered to third reading.

S. B. 452, Designating certain water and wastewater facilities as emergency project; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 453, Requiring pricing and payment transparency from pharmacy benefits managers contracting with PEIA; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on six, section nine, beginning on line one hundred twenty-two, by striking out the sentence "A West Virginia pharmacy is a domestic business entity as registered with the West Virginia Secretary of State.".

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 606**), and there were--yeas 90, nays 5, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon, E. Pritt, Ridenour, Tully and Vance.

Absent and Not Voting: Bridges, Foggin, Kump, Steele and Thorne.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

At the request of Delegate Householder, and by unanimous consent, the bill was moved to the foot of bills.

S. B. 461, Relating to county economic opportunity development districts; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 466, Requiring State Board of Education develop Safety While Accessing Technology education program; on second reading, coming up in regular order, was read a second time.

Delegate Young moved to amend the bill on page 1, Section 44, line 4, by striking out the words "elementary and"

And,

On page 3, Section 44, line 39 by striking out the words "elementary and";

And,

On page 3, Section 44, line 43 by striking out the words "elementary or";

And,

On page 3, Section 44, line 46 by striking out the words "elementary or".

On the question of adoption of the amendment by Delegate Young, the same was put and the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 475, Relating to recovery residences; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk, on page 1, after the enacting clause, by striking everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 59. CERTIFICATION OF RECOVERY RESIDENCES AND REGISTRATION.

§16-59-1. Definitions.

As used in this article, the term:

(1) "Certificate of compliance" means a certificate that is issued to a recovery residence by the department's appointed certifying agency.

(2) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance.

"Director" means the Director of the Office of Health Facility Licensure and Certification, or his or her designee.

(3) "Department" means the ~~Department of Health and Human Resources~~ Department of Human Services.

"Immediate jeopardy" means an issue of non-compliance that places the health and safety of residents of the recovery residence at risk for serious injury, serious harm, serious impairment, or death.

"Inspector General" means the Inspector General of the Office of Inspector General as described in §16B-2-1 of this code.

(4) "Recovery residence" means a single-family, drug-free, and alcohol-free residential dwelling unit, or other form of group housing, that is offered or advertised by any person or entity as a residence that provides a drug-free and alcohol-free living environment for the purposes of promoting sustained, long-term recovery from substance use disorder.

§16-59-2. Voluntary certification of recovery residences.

(a) The department shall contract with an entity to serve as the certifying agency for a voluntary certification program for drug-free and alcohol-free recovery residences based upon standards determined by the National Alliance for Recovery Residences (NARR) or a similar entity. The certifying agency shall establish and implement an accreditation program for drug-free and alcohol-free recovery residences that shall maintain nationally recognized standards that:

(1) Uphold industry best practices and support a safe, healthy, and effective recovery environment;

(2) Evaluate the residence's ability to assist persons in achieving long-term recovery goals;

(3) Protect residents of drug- and alcohol-free housing against unreasonable and unfair practices in setting and collecting fee payments.

(4) Protect residents from human trafficking that may occur in the recovery residence setting.

(5) Protect patients from predatory practices that lead to patient brokering.

(b) The department shall require the recovery residence to collect, retain, and submit the following:

(1) Documentation verifying certification as specified and administered by the certifying agency;

(2) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, documentation of verification by the municipality or county where the recovery residence is located stating that the recovery residence is in compliance.

(3) Data from each registered recovery residence at intervals determined by the department, but not less than annually. The data shall be uniform across all recovery residences. The department, in conjunction with applicable stakeholders to include, but not be limited to, the Office of Inspector General, the Superintendent, or designee, of the West Virginia State Police, the West Virginia Sheriff's Association, and a representative of West Virginia National Alliance for Recovery Residences, shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. to specify the data to be collected. The data variables shall include, but not be limited to, variables to allow the department, certifying agency, Office of Inspector General, and the West Virginia Fusion Center-Human Trafficking Division to conduct an analysis of the performance of recovery residences and to determine if patient brokering or human trafficking is occurring. The data shall be shared in personally identifiable form with the Office of the Inspector General, the certifying agency, and the West Virginia Fusion Center-Human Trafficking Division,

with the appropriate Health Insurance Portability and Accountability Act safeguards in place to protect the data in transmission and in storage.

(4) Documentation verifying initial and continued registration as required in §16-59-4 of this code.

(c) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, the municipality or county must perform requested or required inspections within 30 days of receiving a request for verification. If a residence is located within a municipality or county that offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, and the municipality or county fails to perform requested or required inspections within 30 days of receiving a request for verification, the residence may apply for and be granted certification directly through the certifying agency without the aforementioned verification.

(d) Upon receiving a complete application, the certifying agency shall evaluate the residence to determine if the residence is in compliance with national best-practice standards, health, and safety requirements. Additionally, any application of the items specified in this section must comply with the Fair Housing Act, 42 U.S.C. §3601 *et seq.* and the Americans with Disabilities Act of 2008, 42 U.S.C. §12101 *et seq.*

(1) If it is determined that the residence is in compliance, the certification agency shall issue a certificate of compliance to the recovery residence operator for the specific recovery residence location set forth in the application.

(2) Each residence location, even if operated by the same person or entity, must maintain a certificate of compliance for the purposes of this article.

(e) The certifying agency may suspend or revoke a certificate of compliance if the recovery residence is not in compliance with any provision of this section or has failed to remedy any deficiency identified in writing and served by certified mail unless the deficiency is an immediate jeopardy in which case it may be served in person. Suspension or revocation may take place after a notice of deficiency is served and has existed for at least 30 days, except in cases of an immediate jeopardy. After receipt of a suspension or revocation notice, the recovery residence is prohibited from accepting new residents and may only work to transfer residents to another certified recovery residence. If the certifying agency determines that an immediate jeopardy exists, then the operator will be provided a notice of deficiency, at the time of the certification visit, and the recovery residence shall immediately take actions to correct the listed deficiencies before the certification agency departs the premises. If the operator is unable to correct all of the listed deficiencies prior to the certifying agency departing the premises, then the certifying agency has the authority to revoke any applicable certification immediately and give the operator of the recovery residence up to five days to transfer existing residents to another certified recovery residence.

(f) Notwithstanding any other provision to the contrary, the certifying agency shall implement and maintain a process by which a residence whose certification has been suspended or revoked may apply for, and be granted, reinstatement. If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety, and sanitation codes applicable to single-family housing, and if the residence's certification suspended or revoked for noncompliance with local building, maximum occupancy, fire safety, and sanitation

codes applicable to single-family housing, the municipality or county may charge a fee of up to \$100 for any requested reinspection of a recovery residence by the residence seeking reinstatement.

(g) The department shall periodically evaluate the quality, integrity, and efficacy of the accreditation program developed. The department shall promulgate rules subject to legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this section that shall include a process for receiving complaints against drug-free and alcohol-free recovery residences and criteria by which such residences' certifications can be revoked.

(h) A person may not advertise to the public any recovery residence as a "certified recovery residence" unless the recovery residence has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than \$1,000 nor more than \$5,000 for each infraction.

(i) This article does not permit a structure that would not be normally classified as a single-family dwelling to be exempt from the state building code or fire code.

(j) Nothing herein shall be read to require any recovery residence to obtain certifications set forth herein in order to conduct operations: Provided, That a recovery residence without a valid certificate of compliance, as provided in §16-59-2 of this code, is prohibited from receiving a referral or receiving a person released from prison for the placement of any prisoner, parolee, probationer, or prospective, current, or discharged patient, or client from the Division of Corrections and Rehabilitation, the Parole Board, the county probation offices, day report center, municipal courts, or a medical or clinical treatment facility that receives funds for its operations from the State Treasury. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than \$1,000 nor more than \$5,000 for each infraction.

§16-59-3. Referrals to recovery residences; prohibitions; receipt of state funds.

~~(a) The certifying agency shall maintain, publish, and disseminate a list of drug and alcohol-free housing certified pursuant to this section. This list shall be disseminated to the department for use by each state agency or vendor with a statewide contract that provides substance use disorder treatment services. The list shall also be posted on the website maintained by the certifying agency.~~

~~(b)~~ (a) The Division of Corrections and Rehabilitation, the Parole Board, county probation offices, day report centers, municipal courts, and a medical or clinical treatment facility that receives any funds for its operations from the State Treasury ~~may~~ shall not make a referral of any prisoner, parolee, probationer, or prospective, current, or discharged patient, or client to a recovery residence unless the recovery residence holds a valid certificate of compliance as provided in §16-59-2 of this code.

~~(c)~~ (b) No recovery residence is eligible to receive funds from any source within the State Treasury unless it holds a valid certificate of compliance as provided in §16-59-2 of this code.

(c) No recovery residence is eligible to receive funds from a resident that is in the form of a state benefit, including, but not limited to, Medicaid, Temporary Assistance for Needy Families, or the Supplemental Nutrition Assistance Program, unless it holds a valid certificate of compliance from the certifying agency as provided in §16-59-2 of this code. The certifying agency may set forth additional requirements for the appropriate use of such benefits within a recovery residence.

(d) A state agency and a medical or clinical treatment facility that receive funds for its operation from the State Treasury, that make referrals to recovery residences shall maintain records of referrals to or from recovery residences.

(e) Nothing in this section requires a state agency or a clinical or medical provider to make a referral of a person to a recovery residence.

(f) A person who violates this section commits a misdemeanor, punishable by a fine of not less than ~~\$500~~ \$1,000 nor more than ~~\$1,000~~, \$5,000, unless otherwise specified.

§16-59-4. Registration of recovery residences.

(a) Prior to conducting business in the State of West Virginia a recovery residence shall register with the Office of Health Facility Licensure and Certification. A recovery residence has until January 1, 2025 to register. The director shall make an application form available on its publicly accessible internet website that include a request for the following information:

(1) The identity, address, and telephone number of the applicant;

(2) The name, business address, and telephone number of the contact person for the applicant;

(3) When applicable, the federal employer identification number for the applicant; and

(4) Any other information the director considers necessary and appropriate to establish a complete registration of an applicant.

(b) Term and fee. —

(1) The terms of registration shall be one year from the date of issuance;

(2) The fee shall be submitted by the applicant with an application for registration. An application fee for initial registration or renewal registration fee is nonrefundable;

(3) The amount of the initial registration fee and the renewal registration fee is \$250: *Provided*, That the director may annually adjust the initial and renewal registration fee for inflation based upon the consumer price index.

(c) Registration. —

(1) The director shall issue a registration, as appropriate, to an applicant when the director determines an applicant has submitted a complete application and paid the required registration fee.

(2) The registration may be in paper or electronic form, is nontransferable, and shall prominently list the expiration date of the registration.

(3) A list of all recovery residences shall be made available on the director's publicly accessible internet website.

(d) Penalties. —

(1)(A) A civil monetary penalty of up to \$20,000 a day may be assessed against an owner who operates, owns, or manages an unregistered recovery residence. Each day of the continuing violation after the civil monetary penalty is assessed may be considered a separate violation. The initial notice of non-compliance shall be provided to the owner via certified mail, return receipt requested.

(B) If the recovery residence is not registered within 30 days from the date of receipt of the initial notice, the director shall notify the certifying agency to revoke the recovery residence's certificate of compliance, issued pursuant to §16-59-2 of this code, for non-compliance with this section.

(C) If the recovery residence is not registered within 30 days from the date of receipt of the initial notice, and if such recovery residence does not have a certificate of compliance, then the director shall issue a closure notice to the recovery residence for non-compliance with this section.

(e) *Due process.* —

(1) Within 10 days of the date of receipt of a notice provided pursuant to subsection (d), the recovery residence's owner may submit a request for an administrative hearing before the Board of Review for an informal meeting to address the notice and the reason stated therefor.

(2) The recovery residence's owner or owners and the Office of Health Facility Licensure and Certification will be entitled to representation by legal counsel at the informal meeting and at the administrative hearing at their own expense, respectively.

(3) All of the pertinent provisions of §29A-5-1 *et seq.* of this code and applicable legislative rules governing administrative hearings for the Board of Review shall apply to and govern any formal hearing authorized by this article.

(4) If the recovery residence's owner fails to request a hearing within the time frame specified, he or she shall be subject to the full limitation, enforcement action, penalty, or any combination thereof, imposed pursuant to this section.

(5) The filing of a request for an administrative hearing or an informal meeting does not stay or supersede the enforcement of a limitation, enforcement action, penalty, or any combination thereof, imposed pursuant to this section.

(6) Any party who is dissatisfied with the decision of the Board of Review as a result of a formal hearing provided in this section, may within 30 days after receiving notice of the decision, petition the West Virginia Intermediate Court of Appeals, in term or vacation, for judicial review of the decision.

(7) The court may affirm, modify, or reverse, the decision of the Board of Review and either the applicant or the registrant, or the Inspector General may appeal the court's decision to the West Virginia Supreme Court of Appeals.

(8) Notwithstanding the existence of, or pursuant to any other remedy, the Inspector General may, in the manner provided by law, maintain an action in the name of the state for an injunction against any person, partnership, association, or corporation, to restrain or prevent the establishment, conduct, management, or operation of any recovery residence for violation of any

provision of this section or any rule lawfully promulgated thereunder without first obtaining a registration in the manner herein provided.

ARTICLE 62. THE PATIENT BROKERING ACT.

§16-62-1. Definitions.

For the purposes of this article:

"Department" means the Department of Human Services.

"Health care provider or health care facility" means any person or entity licensed, or certified, or authorized by law to provide professional health care service in this state to a patient during that patient's medical, remedial, or behavioral health care, treatment, or confinement.

"Health care provider network entity" means a corporation, partnership, or limited liability company owned or operated by two or more health care providers, and organized for the purpose of entering into agreements with health insurers, health care purchasing groups, or the Medicare or Medicaid program.

"Health insurer" means any insurance company authorized to transact health insurance in the state, any insurance company authorized to transact health insurance or casualty insurance in the state that is offering a minimum premium plan or stop-loss coverage for any person or entity providing health care benefits, any self-insurance plan, any health maintenance organization, any prepaid health clinic, any prepaid limited health service organization, any multiple-employer welfare arrangement, or any fraternal benefit society providing health benefits to its members.

"Recovery residence" has the same meaning as set forth in §16-59-1 of this code.

§16-62-2. Patient brokering prohibited.

(a) It is unlawful for any person, including any health care provider, or health care facility, or recovery residence to:

(1) Offer or pay a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a health care provider, or health care facility or recovery residence;

(2) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a health care provider or health care facility, or recovery residence;

(3) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider, or health care facility, or recovery residence;

(4) Aid, abet, advise, or otherwise participate in the conduct prohibited under this subsection;
or

(5) Engage in any of the unlawful acts provided for in this subsection in regard to a recovery residence as defined in §16-59-1 of this code;

(b) Penalties –

(1) Any person who violates the provisions of subsection (a) of this section is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(2) Notwithstanding the provisions of subdivision (1) of this section, any person who violates subsection (a) of this section, where the prohibited conduct involves 10 or more patients, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000, or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(c) The Office of the Inspector General shall develop a tool that facilitates the submission of complaints. The Office of the Inspector General shall investigate complaints, review data for violations of this article, and enforce the provisions of this article. shall refer matters to state, or local law-enforcement authorities to coordinate, investigate, or prosecute violations of this article.

(d) Law enforcement shall investigate each referral upon receipt for violation this article.

(e) The Office of the Inspector General shall receive data from the department related to recovery residences based upon intervals determined by the department, but not less than annually. This data may contain personally identifiable health information. It shall be transmitted and stored in conformity with applicable Health Insurance and Portability and Accountability Act standards.

(f) The Office of the Inspector General and the certifying agency set forth in §16-59-2 et seq. of this code may coordinate investigations as further set forth in legislative rule.”

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

Whereupon,

Delegate Lewis obtained unanimous consent to have the amendment withdrawn.

The committee amendment was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 482, Relating to rule-making authority of Ethics Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 503, Protecting belief-based student organizations from certain types of discrimination; on second reading, coming up in regular order, was read a second time.

Delegate Hamilton moved to amend the bill on page 1, Section 5, line 2, by reinstating the words “which is open to all students”.

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. 607**), and there were-- yeas 14, nays 78, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Fehrenbacher, Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Vance, Williams and Young.

Absent and Not Voting: Bridges, Foggin, Kump, Longanacre, Mallow, McGeehan, Steele and Zatezalo.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegate Hornbuckle moved to amend the bill on page 1, Section 5, line 7, after the word “conduct” by striking the word “and” and, on line 8, by striking out the period, inserting a semi colon, and the following:

“And,

(4) Operate in compliance with state institution policies and procedures; and all federal, state, and local laws.”

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. 608**), and there were-- yeas 14, nays 80, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hillenbrand, Hite, Hornbuckle, Lewis, Pushkin, Rowe, Williams, Young and Zatezalo.

Absent and Not Voting: Bridges, Foggin, Kump, Mallow, McGeehan and Steele.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 533, Allowing EMS agencies to triage, treat or transport patients to alternate destinations; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Health and Human Resources, and adopted, on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 16. PUBLIC HEALTH.**ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.****§16-4C-3. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(a) ‘Ambulance’ means any privately, ~~or~~ publicly-owned vehicle, or aircraft which is designed, constructed, or modified; equipped or maintained; and operated for the transportation of patients, including, but not limited to, emergency medical services vehicles; rotary and fixed wing air ambulances; gsa kkk-A-1822 federal standard type I, type II, and type III vehicles; and specialized multipatient medical transport vehicles operated by an emergency medical services agency;

(b)(1) ‘Alternative destination’ means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

(2) ‘Alternative destination’ does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility.

~~(b)~~ (c) ‘Commissioner’ means the Commissioner of the Bureau for Public Health;

~~(e)~~ (d) ‘Council’ means the Emergency Medical Services Advisory Council created pursuant to this article;

~~(d)~~ (e) ‘Director’ means the Director of the Office of Emergency Medical Services; ~~in the Bureau for Public Health;~~

~~(e)~~ (f) ‘Emergency Medical Services’ means all services ~~which are~~ set forth in Public Law 93-154 The Emergency Medical Services Systems Act of 1973 and those included in and made a part of the emergency medical services plan of the ~~Department of Health and Human Resources~~

Department of Health inclusive of, but not limited to, responding to the medical needs of an individual to prevent the loss of life or aggravation of illness or injury;

~~(f)~~ (g) 'Emergency medical service agency' means any agency licensed under ~~section six-a of this article~~ §16-4C-6a of this code to provide emergency medical services;

~~(g)~~ (h) 'Emergency medical service personnel' means any person certified by the commissioner to provide emergency medical services as set forth by legislative rule;

~~(h)~~ (i) 'Emergency medical service provider' means any authority, person, corporation, partnership, or other entity, public or private, which owns or operates a licensed emergency medical services agency providing emergency medical services in this state;

~~(i)~~ (j) 'Governing body' has the meanings ascribed to it as applied to a municipality in §8-1-2(b)(1) of this code;

~~(j)~~ (k) 'Line officer' means the emergency medical service personnel, present at the scene of an accident, injury, or illness, who has taken the responsibility for patient care;

~~(k)~~ (l) 'Medical command' means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care;

~~(l)~~ (m) 'Municipality' has the meaning ascribed to it in §8-1-2(a)(1) of this code;

~~(m)~~ (n) 'Patient' means any person who is a recipient of the services provided by emergency medical services;

(o) A rural health clinic means an outpatient care facility that provides rural health services, such as primary care and routine laboratory services, to rural and often underserved communities.

~~(n)~~ (p) 'Service reciprocity' means the provision of emergency medical services to citizens of this state by emergency medical service personnel certified to render those services by a neighboring state;

~~(o)~~ (q) 'Small emergency medical service provider' means any emergency medical service provider which is made up of less than ~~twenty~~ 20 emergency medical service personnel; and

~~(p)~~ (r) 'Specialized multipatient medical transport' means a type of ambulance transport provided for patients with medical needs greater than those of the average population, which may require the presence of a trained emergency medical technician during the transport of the patient: *Provided*, That the requirement of 'greater medical need' may not prohibit the transportation of a patient whose need is preventive in nature.

§16-4C-26 Triage, Treat, and Transport to Alternative Destination.

(a) An emergency medical services agency may triage and transport a patient to an alternative destination in this state or treat in place if the emergency medical services agency is coordinating the care of the patient through medical command or telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint. Emergency medical services agencies shall execute a memorandum of

understanding with alternative treatment destinations as permitted by the protocols to transport patients.

(b) On or before October 1, 2024, the director shall establish protocols for emergency medical service agencies to triage, treat, and transport to alternative destinations.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4x. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) '911 call' means a communication indicating that an individual may need emergency medical services;

(2) 'Alternative destination' means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

'Alternative destination' does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) 'Emergency medical service agency' means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) 'Medical command' means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

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

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;
or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient, if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint, or with a behavioral health specialist for a behavioral-based

complaint under this section, shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

§33-15-21. Coverage of emergency services.

From July 1, 1998:

(a) Every insurer shall provide coverage for emergency medical services, including prehospital services, to the extent necessary to screen and to stabilize an emergency medical condition. The insurer shall not require prior authorization of the screening services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

(b) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer shall pay claims for prehospital screening and stabilization of emergency condition by ambulance service if the insured is transported to an emergency room of a facility provider or if the patient declines to be transported against medical advice. The coverage under this section is subject to deductibles or copayment requirements of the policy, contract, or plan.

~~(b)~~ (c) An insurer that has given prior authorization for emergency services shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency services, or the covered person.

~~(c)~~ (d) Coverage of emergency services shall be subject to coinsurance, copayments, and deductibles applicable under the health benefit plan.

~~(d)~~ (e) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

~~(e)~~ (f) As used in this section:

(1) 'Emergency medical services' means those services required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care;

(2) 'Prudent layperson' means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical condition exists for which emergency treatment should be sought;

(3) 'Emergency medical condition for the prudent layperson' means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part;

(4) 'Stabilize' means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(5) 'Medical screening examination' means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists; and

(6) 'Emergency medical condition' means a condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions, or serious dysfunction of any bodily part or organ.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS COVERAGE.

§33-16-3i. Coverage of emergency services.

(a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all subscribers and members coverage for emergency services. A policy, provision, contract, plan, or agreement may apply to emergency services the same deductibles, coinsurance, and other limitations as apply to other covered services: *Provided*, that preauthorization or precertification shall not be required.

(b) From July 1, 1998, the following provisions apply:

(1) Every insurer shall provide coverage for emergency medical services, including prehospital services, to the extent necessary to screen and to stabilize an emergency medical condition. The insurer shall not require prior authorization of the screening services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer shall pay claims for prehospital screening and stabilization of emergency condition by ambulance service if the insured is transported to an emergency room of a facility provider or if the patient declines to be transported against medical advice. The coverage under this section is subject to deductibles or copayment requirements of the policy, contract, or plan.

~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency services, or the covered person.

~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and deductibles applicable under the health benefit plan.

(4) (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

~~(5)~~ (6) As used in this section:

(A) 'Emergency medical services' means those services required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care;

(B) 'Prudent layperson' means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical condition exists for which emergency treatment should be sought;

(C) 'Emergency medical condition for the prudent layperson' means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part;

(D) 'Stabilize' means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(E) 'Medical screening examination' means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists; and

(F) 'Emergency medical condition' means a condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions or serious dysfunction of any bodily part or organ.

§33-16-3rr. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) '911 call' means a communication indicating that an individual may need emergency medical services;

(2) 'Alternative destination' means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

'Alternative destination' does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) 'Emergency medical service agency' means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) 'Medical command' means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

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

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;
or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient, if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint, or with a behavioral health specialist for a behavioral-based complaint under this section, shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-7e. Coverage of emergency services.

(a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all subscribers and members coverage for emergency services. A policy, provision, contract, plan, or agreement may apply to emergency services the same deductibles, coinsurance, and other limitations as apply to other covered services: *Provided*, That preauthorization or precertification shall not be required.

(b) From July 1, 1998, the following provisions apply:

(1) Every insurer shall provide coverage for emergency medical services, including prehospital services, to the extent necessary to screen and to stabilize an emergency medical condition. The insurer shall not require prior authorization of the screening services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer shall pay claims for prehospital screening and stabilization of emergency condition by ambulance service if the insured is transported to an emergency room of a facility provider or if the patient declines to be transported against medical advice. The coverage under this section is subject to deductibles or copayment requirements of the policy, contract, or plan.

~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency services, or the covered person.

~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and deductibles applicable under the health benefit plan.

~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

~~(5)~~ (6) As used in this section:

(A) 'Emergency medical services' means those services required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care;

(B) 'Prudent layperson' means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical condition exists for which emergency treatment should be sought;

(C) 'Emergency medical condition for the prudent layperson' means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part;

(D) 'Stabilize' means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(E) 'Medical screening examination' means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists; and

(F) 'Emergency medical condition' means a condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health, or, with

respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions, or serious dysfunction of any bodily part or organ.

§33-24-7y. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) '911 call' means a communication indicating that an individual may need emergency medical services;

(2) 'Alternative destination' means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

'Alternative destination' does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) 'Emergency medical service agency' means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) 'Medical command' means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

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

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;
or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient, if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint, or with a behavioral health specialist for a behavioral-based complaint under this section, shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8d. Coverage of emergency services.

(a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all

subscribers and members coverage for emergency services. A policy, provision, contract, plan, or agreement may apply to emergency services the same deductibles, coinsurance, and other limitations as apply to other covered services: *Provided*, That preauthorization or precertification shall not be required.

(b) From July 1, 1998, the following provisions apply:

(1) Every insurer shall provide coverage for emergency medical services, including prehospital services, to the extent necessary to screen and to stabilize an emergency medical condition. The insurer shall not require prior authorization of the screening services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer shall pay claims for prehospital screening and stabilization of emergency condition by ambulance service if the insured is transported to an emergency room of a facility provider or if the patient declines to be transported against medical advice. The coverage under this section is subject to deductibles or copayment requirements of the policy, contract, or plan.

~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency services, or the covered person.

~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and deductibles applicable under the health benefit plan.

~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

~~(5)~~ (6) As used in this section:

(A) 'Emergency medical services' means those services required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care;

(B) 'Prudent layperson' means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical condition exists for which emergency treatment should be sought;

(C) 'Emergency medical condition for the prudent layperson' means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part;

(D) 'Stabilize' means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(E) 'Medical screening examination' means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists; and

(F) 'Emergency medical condition' means a condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions or serious dysfunction of any bodily part or organ.

§33-25-8v. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) '911 call' means a communication indicating that an individual may need emergency medical services;

(2) 'Alternative destination' means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

'Alternative destination' does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) 'Emergency medical service agency' means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) 'Medical command' means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

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

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;
or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient, if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint, or with a behavioral health specialist for a behavioral-based complaint under this section, shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8d. Coverage of emergency services.

(a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all subscribers and members coverage for emergency services. A policy, provision, contract, plan, or agreement may apply to emergency services the same deductibles, coinsurance, and other limitations as apply to other covered services: *Provided*, That preauthorization or precertification shall not be required.

(b) From July 1, 1998, the following provisions apply:

(1) Every insurer shall provide coverage for emergency medical services, including prehospital services, to the extent necessary to screen and to stabilize an emergency medical condition. The insurer shall not require prior authorization of the screening services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer shall pay claims for prehospital screening and stabilization of emergency condition by ambulance service if the insured is transported to an emergency room of a facility provider or if the patient declines to be transported against medical advice. The coverage under this section is subject to deductibles or copayment requirements of the policy, contract, or plan.

~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency services, or the covered person.

~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and deductibles applicable under the health benefit plan.

~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

~~(5)~~ (6) As used in this section:

(A) 'Emergency medical services' means those services required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care;

(B) 'Prudent layperson' means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical condition exists for which emergency treatment should be sought;

(C) 'Emergency medical condition for the prudent layperson' means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part;

(D) 'Stabilize' means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(E) 'Medical screening examination' means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists; and

(F) 'Emergency medical condition' means a condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health or with respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions or serious dysfunction of any bodily part or organ.

~~(6)~~ (7) Each insurer shall provide the enrolled member with a description of procedures to be followed by the member for emergency services, including the following:

(A) The appropriate use of emergency facilities;

(B) The appropriate use of any prehospital services provided by the health maintenance organization;

(C) Any potential responsibility of the member for payment for nonemergency services rendered in an emergency facility;

(D) Any cost-sharing provisions for emergency services; and

(E) An explanation of the prudent layperson standard for emergency medical condition.

§33-25A-8y. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) '911 call' means a communication indicating that an individual may need emergency medical services;

(2) 'Alternative destination' means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

'Alternative destination' does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) 'Emergency medical service agency' means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) 'Medical command' means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

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

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint; or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary or fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient, if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint, or with a behavioral health specialist for a behavioral-based complaint under this section, shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.”

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 609**), and there were--yeas 87, nays 4, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Dillon, Kimble, E. Pritt and Tully.

Absent and Not Voting: Bridges, Fluharty, Foggin, Hansen, Kump, Mallow, McGeehan, Steele and Vance.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 610**), 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: Bridges, Foggin, Kump, Linville, Mallow, McGeehan, Steele and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 533) passed.

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

Com. Sub. for S. B. 533 – “A Bill to amend and reenact §16-4C-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-4C-26; to amend said code by adding thereto a new section, designated §33-15-4x; to amend and reenact §33-15-21 of said code; to amend and reenact §33-16-3i of said code; to amend said code by adding thereto a new section, designated, §33-16-3rr; to amend and reenact §33-24-7e of said code; to amend said code by adding thereto a new section, designated §33-24-7y; to amend and reenact §33-25-8d of said code; to amend said code by adding thereto a new section, designated 33-25-8v; to amend and reenact §33-25A-8d of said code; and to amend said code by adding thereto a new section, designated §33-25A-8y, all relating to emergency medical services; defining terms; providing that an emergency medical services agency may triage and transport a patient to an alternate destination in certain circumstances; mandating insurance coverage; providing that covered services include pre-hospital screening and stabilization of emergency conditions by an ambulance service; providing that air ambulance service is excluded from coverage; providing that coverage is subject to deductibles or copayment; providing that coverage be provided if the patient declines to be transported against medical advice; and providing effective date.”

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

Com. Sub. for S. B. 548, Clarifying appellate jurisdiction of Intermediate Court of Appeals; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 551, Modifying requirements related to levy of service fees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 568, Creating multi-tiered system for school absenteeism; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Ellington the bill was amended on page 9, after line 152, by inserting the following:

“ARTICLE 34. JAYCIE’S LAW.

§18-34-1. Legislative intent.

The West Virginia Legislature finds that parents of children throughout any age in middle or high school should be given the utmost support, because they face a unique set of challenges

and circumstances on their road to graduation. School systems in West Virginia shall implement programs to provide educational support to those students with children at any age through graduation. The goal of this act is to assist these students to stay in school while providing enough time for proper medical recovery after the birth of the child.

§18-34-2. Policy enacted.

(a) A student's absence due to a student's pregnancy or parenting needs is a lawful absence as provided under this section.

(b) Each county board shall develop a written attendance policy for pregnant and parenting students that, at a minimum, meets the requirements of this article. The policy developed under this section shall:

(1) Excuse all absences due to pregnancy – or parenting–related conditions, including absences for:

(A) Labor;

(B) Delivery;

(C) Recovery; and

(D) Prenatal and postnatal medical appointments;

(2) Provide at least 8 weeks of excused absences for a mother for the birth of the student's child, including both natural/vaginal delivery and c-section delivery;

(3) Provide excused absences for antenatal care by recommendation of the medical provider;

(4) Provide two weeks excused absence for the father of the child;

(A) A doctor's or medical excuse shall be provided up to the initial 8 weeks absence and a separate excuse for each period of absence after the initial 8 weeks.

(B) County boards shall ensure that the parent remains on track for graduation by providing academic support options including, but not limited to, work provided virtually and a homebound instructor for weekly visits to ensure accountability.

(5) Provide an excused absence for parenting students whose children are sick: *Provided*, That they shall provide a doctor's excuse for that child.

(6) The schools shall refer the pregnant and parenting student to a 'pregnancy help organization' by providing a list of pregnancy or postpartum assistance organizations within the county and surrounding counties as defined under §16-66-1 of this code.

§18-34-3. Effective date.

This article shall become effective on July 1, 2024."

Delegate Young moved to amend the bill on page 5, section 4, line 45, following the period by inserting the following sentence: "The plan may not incentivize perfect attendance."

On the question of adoption of the amendment by Delegate Young, the same was put and the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 571, Creating WV Corridor H Advanced Energy and Economic Corridor Authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 578, Clarifying offense of burglary; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page 1, section 11, line 11, by striking the words "is lawfully on notice" and inserting in lieu thereof the word "knows".

And

On page 1, section 11, line 12, by striking the words "by a court order, entered pursuant to §48-5-1 *et seq.*, §48-27-1 *et seq.*, or §62-1c-1 *et seq.* of this code"

The bill was then ordered to third reading.

Com. Sub. for S. B. 583, Relating to employer liability and damages in civil actions involving commercial motor vehicles; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page 2, section 32, line 36 after the word "regulations" by inserting the following language:

" , not including when an operator or driver is legally operating the vehicle according to permit issued under §17C-17-11 of this code."

The bill was then ordered to third reading.

Com. Sub. for S. B. 601, Creating WV Women's Bill of Rights; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 614, Relating to elementary behavior intervention and safety; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Education, was reported by the Clerk, on page 1, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

"ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(a) The teacher shall stand in the place of the parent(s), guardian(s), or custodian(s) in exercising authority over the school and has control of all students enrolled in the school from the time they reach the school until they have returned to their respective homes, except where transportation of students is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the students while they are in transit to and from the school.

(b) Subject to the rules of the state ~~Board of Education~~ board, the teacher shall exclude from the school any student known to have, or who is suspected of having, any infectious disease, or any student who has been exposed to any infectious disease and shall immediately notify the proper health officer or medical inspector of the exclusion. Any student so excluded may not be readmitted to the school until he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.

(c) This subsection is subject to the requirements of subsections (j), (k), and (l) of this section. The teacher may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses, or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher, and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

~~(d) When a grade six through 12 teacher, excluding an elementary school teacher, determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:~~

~~(1) The student may be excluded from that teacher's classroom and if excluded may not re-enter that teacher's classroom for at least the remainder of the instructional day;~~

~~(2) If the student is excluded pursuant to subdivision (1) of this subsection;~~

~~(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;~~

~~(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System (WVEIS), without any repercussion to the teacher; and~~

~~(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive as determined by the principal an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center if one is available within the school district.~~

(d) For purposes of this section, nothing herein may be construed to be in conflict with the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq. or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

(e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time, or alternative class settings.

(f) Corporal punishment of any student by a school employee is prohibited.

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to discipline practices, provide for the training of school personnel in alternatives to discipline practices, and provide for encouraging the involvement of parent(s), guardian(s), or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the ~~West Virginia Board of Education~~ state board. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

(h) For the purpose of this section:

(1) 'Student' includes any child, youth, or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of, or in connection with, any program under public school direction: *Provided*, That, in the case of adults, the student-teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

(2) 'Teacher' means all professional educators as defined in §18A-1-1 of this code and includes the driver of a school bus or other mode of transportation; and

(3) 'Principal' means the principal, assistant principal, vice principal, or the administrative head of the school, or a professional personnel designee of the principal or the administrative head of the school.

(i) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and Chapter 18 of this code.

(j) A grade kindergarten through six teacher may remove a student only under the following circumstances:

(1) Through documentation by the teacher that the student's behavior falls under one or the following two categories:

(A) A student who is repeatedly interfering with the teacher's instruction and classmates' ability to learn, only if the teacher determines that the student has consistently shown unruly, disruptive, or abusive behavior. 'Unruly' and 'disruptive' behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. For purposes of removal from the classroom under this section, 'unruly' or 'disruptive' behavior does not include normal or anticipated actions by the student commensurate with his or her respective grade level.

(B) A student showing violent and aggressive behaviors, causing or intending to cause physical harm, to the teacher or the students in the classroom setting, as further set forth in sections (k) and (l) below.

(2) The student may not be returned to that teacher's classroom without the teacher's consent unless the discipline committee, established by each individual school, determines that such placement is the best or only alternative available. If the student was removed from the teacher's class due to any physically harming behaviors or the intent to physically harm, the student may not be returned to the teacher's class without the teacher's consent and the teacher may not be coerced to consent.

(3) Not later than the third day of class after the day on which a student is removed from class by the teacher under this section, or by the school principal or other appropriate administrator under this section, the school discipline team shall schedule a conference including the teacher who requested removal of the student, parent or the guardian of the student, and principal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to

require the persons attendance, the school discipline team shall take consideration of the factors under this section and shall order the placement of the student for a period consistent with the schoolwide discipline policy.

(4) Before ordering the suspension, expulsions, removal to a disciplinary alternative education program, or placement in another classroom, the school discipline team shall consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the students disciplinary history, and whether the student has a disability that substantially impairs the students capacity to appreciate the wrongfulness of the students conduct regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.

(5) In instances when the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or impedes on other students' ability to learn in a safe environment, the student may be removed through the provisions set forth in subsections (k) and (l) below.

(k) When a grade kindergarten through six teacher in an elementary setting determines that the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or impedes on other students' ability to learn in a safe environment, the student shall be placed in a behavioral intervention program the county has established, has partnered with another county board to establish, or has gained access to for its students through an agreement with another county board for the purpose of addressing such behaviors: *Provided*, That if the county board has not established, partnered with another county board to establish, or gained access through an agreement with another county board to a behavioral intervention program:

(1) The student shall be removed from the classroom immediately after the incident and removed from the presence of other students for the remainder of the school day;

(2) The parents shall be notified and shall pick the student up from school preferably immediately, but by the end of the day at the latest;

(3) The student may not ride the bus;

(4) If the student is not picked up by the end of the day, the principal or other district employee may notify law enforcement;

(5) The student shall be suspended for the next one to three school days while alternative learning accommodations are made;

(6) The student shall be evaluated under Child Find and shall be referred for a Functional Behavior Analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq.*;

(7) The student shall receive his or her education through the alternative learning accommodations and may not return to school until a risk assessment is done;

(8) After the risk assessment, the student's return to school shall be on a provisional basis for a period of five to 10 days. If another incident as described in this subsection occurs within that

time frame, the student shall be placed in an alternative learning environment for the remainder of that grading period;

(9) If the virtual school option is the agreed upon method of alternative education, then the student can begin the program at such time the decision is made; and

(10) Whether a student's behavior falls under the requirements of this subsection and whether the student is to be placed in an alternative learning environment for the remainder of the grading period pursuant to subdivision (6) of this subsection shall be at the discretion of the student's classroom teacher and principal or vice principal. If the principal or vice principal disagree with the teacher, the teacher may provide documentation and appeal to the county superintendent.

(l) When a grade six through 12 teacher, excluding an elementary school teacher, determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:

(1) The student may be excluded from that teacher's classroom and, if excluded, may not re-enter that teacher's classroom for at least the remainder of the instructional day; and

(2) If the student is excluded pursuant to subdivision (1) of this subsection:

(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;

(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System without any repercussion to the teacher; and

(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive, as determined by the principal, an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center if one is available within the school district."

Delegate Griffith moved to amend the committee amendment on page 3, Section 1, line 56, following the period, by adding the following:

"When a school psychologist or clinician suspects that a child may suffer from and an undiagnosed qualifying condition or exceptionality that falls outside their professional scope of practice, the school psychologist or clinician may refer the child for a comprehensive clinical or medical evaluation."

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. 611**), and there were-- yeas 13, nays 72, absent and not voting 15, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Statler, Tully, Williams and Young.

Absent and Not Voting: Bridges, Foggin, Forsht, Green, Horst, Kump, Longanacre, Lucas, Martin, Ross, Sheedy, Steele, Street, Summers and Winzenreid.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegate Tully moved to amend the committee amendment on page 6, section 1, line 132, by striking out the word "expulsions";

And,

On page 6, section 1, line 138, by striking the period and inserting a colon and the following proviso: "*Provided*, if the school-based discipline team seeks an expulsion due process rights of the student shall be followed pursuant to §18A-5-1a";

And,

On page 7, section 1, line 158, after the word 'enforcement' by changing the semi-colon to a period and inserting the following language: "If a parent or guardian has been notified by the school and fails to pick up or make arrangements for the child to be picked up by the end of the day, the principal or other district employee shall notify the Child Protective Services Centralized Intake."

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. 612**), and there were-- yeas 13, nays 78, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Kimble, Lewis, Pushkin, Rowe, Tully, Williams and Young.

Absent and Not Voting: Barnhart, Bridges, Foggin, Kump, Ross, Steele, Summers, Warner and Winzenreid.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegate Pushkin moved to amend the amendment on page 7, Section 1, lines 156-158 by striking out paragraphs (3) and (4) in their entirety and renumbering the subsequent paragraphs accordingly.

On the question of adoption of the amendment by Delegate Pushkin, the same was put and the amendment was rejected.

The committee amendment was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 624, Cancelling voter registration records for individuals no longer WV residents; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Holstein, the bill was amended by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-6. Time of registration application before an election.

(a) Voter registration before an election closes on the 21st day before the election or on the first day thereafter which is not a Saturday, Sunday, or legal holiday~~—at~~

(1) 11:59 p.m. for online registration; or

(2) At the close of business at county clerk's offices and the Secretary of State's office.

(b) An application for voter registration, transfer of registration, change of name, or change of political party affiliation submitted by an eligible voter by the close of voter registration is effective for any subsequent primary, general, or special election if the following conditions are met:

(1) The application contains the information required by §3-2-5(c) of this code. Incomplete applications for registration containing information which are submitted within the required time may be corrected within four business days after the close of registration if the applicant provides the required information; and

(2) The application is received by the appropriate clerk of the county commission no later than the hour of the close of registration or is otherwise submitted by the following deadlines:

(A) If mailed, the application shall be addressed to the appropriate clerk of the county commission and is postmarked by the postal service no later than the date of the close of registration. If the postmark is missing or illegible, the application is presumed to have been mailed no later than the close of registration if it is received by the appropriate clerk of the county commission no later than the third day following the close of registration;

(B) If accepted by a designated agency or motor vehicle licensing office, the application is received by that agency or office no later than the close of registration;

(C) If accepted through a registration outreach program, the application is received by the clerk, deputy clerk, or registrar no later than the close of registration;

(D) If accepted through an approved electronic voter registration system, the application is received by the clerk of the county commission or other entity designated by the Secretary of State no later than 11:59 p.m. on the final day of registration; and

(3) The verification notice required by the provisions of §3-2-16 of this code mailed to the voter at the residence indicated on the application is not returned as undeliverable.

§3-2-27. Procedure following sending of confirmation notices; correction or cancellation of registrations upon response; designation of inactive when no response; cancellation of inactive voters; records.

(a) Upon receipt of a confirmation response card mailed pursuant to the provisions of ~~section 26 of this article~~ §3-2-26 of this code and returned completed and signed by the voter, the clerk shall either:

(1) Update the voter registration by noting the confirmation of the current address if no other changes are requested or by entering any change of address within the county, change of name, or other correction requested by the voter; or

(2) Cancel the voter's registration if the voter confirms that he or she has moved out of the county.

(b) Upon receipt of the confirmation notice returned undeliverable, the clerk may either:

(1) Send a second confirmation notice to the old residence address if the first notice was sent to a new address provided by the postal service; or

(2) Designate the registration as inactive or transfer it to the inactive voter registration file, as defined in section 19 of this article.

(c) If no response to the confirmation notice is received by February 1 following the mailing of the confirmation notice, the clerk shall designate the registration as inactive or transfer it to the inactive voter registration file as provided in ~~section nineteen of this article~~ §3-2-19 of this code.

(d) An inactive voter registration shall be returned to active status or transferred to the active voter registration file upon the voter's application to update the registration or to vote in any election while they remain on the inactive list.

(e) The clerk of the county commission shall cancel the records of all voters on the inactive file who have not responded to the confirmation notice, otherwise updated their voter registrations or voted in any state, county, or municipal primary, general or special election held within the county during a period beginning on the date of the notice and ending on the day after the date of the second general election for federal office which occurs after the date of the notice.

(f) Upon notification by the Secretary of State, the clerk of the county commission shall cancel the records of all voters who are no longer West Virginia citizens and have obtained a driver's license in another state based on information provided by the Division of Motor Vehicles under § 3-2-4a(g) of this code.

(g) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective January 1, 2025."

The bill was then ordered to third reading.

Com. Sub. for S. B. 628, Declaring certain claims as moral obligations of the state; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 644, Supplementing and amending appropriations to Department of Commerce, Division of Forestry, and Geological and Economic Survey; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 656, Supplementing and amending appropriations to DHHR, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 665, Supplementing and amending appropriations to DHHR, Division of Health; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 667, Creating Physician Assistant Compact; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 679, Regulating certain plant-based derivatives, hemp-derived cannabinoid products, and Kratom; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Finance, was reported by the Clerk, on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 19. AGRICULTURE.

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

§19-12E-12. Regulation of select plant-based derivatives; findings; industrial hemp.

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

(b) The Legislature finds that ~~certain~~ select plant-based derivatives can be regulated so as not to interfere with the strict regulation of controlled substances in this state, and that the manufacturing, processing, distribution, and retail sale, or other sale of hemp-derived cannabinoid products is an activity deserving of particular, careful, and strict attention to the administration and enforcement of West Virginia standards designed to protect and safeguard the welfare and well-being of West Virginia citizens and residents. The purpose of the act is to allow limited, regulated access to ~~certain~~ select plant-based derivatives which are naturally occurring and as authorized by the provisions of this article for adults 21 years of age and older: *Provided*, That the provisions of this section shall not apply to naturally occurring select plant-based derivative products not containing tetrahydrocannabinol content. Businesses located within this state engaged in manufacturing, processing, distributing, or sale of hemp-derived cannabinoid products and businesses located outside of this state that are engaged in the remote distribution or remote retail sale of hemp-derived cannabinoid products across state lines for delivery into this state, are subject to the permitting, labeling, and other control and administration provisions of this article. In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation, and taxation with relation to the activity of distribution or sale of hemp-derived cannabinoid products across state lines into this state. Persons located outside of this state that are engaged in distribution or sale of hemp-derived cannabinoid products across state lines into this state shall obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code and are subject to other administrative and regulatory requirements as set forth in this code.

(c) As used in this section:

~~(1) 'Alcohol Beverage Control Administration Commissioner' means the West Virginia Alcohol Beverage Control Administration Commissioner or his or her designees.~~

~~(2) (1) 'Commissioner' means the Commissioner of Agriculture or his or her designees.~~

~~(3) (2) 'Contaminated' means made impure and or unsafe by biological, chemical, or physical additives.~~

~~(4) (3) 'Department' or 'Department of Agriculture' means the West Virginia Department of Agriculture.~~

~~(5) (4) 'Final product' means a product approved by the Department in accordance with the provisions of this article, and any other applicable rules and requirements set forth by the Department, as specified for the product.~~

~~(6) (5) 'Grower' means a person or entity which grows industrial hemp.~~

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

(A) Delta-9 tetrahydrocannabinol with a concentration level consistent with 7 U.S.C. §5940 with a total concentration of not more than 0.3 percent on a dry weight basis;

(B) Delta-8 tetrahydrocannabinol;

(C) Delta-10 tetrahydrocannabinol;

(D) Hexahydrocannabinol (HHC₂);

(E) Tetrahydrocannabiphorol (THCp); and

(F) Tetrahydrocannabivarin (THCv).

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

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

~~(9) (8) 'Processor' or 'manufacturer' means a person or entity that processes compounds or converts hemp-derived cannabinoids into a hemp-derived cannabinoid product and distributes, sells, or offers for sale, hemp-derived cannabinoid products in this state on a wholesale basis to a retailer.~~

~~(14) (9) 'Retail sales' means the sale of hemp-derived products in a commercial setting as determined and set forth in rules promulgated by the commissioner. of Agriculture.~~

~~(4)~~ (10) 'Seller' or 'distributor' means a person or entity that distributes, offers for sale, or sells hemp-derived products to persons for personal consumption.

(d) Permitting and registration.

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

(2) The business activity subject to permitting under this section shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of kratom and kratom products addressed and administered under §19-12F-1 et seq. of this code, or of hemp addressed and administered under other sections of this article, or of medical cannabis addressed and administered under §16A-9-1 et seq. of this code.

(3) Persons engaged in manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products in this state shall obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code and are subject to other administrative and regulatory requirements set forth in this code.

(4) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this section.

(5) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this section. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(6) The commissioner shall keep a list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner.

(7) The commissioner shall keep a list of all hemp-derived cannabinoid products that have been approved for sale or distribution in this state. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

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

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

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

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

(4) Assessment of fees as commensurate with the need of the commissioner's activities in issuing permits, laboratory testing, and in overseeing the regulation of hemp-derived products. Such fees shall be in addition to those fees specified in subsection (d) of this section;

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

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

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

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

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

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

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

(f) Emergency rules; mandatory labeling.

(1) Emergency Rules. The commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules ~~as are~~ necessary to effectuate the purposes of this article.

(2) Labeling.

(A) The commissioner shall review labels to be used on hemp-derived cannabinoid products to be sold in this state.

(B) In addition to the labeling required by the provisions of subdivision (6) of subsection (e) of this section the commissioner may require and prescribe such labeling as he or she may determine to be necessary and appropriate for hemp-derived cannabinoid products to be sold to the final consumer in this state.

(C) Hemp-derived cannabinoid products may not be sold to the final consumer in this State without an approved label.

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

an age-gate, age-screen, or any other age-verification mechanism approved by the commissioner.

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

~~(i) In addition to all other applicable taxes, there is hereby levied an additional tax equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids for the privilege of engaging in the business of selling hemp-derived cannabinoid products. For the privilege of engaging or continuing within this state in the business of the retail sale of hemp-derived cannabinoid products, as defined in subdivision (6), subsection (a) of this section, there is hereby levied upon and collected from every person exercising the privilege a privilege tax equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids. Such tax is imposed in addition to all other applicable taxes.~~

~~(2) (1) The rate of tax imposed by this subsection is 11 percent of the retail sales price of hemp-derived cannabinoid products sold during the reporting period, depending upon the person's method of accounting for federal income tax purposes. The tax imposed by this subsection shall not be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer. (3) The tax shall be due and payable on a quarterly basis as follows: on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person or entity permitted by the commissioner shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements that are necessary or convenient for the efficient administration of taxes imposed by this subsection.~~

~~(2) The taxes imposed by this subsection shall be paid by the person or entity permitted by the commissioner to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.~~

~~(4) (3) The West Virginia use tax shall be collected from sellers and marketplace facilitators as defined in §11-15A-1 of this code, and referrers engaged in making sales, facilitating sales, marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of hemp-derived cannabinoid products into this state. Such sellers, marketplace facilitators, and referrers are subject to the taxation and other requirements of §11-15A-1 *et seq.* of this code, including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of this code shall not be limited to the thresholds specified in subsection §11-15A-6b(e) of this code but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for the purpose of making or furthering retail sales of hemp-derived cannabinoid products, into this state.~~

~~(5) (4) If any retailer does not renew its permit, relinquishes its permit, has ~~said~~ its permit to operate suspended or revoked, or otherwise ceases selling hemp-derived cannabinoid products, then any tax, additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq.* of this code shall become due and the retailer shall make a final return or returns and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit, having its~~

permit to operate suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a lien.

~~(6)~~ (5) All money received from the privilege tax imposed under this subsection section, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

~~(7)~~ (6) Persons or entities subject to the tax imposed by this ~~subsection section~~ shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the tax imposed by this ~~subsection section~~.

~~(8)~~ (7) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this ~~section article~~ to the contrary, the Tax Commissioner and the commissioner ~~shall~~ may enter into written agreements pursuant to which the Tax Commissioner ~~shall~~ may disclose to designated employees of the ~~department commissioner~~, whether a particular retailer or permittee, or applicant for a permit, is in good standing with the Tax Commissioner, and the commissioner of Agriculture shall may disclose to designated employees of the Tax Commissioner information a retailer or permittee, or applicant for a permit, provides to the commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information should be shared or exchanged electronically to ensure safe destruction, or as necessary, proper file retention practices.

~~(9)~~ (8) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 *et seq.* of this code, any necessary legislative rules, including emergency rules, as the Tax Commissioner considers necessary for the efficient administration of taxes imposed by this subsection.

(A) Funds from the tax imposed by the provisions of subdivision (1) of this subsection, less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited in the Agricultural Fees Fund, shall be divided and deposited as follows:

(i) ~~Sixty-five~~ Ninety-five percent shall remain in the Agriculture Fees Fund for the use of the commissioner for administering and enforcing the provisions of this article: *Provided*, That during each fiscal year, when the total amount of these deposits, when combined with the amount of the deposits required to be made into the Agriculture Fees Fund under §19-12F-7 of this code, equal \$750,000, the Tax Commissioner shall deposit into the general revenue fund any further amounts required to be made into the Agriculture Fees Fund under this section during that fiscal year; and;

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

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

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

~~1 et seq. of this code~~ this section and were set forth in extenso in ~~§16A-9-1 et seq. of this code~~ this section.

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

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

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

~~(2) (1) The commissioner of Agriculture and the Tax Commissioner the Alcohol Beverage Control Administration Commissioner shall may enter into a memorandum or memoranda of develop a collaborative understanding to facilitate the enforcement of this section.~~

~~(2) Procedure for contested cases. Any person or entity seeking to contest an administrative action of the commissioner under this article shall assert such contestation in writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-5-1 et seq. of this code in administrative proceedings held by or before the commissioner or his or her designee.~~

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

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

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

~~(4) The provisions of amendments to this subsection enacted during the 2024 Regular Legislative Session are effective from passage.~~

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

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

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

(n) Any person who processes, distributes, manufactures, sells, or offers to sell any hemp-derived product knowing or having reason to know that the product has been contaminated with a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in a state correctional facility for not less than two nor more than 10 years, or both fined and imprisoned.

(o)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product which has not been approved by the commissioner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or confined in jail for not more than one year, or both fined and confined.

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

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

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

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

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

(s) Administrative sanctions.

(1) In the case of any person or entity holding a permit issued by the commissioner under this article charged with any criminal violation enumerated in this section, the commissioner, in addition to such criminal penalties imposed, may impose administrative sanctions including, but not limited to, permanent revocation of any one or more permits held by the violator, revocation of one or more permits held by the violator for a period of time to be determined by the commissioner, suspension of any one or more permits held by the violator for a period of time to be determined by the commissioner, a fine or fines to any one or more permits held by the violator not to exceed \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon application of a violator. For purposes of this subsection, administrative sanctions

may be imposed by the commissioner upon or against any alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a violator.

(2) The commissioner may impose the administrative sanctions in subdivision (1) of this subsection upon any person or entity under indictment for any of the criminal violations during, and during the pendency, of a criminal trial therefor.

(t) Nothing in this article shall prohibit a person who is at least 18 years of age from purchasing or possessing hemp-derived cannabinoid products when he or she is acting upon the request of, or under the direction and control of, any member of a state, federal, or local law-enforcement agency while the agency is conducting an investigation or other activity relating to the criminal or administrative enforcement of this section.

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

§19-12F-1. Short title. Findings.

(a) This article shall be known as the Select Plant-Based ~~Product~~ Derivatives Regulation Act: Kratom.

(b) The Legislature finds that the manufacturing, processing, distributing, and sale of kratom or kratom products is an activity deserving of particular, careful, and strict attention to the administration and enforcement of West Virginia standards designed to protect and safeguard the welfare and well-being of West Virginia citizens and residents. Therefore, the permitting, labeling, and other control and administration provisions of this article apply to businesses located within this state engaged in manufacturing, processing, distribution, or sale of kratom or kratom products and to businesses located outside of this state that are engaged in the remote distribution or remote retail sale of kratom or kratom products across state lines for delivery into this state.

§19-12F-3. Definitions.

~~(1) 'Alcohol Beverage Control Administration Commissioner' means the West Virginia Alcohol Beverage Control Administration Commissioner or his or her designee.~~

~~(2)~~ (1) 'The 'Commissioner' means the Commissioner of Agriculture or his or her designee.

~~(3)~~ (2) 'Contaminated' means made impure and unsafe by biological, chemical, or physical additives.

~~(4)~~ (3) 'Department' or 'Department of Agriculture' means the West Virginia Department of Agriculture.

~~(7)~~ (4) 'Grower' means a person or entity which grows kratom for commercial purposes.

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

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

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

~~(8) (7) 'Processor' or 'manufacturer' means a person or entity that processes, distributes, sells, or offers for sale, kratom or kratom products in this State on a wholesale basis to a retailer compounds, or converts plant material from mitragyna speciosa into a kratom product. This also includes further processing, compounding, converting, or repackaging of existing kratom products.~~

~~(9) (8) 'Retailer' or 'seller' means a person or entity that distributes, offers for sale, or sells kratom or kratom products to persons for personal consumption.~~

§19-12F-4. Processor and retailer permits; regulations; permitting; and registration.

(a) Any person manufacturing, processing, distributing, offering for sale, or selling any kratom or kratom products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this state. The commissioner may issue ~~permits for manufacturers, processors, and retailers. manufacturer, processor, distributor, and retailer permits.~~ The business activity subject to permitting under this article shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products addressed and administered under §19-12E-12 of this code, or of hemp addressed and administered under §19-12E-1 et seq. of this code, or of medical cannabis addressed and administered under §16A-9-1 et seq. of this code.

(b) Persons engaged in manufacturing, processing, distribution, or sale of kratom or kratom products in this State must obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(c) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation and taxation with relation to the activity of distribution or sale of kratom or kratom products across State lines into this State. Persons located outside of this State that are engaged in distribution or sale of kratom or kratom products across state lines into this State must obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(d) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this article.

(e) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this article. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(f) The commissioner shall keep a list of any persons or entities that have been subject to a permit, revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner.

(g) The commissioner shall keep a list of all kratom and kratom products that have been approved for sale or distribution in this State. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

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

(a) For the privilege of engaging or continuing within this state in the business of the retail sale of kratom or kratom products, there is hereby levied upon and collected from every person exercising the privilege a privilege tax equal to ~~(b) The rate of tax imposed by this subsection is 11 percent~~ 11 percent of the retail sales price of kratom or kratom products sold during the reporting period. Such tax is imposed in addition to all other applicable taxes.

(b) The tax imposed by this article shall not be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer.

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

(d)(1) The taxes imposed by this subsection shall be paid to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.

(2) The West Virginia use tax shall be collected from sellers, marketplace facilitators, and referrers engaged in making sales, facilitating sales, marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of kratom and kratom products into this state. The sellers, marketplace facilitators, and referrers are subject to the taxation and other requirements of §11-15A-1 et seq. of this code, including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of this code shall not be limited to the thresholds specified in subsection §11-15A-6b(e) of this code, but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for the purpose of making or furthering retail sales of kratom and kratom products into this state.

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

(f) All money received from the privilege tax imposed under this subsection section, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

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

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

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

(1) Funds from the tax imposed by the provisions of this ~~subsection~~ article, less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited into the Agricultural Fees Fund shall be divided and deposited as follows:

~~(2) (A) Sixty-five~~ Ninety-five percent shall remain in the Agriculture Fees Fund for the use of the commissioner in administering and enforcing the provisions of this article: *Provided*, That during each fiscal year, when the total amount of these deposits, when combined with the amount of the deposits required to be made into the Agriculture Fees Fund under §19-12E-12 of this code, equal \$750,000, the Tax Commissioner shall deposit into the general revenue fund any further amounts required to be made into the Agriculture Fees Fund under this section during that fiscal year; and

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

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

(j) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as relevant to the tax imposed by ~~§16A-9-4 this article~~, the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 *et seq.* of this code shall apply with like effect as if the said ~~the~~ West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by ~~§16A-9-1 *et seq.* of this code~~ this article and were set forth in extenso in ~~§16A-9-1 *et seq.* of this code~~ this article.

(k) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision of this code to the contrary, the West Virginia Tax Procedure and Administration Act, as set forth in

~~§11-10-1 et seq. of this code, applies to the tax imposed by §16A-9-1 et seq. this article with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code this article and were set forth in extenso in §16A-9-1 et seq. of this code this article.~~

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

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

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

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

(c) The business activity subject to application, registration, and permitting under this article shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products, or of hemp addressed and administered under §19-12E-1 et seq. of this code, or of medical cannabis addressed and administered under §16A-9-1 et seq. of this code.

(d) Persons engaged in the manufacturing, processing, distribution, or sale of kratom and kratom products in this state must obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(e) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation, and taxation with relation to the activity of distribution or sale of kratom and kratom products across state lines into this state. Persons located outside of this state that are engaged in distribution or sale of kratom and kratom products across state lines into this state must obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(f) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this article.

(g) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this article. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(h) The commissioner shall keep a list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner.

(i) The commissioner shall keep a list of all kratom and kratom products that have been approved for sale or distribution in this state. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

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

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

(b) ~~Pursuant to the labeling requirements under section nine-a of this article, the commissioner and the Alcohol Beverage Control Administration Commissioner~~ local law enforcement shall enter into a memorandum or memoranda of develop a collaborative understanding to facilitate enforcement of this article.

(c) Procedure for contested cases. Any person or entity seeking to contest an administrative action of the commissioner under this article shall bring such contestation in writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-5-1 et seq. of this code in administrative proceedings held by or before the commissioner, or his or her designee.

§19-12F-9a. Mandatory labeling.

(a) The commissioner shall review labels to be used on kratom and kratom products to be sold in this state.

(b) The commissioner may require and prescribe such labeling as the commissioner may determine to be necessary and appropriate for kratom and kratom products to be sold to the final consumer in this state.

(c) Kratom and kratom products may not be sold to the final consumer in this state without an approved label.

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

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

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

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

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

a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in a state correctional facility for not less than two nor more than 10 years, or both fined and imprisoned.

(c)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any kratom or kratom product which has not been approved by the commissioner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or confined in jail for not more than one year, or both fined and confined.

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

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

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

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

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

(g) Administrative sanctions.

(1) In the case of any person or entity holding a permit issued by the commissioner under this article charged with any criminal violation enumerated in this section, in addition to such criminal penalties imposed, the commissioner may impose administrative sanctions including, but not limited to, permanent revocation of any one or more permits held by the violator, revocation of one or more permits held by the violator for a period of time to be determined by the commissioner, suspension of any one or more permits held by the violator for a period of time to be determined by the commissioner, fine or fines to any one or more permits held by the violator not to exceed \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon application of a violator. For purposes of this subsection, administrative sanctions may be imposed by the commissioner upon or against any alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a violator.

(2) The commissioner may impose the administrative sanctions in subdivision (1) of this subsection upon any person or entity under indictment for any of the criminal violations during, and during the pendency of, a criminal trial therefor.

(h) Nothing in this article prohibits a person who is at least 18 years of age from purchasing or possessing kratom products when he or she is acting upon the request of, or under the direction and control of any member of a state, federal, or local law-enforcement agency while the agency is conducting an investigation or other activity relating to the criminal or administrative enforcement of this article.”

Delegate Fluharty moved to amend the committee amendment on page 6, Section 12 line 143 by striking out the number ‘11’ and inserting in lieu thereof, the number ‘6’;

And,

On page 16, Section 7, line 4, by striking out the number ‘11’ and inserting in lieu thereof, the number ‘6’.

Speaker Pro Tempore Espinosa in the Chair

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. 613**), and there were-- yeas 15, nays 77, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Kirby, Lewis, Nestor, E. Pritt, Pushkin, Rowe, Williams, Winzenreid and Young.

Absent and Not Voting: Bridges, Cannon, Foggin, Kump, C. Pritt, Steele, Warner and Hanshaw (Mr. Speaker).

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegates Hansen, Hornbuckle, Fluharty, Hamilton, Griffith, Garcia, Pushkin, Rowe, Lewis, Young and Williams moved to amend the committee amendment on page 1, following the enacting clause, by inserting the following:

“ARTICLE 17. LEGAL ADULT CONSUMPTION OF CANNABIS.

§16A-17-1. Purpose and findings.

(a) In the interest of the efficient use of law-enforcement resources, enhancing revenue for public purposes, and individual freedom, the Legislature finds and declares that the use of cannabis should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the Legislature further finds and declares that cannabis should be regulated in a manner similar to alcohol so that:

(1) Individuals will have to show proof of age before purchasing cannabis;

(2) Selling, distributing, or transferring cannabis to minors and other individuals under the age of 21 remains illegal;

(3) Driving under the influence of cannabis remains illegal;

(4) Legitimate, taxpaying businesspeople, and not criminal actors, will conduct sales of cannabis; and

(5) Cannabis sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The Legislature finds and declares that it is necessary to ensure consistency and fairness in the application of this article throughout the state and that the matters addressed by this article are, except as specified herein, matters of statewide concern.

§16a-17-2. Definitions.

As used in this article, unless the context otherwise requires,

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

'Cannabis' means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Cannabis does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product;

'Cannabis accessories' means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

'Cannabis cultivation facility' means an entity licensed to cultivate, prepare, and package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, and to other cannabis cultivation facilities, but not to consumers;

'Cannabis establishment' means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store;

'Cannabis product manufacturing facility' means an entity licensed to purchase cannabis; manufacture, prepare, and package cannabis products; and sell cannabis and cannabis products to other cannabis product manufacturing facilities and to retail cannabis stores, but not to consumers;

'Cannabis products' means concentrated cannabis products and cannabis products that are comprised of cannabis and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

'Cannabis testing facility' means an entity licensed to analyze and certify the safety and potency of cannabis;

'Consumer' means a person 21 years of age or older who purchases cannabis or cannabis products for personal use by persons 21 years of age or older, but not for resale to others;

'Department' means the Department of Tax and Revenue or its successor agency;

'Industrial hemp' means the plant of the genus cannabis and any part of such plant, whether growing or not, as authorized pursuant to §19-12D-1 et seq. of this code;

'Retail cannabis store' means an entity licensed to purchase cannabis from cannabis cultivation facilities and cannabis and cannabis products from cannabis product manufacturing facilities and to sell cannabis and cannabis products to consumers; and

'Unreasonably impracticable' means that the measures necessary to comply with the requirements of this article require such a high investment of risk, money, time, or any other resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

§16A-17-3. Personal use of cannabis.

Notwithstanding any other provision of the code, the following acts are not unlawful and are not an offense under state law or a basis for seizure or forfeiture of assets under state law for persons 21 years of age or older:

(1) Possession of one ounce or less of cannabis;

(2) Consumption of cannabis: *Provided*, That this article does not permit consumption that is conducted openly and publicly or in a manner that endangers others, and for state and local governments to prohibit use on government owned property;

(3) Following the authorization by a county referendum authorized by §16A-17-4 of this code, manufacturing, displaying, purchasing, transporting or sales of up to one ounce of cannabis in an approved county to persons 21 years or older; or

(4) Assisting another person who is 21 years of age or older in any of the acts described in this section.

§16A-17-4. County option election on allowing production and sales of cannabis.

The county commission of any county may conduct a county option election on the question of whether the manufacture and sale to persons 21 years of age or older is allowed in the county as provided in this article, upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and the publication area for publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the 14 consecutive days next preceding the election. On the local option election ballot shall be printed the following: 'Shall the production and sale of cannabis for consumption by persons 21 years or older be lawful in this county?'

If approved by the voters this would authorize licenses to be issued for the regulated manufacture and sales of cannabis in the county for lawful consumption to persons 21 years or older, and the collection for a special sales tax of five percent for the benefit of the county and its municipalities on all retail cannabis sales'.

Yes No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, if a majority of the votes are marked 'Yes' all applicable licensees shall be permitted for the manufacture and sales of cannabis in the county. If a majority of the votes are marked 'No' the manufacture and sales of cannabis shall remain unlawful.

§16A-17-5. Lawful operation of cannabis-related facilities.

Notwithstanding any other provision of law, the following acts are not unlawful and are not an offense under state law or a basis for seizure or forfeiture of assets under state law for persons 21 years of age or older to possess one ounce or less.

In counties where the voters have by referendum so authorized:

(1) Manufacture, possession, or purchase of cannabis accessories or the sale of cannabis accessories to a person who is 21 years of age or older;

(2) Possessing, displaying, or transporting cannabis or cannabis products; purchase of cannabis from a cannabis cultivation facility; purchase of cannabis or cannabis products from a cannabis product manufacturing facility; or sale of cannabis or cannabis products to consumers, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a retail cannabis store or is acting in his or her capacity as an owner, employee, or agent of a licensed retail cannabis store;

(3) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing cannabis; delivery or transfer of cannabis to a cannabis testing facility; selling cannabis to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail cannabis store; or the purchase of cannabis from a cannabis cultivation facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a cannabis cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis cultivation facility;

(4) Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products; delivery or transfer of cannabis or cannabis products to a cannabis testing facility; selling cannabis or cannabis products to a retail cannabis store or a cannabis product manufacturing facility; the purchase of cannabis from a cannabis cultivation facility; or the purchase of cannabis or cannabis products from a cannabis product manufacturing facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a cannabis product manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis product manufacturing facility;

(5) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering cannabis or cannabis products if the person has obtained a current, valid license to operate a cannabis testing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis testing facility; or

(6) Leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance this section.

§16A-17-6. Regulation of cannabis.

(a) Not later than July 1, 2025, the bureau shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code necessary for implementation of this article. The rules may not prohibit the operation of cannabis establishments, either expressly or through rule, that make their operation unreasonably impracticable, and shall include:

(1) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a cannabis establishment;

(2) A schedule of application, licensing, and renewal fees: *Provided*, That application fees may not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the bureau determines a greater fee is necessary to carry out its responsibilities under this article: *Provided, however*, That an entity that is licensed under this article to cultivate or sell cannabis or to manufacture cannabis products for medical purposes at the time this article takes effect and that chooses to apply for a separate cannabis establishment license may not be required to pay an application fee greater than \$500 to apply for a license to operate a cannabis establishment in accordance with the provisions of this article;

(3) Qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment;

(4) Security requirements for cannabis establishments;

(5) Requirements to prevent the sale or diversion of cannabis and cannabis products to persons under the age of 21;

(6) Labeling requirements for cannabis and cannabis products sold or distributed by a cannabis establishment;

(7) Health and safety regulations and standards for the manufacture of cannabis products and the cultivation of cannabis;

(8) Restrictions on the advertising and display of cannabis and cannabis products; and

(9) Civil penalties for the failure to comply with rules made pursuant to this article.

(b) In order to ensure that individual privacy is protected, notwithstanding subsection (a) of this section, the bureau may not require a consumer to provide a retail cannabis store with personal information other than government-issued identification to determine the consumer's age, and a retail cannabis store may not be required to acquire and record personal information

about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

(c) A municipality may enact ordinances, not in conflict with this state law or with legislative rules enacted pursuant to this article, governing the times of operation, locations, manner, and number of cannabis establishment operations.

(d) Each application for an annual license to operate a cannabis establishment shall be submitted to the bureau. The bureau shall:

(1) Begin accepting and processing applications by October 1, 2025;

(2) Immediately forward a copy of each application and half of the license application fee to the county and municipality in which the applicant desires to operate the cannabis establishment;

(3) Issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the bureau has not received the fee or the bureau is notified by the relevant municipality that the applicant is not in compliance with its ordinances in effect at the time of application: *Provided*, That where a municipality has enacted a numerical limit on the number of cannabis establishments and a greater number of applicants seek licenses, the bureau shall solicit and consider input from the municipality as to its' preference or preferences for licensure; and

(4) Upon denial of an application, notify the applicant in writing of the specific reason for its denial.

§16A-17-7. Cannabis excise tax and sales tax, distribution.

(a) There shall be an excise tax to be levied upon cannabis sold or otherwise transferred by a cannabis cultivation facility to a cannabis product manufacturing facility or to a retail cannabis store at a rate of 15 percent of the sales price. The excise tax shall be deposited in the Cannabis Transfer Tax Fund created in this section and allocated pursuant to the provisions of this section.

(b) There is created a special fund in the State Treasury which shall be designated and known as the 'Cannabis Transfer Tax Fund.' All revenues received from licensees pursuant to §16A-17-7(a) of this code shall be deposited with the State Treasurer and placed in the Cannabis Transfer Tax Fund. The fund shall be an interest-bearing account with interest to be credited to and deposited in the fund. The department shall establish procedures for the collection of all taxes levied and may promulgate legislative rules, pursuant to §29A-3-1 *et seq.* of this code, necessary to administer collection and enforcement of tax collections, on a monthly basis, as follows:

(1) Fifty percent of the revenue shall be deposited into the Public Employees Insurance Agency Stability Fund and expended pursuant to §11B-2-32 of this code;

(2) Twenty-five percent shall be deposited into the Fight Substance Abuse Fund created by §60A-9-8 of this code;

(3) Twelve and one-half percent shall be allocated to the Division of Justice and Community Services and expended pursuant to §15-9A-3 of this code for grants to state and local law-enforcement agencies for training in and promotion of community relations, training on

identification of driving under the influence of cannabis, and other training and programs promoting effective drug law-enforcement activities;

(4) Twelve and one-half percent shall be allocated to the General Fund of the state for the purpose of state employee pay raises; and

(5) All proceeds from license fees and any administrative penalties shall be allocated to the Department of Health and Human Resources.

(c) A local sales tax shall be assessed on all cannabis derived products of six percent and shall be collected at the point of sale by the licensed retail cannabis store. The county shall receive all proceeds of the local sales tax within 30 days of collection, and the tax shall be distributed as follows:

(1) The county shall retain 50 percent of the tax; and

(2) The municipalities of the county shall receive 50 percent of the tax, to be divided among the municipalities on a per capita basis as determined by the most recent decennial United States census of population.

(d) Sales of cannabis derived products authorized for sale pursuant to this article are not otherwise subject to the consumers sales and service tax as provided in §11-15-1 *et seq.* and §11-15B-1 *et seq.* of this code, or any other state taxes not provided pursuant to this section: *Provided*, That the calculation of the fractional percentage of the tax for parts of a dollar shall be determined by §11-15-3 of this code.

§16A-17-8. Employers, driving, minors and control of property.

(a) Nothing in this article is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis in the workplace or to affect the ability of employers to have policies restricting the use of cannabis by employees.

(b) Nothing in this article is intended to allow driving under the influence of cannabis or driving while impaired by cannabis or to supersede statutory laws related to driving under the influence of cannabis or driving while impaired by cannabis, nor shall this article prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by cannabis.

(c) Nothing in this article is intended to permit the transfer of cannabis, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume cannabis.

(d) Nothing in this article prohibits a person, employer, school, hospital, detention facility, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis on or in that property.

§16A-17-9. Medical cannabis provisions unaffected.

Nothing in this article:

(1) Limits any privileges or rights of a medical cannabis patient, primary caregiver, or licensed entity as provided by this chapter;

(2) Permits a medical cannabis center to distribute cannabis to a person who is not a medical cannabis patient;

(3) Permits a medical cannabis center licensed pursuant to this article to operate on the same premises as a retail cannabis store; or

(4) Discharges the bureau or the department or the from their statutory and constitutional duties to regulate medical cannabis pursuant to this chapter.”

Delegate Foster arose to inquire of the Chair regarding the germaneness of the amendment.

Speaker Hanshaw in the Chair

The Speaker ruled that the amendment was not germane.

The committee amendment was then adopted.

The bill was then ordered to third reading.

S. B. 681, Revising service obligation for certain doctoral medical degree programs; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, and adopted, on page 1, line 15, after the words 'National Guard' by inserting "and practice medicine in the state of West Virginia for a minimum of 6 years";

And,

On page 1, lines 16 and 17, by striking the words "for a mandatory service obligation as prescribed by the Adjutant General".

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 614**), and there were--yeas 83, nays 5, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Dillon, E. Pritt, Ridenour, Vance and Ward.

Absent and Not Voting: Akers, Bridges, Foggin, Hamilton, Horst, Kump, C. Pritt, Rowe, Steele, Stephens, Warner and Winzenreid.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 615**), 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: Bridges, Foggin, Hamilton, Horst, Kump, C. Pritt, Steele and Stephens.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 681) passed.

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

S. B. 683, Amending definition of 'alternative fuel' under motor fuel excise tax; on second reading, coming up in regular order, was read a second time,

An amendment recommended by the Committee on Energy and Manufacturing, was reported by the Clerk, on page 2, section 2, line 22, after the word 'electricity' by striking the words 'is not an alternative fuel' and inserting in lieu thereof the words "and hydrogen are not alternative fuels".

Delegate Street moved to amend committee amendment on page 1, section 2, line 3, after the word 'fuels' and before the period by inserting a semi-colon and a proviso which reads:

"Provided, That on and after July 1, 2034, hydrogen may be considered an alternative fuel."

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 616**), and there were--yeas 56, nays 36, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Akers, Barnhart, Campbell, Cannon, W. Clark, Devault, Dittman, Ellington, Espinosa, Fast, Fehrenbacher, Fluharty, Garcia, Griffith, Hall, Hansen, Heckert, Hite, Hornbuckle, Howell, Lewis, Linville, Maynor, Mazzocchi, Pinson, Riley, Rohrbach, Shamblin, Smith, Toney, Westfall, Williams, Willis, Worrell, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Foggin, Foster, Hamilton, Kump, C. Pritt, Pushkin and Steele.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

The committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 716, Relating to child support; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Burkhammer, the bill was amended on page 1, after the enacting clause by inserting the following:

“CHAPTER 9. HUMAN SERVICES.**ARTICLE 9. WV WORKS ACT.****§9-9-9. Personal responsibility contract.**

(a)(1) Every eligible adult beneficiary and work eligible individual shall participate in a program orientation, family assessments and in the development, and subsequent revisions, of a personal responsibility contract. The contract shall be defined based on the program time limits, support services available, work requirements and family assessments.

(2) The participant's contract shall include the following requirements:

(A) That the participant develop and maintain, with the appropriate health care provider, a schedule of preventive care for his or her dependent child or children, including routine examinations and immunizations;

(B) Assurance of school attendance for school-age children under his or her care;

(C) Assurance of properly supervised child care, including after-school care;

(D) Establishment of paternity or active pursuit of child support, or both, if applicable and if considered necessary: and *Provided*, That any person seeking benefits who is acting as a kinship or other relative placement is not required to seek child support for the child or children on whose behalf these benefits are sought: *Provided, however*, That nothing in this section prevents the Department of Human Services or a person providing a kinship or other relative placement from seeking child support for children placed in a kinship or other relative placement; and

(E) Nutrition or other counseling, parenting or family-planning classes.

(3) If the participant is a teenage parent, he or she may work, but the contract shall include the requirements that the participant:

(A) Remain in an educational activity to complete high school, obtain a general equivalency diploma or obtain vocational training and make satisfactory scholastic progress;

(B) Attend parenting classes or participate in a mentorship program, or both, if appropriate; and

(C) Live at home with his or her parent or guardian or in some other adult-supervised arrangements if he or she is an unemancipated minor.

(4) If the participant is under the age of twenty years and does not have a high school diploma or its equivalent, the contract shall include requirements to participate in mandatory education or training which, if the participant is unemployed, may include a return to high school, with satisfactory scholastic progress required.

(b) In order to receive cash assistance, the participant shall enter into a personal responsibility contract. If the participant refuses to sign the personal responsibility contract, the participant and family members are ineligible to receive cash assistance: *Provided*, That a participant who alleges that the terms of a personal responsibility contract are inappropriate based on his or her individual

circumstances may request and shall be provided a fair and impartial hearing in accordance with administrative procedures established by the department and due process of law. A participant who signs a personal responsibility contract or complies with a personal responsibility contract does not waive his or her right to request and receive a hearing under this subsection.

(c) Personal responsibility contracts shall be drafted by the department on a case-by-case basis; take into consideration the individual circumstances of each beneficiary; reviewed and reevaluated periodically, but not less than on an annual basis; and, in the discretion of the department, amended on a periodic basis.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 722, Revising examination of records relating to limited video lottery; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Finance, was reported by the Clerk.

Whereupon,

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 727, Revising process for county boards of education to hire support staff; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Education, and adopted, on 1, after the enacting section, by striking out the entirety of the bill and inserting the following:

“CHAPTER 18. EDUCATION.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-5. Public school faculty senates established; election of officers; powers and duties.

(a) There is established at every public school in this state a faculty senate which is comprised of all permanent, full-time professional educators, and may include early childhood classroom assistant teachers, employed at the school who shall all be voting members. ‘Professional educators’, as used in this section, means ‘professional educators’ as defined in chapter 18A of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair, and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held during the times provided in accordance with subdivision (12), subsection (b) of this section as determined by the faculty senate. Emergency meetings may be held during noninstructional time at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of

matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting. For emergency meetings, the agenda shall be available as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees ~~as may be desirable~~ needed to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the ~~full body members present during a meeting.~~

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state, ~~or~~ county board or bylaws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it considers most effective and efficient based on school size, departmental structure, and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to ~~section nine, article nine-a of this chapter~~ §18-9A-9 of this code. From those funds, each classroom teacher and librarian shall be allotted \$300 for expenditure during the instructional year for academic materials, supplies, or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate: *Provided*, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem, and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies, or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: *Provided, however*, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies, and equipment. Accounts shall be maintained ~~of~~ with the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies, or equipment shall be interpreted broadly, but does not include materials, supplies, or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate ~~may~~ shall establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching, ~~and early childhood classroom assistant teacher~~ vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties, and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to ~~article three-b, chapter twenty-nine-a~~ §29A-3B-1 et seq. of this code to implement the provisions of this subdivision. The rule shall require that any process established pursuant to this subdivision include the participation and input of early childhood classroom assistant teacher when information regarding applicants for the early childhood classroom assistant teacher vacancies is being obtained; that the early childhood classroom assistant teacher be employed at the school with the vacancy; and that no service person applying for the position be included in the process beyond his or her role as an applicant for the position. The rule also may include the following:

(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals, ~~and~~ faculty senate members or their designees, or early childhood classroom assistant teacher who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher as applicable, who directly participates in the training for periods beyond his or her individual contract;

(C) Timelines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate plus one early childhood classroom assistant teacher meeting the requirements of this subdivision when information regarding applicants for the early childhood classroom assistant teacher vacancies is being obtained; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

(3) A faculty senate may nominate teachers or early classroom childhood assistant teacher for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

(4) A faculty senate may submit recommendations to the principal regarding the assignment scheduling of secretaries, clerks, aides, and paraprofessionals at the school.

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.

(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to ~~section eleven, article two of this chapter~~ §18-2-11 of this code.

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.

(8) Each faculty senate may nominate a member for election to the county staff development council pursuant to ~~section eight, article three, chapter eighteen-a~~ §18A-3-8 of this code.

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors for beginning teachers under beginning teacher internship programs at the school.

(10) A faculty senate may solicit, accept, and expend any grants, gifts, bequests, donations, and any other funds made available to the faculty senate: *Provided*, That the faculty senate shall select a member who has the duty of maintaining a record of all funds received and two members shall sign off all expenditures expended by the faculty senate, which record shall be kept in the school office and is subject to normal auditing procedures.

(11) Any faculty senate may review the process of the evaluation procedure as conducted in their school to ascertain whether the evaluations were conducted in accordance with the written system required pursuant to ~~section twelve, article two, chapter eighteen-a~~ §18A-2-12 of this code or pursuant to ~~section two, article three c, chapter eighteen-a~~ §18A-3C-2 of this code, as applicable, and the general intent of this Legislature regarding meaningful performance evaluations of school personnel. If a majority of members of the faculty senate determine that such evaluations were not so conducted, they shall submit a report in writing to the county superintendent and the State Board of Education: *Provided*, That nothing herein creates any new right of access to or review of any individual's evaluations without individuals written consent.

(12) A local board shall provide to each faculty senate at least ~~six~~ three two-hour blocks of time for faculty senate meetings with at least one two-hour block of time scheduled in the first month of the employment term, one two-hour block of time scheduled in the last month of the employment term and at least one two-hour block of time ~~scheduled in each of the months of October, December, February, and April~~ determined by the county board of education emergency meetings may be held where needed subject to approval. A faculty senate may meet for an unlimited block of time during noninstructional days to discuss and plan strategies to improve student instruction and to conduct other faculty senate business. A faculty senate meeting scheduled on a noninstructional day shall be considered as part of the purpose for which the noninstructional day is scheduled. This time may be used and determined at the local school level and includes, but is not limited to, faculty senate meetings.

~~(13) Each faculty senate shall develop a strategic plan to manage the integration of special needs students into the regular classroom at their respective schools and submit the strategic plan to the superintendent of the county board periodically pursuant to guidelines developed by the State Department of Education. Each faculty senate shall encourage the participation of local school improvement councils, parents, and the community at large in developing the strategic plan for each school.~~

~~Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional staff into integrated classrooms to meet the needs of exceptional needs students without diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.~~

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-8b. Seniority rights for school service personnel.

(a) A county board shall make decisions affecting promotions and the filling of any service personnel positions of employment or jobs occurring throughout the school year that are to be performed by service personnel as provided in §18A-4-8 of this code, on the basis of seniority, qualifications, and evaluation of past service, subject to subsection (c) of this section.

(b) Qualifications means the applicant holds a classification title in his or her category of employment as provided in this section and is given first opportunity for promotion and filling vacancies. Other employees then shall be considered and shall qualify by meeting the definition

of the job title that relates to the promotion or vacancy, as defined in §18A-4-8 of this code. If requested by the employee, the county board shall show valid cause why a service person with the most seniority is not promoted or employed in the position for which he or she applies. Qualified Subject to subsection (c) of this section, applicants shall be considered in the following order:

(1) Regularly employed service personnel who hold a classification title within the classification category of the vacancy;

(2) Service personnel who have held a classification title within the classification category of the vacancy whose employment has been discontinued in accordance with this section;

(3) Regularly employed service personnel who do not hold a classification title within the classification category of the vacancy;

(4) Service personnel who have not held a classification title within the classification category of the vacancy and whose employment has been discontinued in accordance with this section;

(5) Substitute service personnel who hold a classification title within the classification category of the vacancy;

(6) Substitute service personnel who do not hold a classification title within the classification category of the vacancy; and

(7) New service personnel.

(c) Notwithstanding any other provision of this code to the contrary, in the case of an early childhood classroom assistant teacher position:

(1) A county board shall give the principal at the school at which the majority of duties would be performed by applicants an opportunity to interview all qualified applicants and make recommendations to the county superintendent regarding their employment. The state board rule required by subdivision (7) of this subsection shall designate the person to interview the applicants if the principal is unable to submit hiring recommendations;

(2) A county board shall also give the faculty senate at the school at which the employee will be performing a majority of his or her duties including the participating early childhood classroom assistant teacher service person required pursuant to §18-5A-5 of this code an opportunity to interview or otherwise obtain information regarding applicants for the vacancies;

(3) Decisions affecting promotions and filling of the early childhood classroom assistant teacher positions of employment or jobs occurring throughout the school year that are to be performed by any early childhood classroom assistant teacher as provided in §18A-4-8 of this code shall be made on the basis of:

(A) Seniority;

(B) Qualifications;

(C) Evaluation of past service;

(D) The recommendation of the principal or other person as designated by the state board rule pursuant to subdivision (1) of this subsection;

(E) The recommendation, if any, resulting from the process established pursuant to §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties; and

(4) Each of the criterion under subdivision (3) of this subsection shall be given equal weight.

(5) The order of consideration of qualified applicants set forth in subsection (b) of this section may not apply when filling early childhood classroom assistant teacher positions and all qualified applicants shall be considered together in one group;

(6) If the principal and faculty senate with the input and participation of the early childhood classroom assistant teacher required pursuant to §18-5A-5 of this code recommend the same applicant pursuant to this subsection, and the county superintendent concurs with those recommendations, then the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary;

(7) The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 et seq. of this code to implement and interpret the provisions of this section. The rule may provide for a classroom teacher and early childhood classroom assistant teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract; and

(8) This subsection shall be effective for any promotions and filling of the early childhood classroom assistant teacher positions of employment or jobs occurring throughout the school year when the employment of the successful applicant in the position is to begin on or after July 1, 2024.

~~(e)~~ (d) The county board may not prohibit a service person from retaining or continuing his or her employment in any positions or jobs held prior to the effective date of this section and thereafter.

~~(d)~~ (e) A promotion means any change in employment that the service person considers to improve his or her working circumstance within the classification category of employment.

(1) A promotion includes a transfer to another classification category or place of employment if the position is not filled by an employee who holds a title within that classification category of employment.

(2) Each class title listed in §18A-4-8 of this code is considered a separate classification category of employment for service personnel, except for those class titles having Roman numeral designations, which are considered a single classification of employment:

(A) The cafeteria manager class title is included in the same classification category as cooks;

(B) The executive secretary class title is included in the same classification category as secretaries;

(C) Paraprofessional, autism mentor, early classroom assistant teacher, and braille or sign support specialist class titles are included in the same classification category as aides; and

(D) The mechanic assistant and chief mechanic class titles are included in the same classification category as mechanics.

(3) The assignment of an aide to a particular position within a school is based on seniority within the aide classification category if the aide is qualified for the position.

(4) Assignment of a custodian to work shifts in a school or work site is based on seniority within the custodian classification category.

~~(e)~~ (f) For purposes of determining seniority under this section a service persons seniority begins on the date that he or she enters into the assigned duties.

~~(f)~~ (g) *Extra duty assignments.* —

(1) For the purpose of this section, 'extra duty assignment' means an irregular job that occurs periodically or occasionally, such as, but not limited to, field trips, athletic events, proms, banquets, and band festival trips.

(2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting service personnel with respect to extra duty assignments are made in the following manner:

(A) A service person with the greatest length of service time in a particular category of employment is given priority in accepting extra duty assignments, followed by other fellow employees on a rotating basis according to the length of their service time until all employees have had an opportunity to perform similar assignments. The cycle then is repeated.

(B) An alternative procedure for making extra-duty assignments within a particular classification category of employment may be used if the alternative procedure is approved both by the county board and by an affirmative vote of two-thirds of the employees within that classification category of employment.

~~(g)~~ (h) County boards shall post and date notices of all job vacancies of existing or newly created positions in conspicuous places for all school service personnel to observe for at least five working days.

(1) Posting locations include any website maintained by or available for the use of the county board.

(2) Notice of a job vacancy shall include the job description, the period of employment, the work site, the starting and ending time of the daily shift, the amount of pay and any benefits and other information that is helpful to prospective applicants to understand the particulars of the job. The notice of a job vacancy in the aide classification categories shall include the program or primary assignment of the position. Job postings for vacancies made pursuant to this section shall be written to ensure that the largest possible pool of qualified applicants may apply. Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant.

(3) All vacancies in existing or newly created positions shall be filled within 20 working days from the closing date of the job posting for the position.

(4) The county board shall notify the successful applicant as soon as possible after the county board makes a hiring decision regarding the posted position.

~~(h)~~ (i) All decisions by county boards concerning reduction in work force of service personnel shall be made on the basis of seniority, as provided in this section.

~~(i)~~ (j) The seniority of a service person is determined on the basis of the length of time the employee has been employed by the county board within a particular job classification. For the purpose of establishing seniority for a preferred recall list as provided in this section, a service person who has been employed in one or more classifications retains the seniority accrued in each previous classification.

~~(j)~~ (k) If a county board is required to reduce the number of service personnel within a particular job classification, the following conditions apply:

(1) The employee with the least amount of seniority within that classification or grades of classification is properly released and employed in a different grade of that classification if there is a job vacancy;

(2) If there is no job vacancy for employment within that classification or grades of classification, the service person is employed in any other job classification which he or she previously held with the county board if there is a vacancy and retains any seniority accrued in the job classification or grade of classification.

~~(k)~~ (l) After a reduction in force or transfer is approved, but prior to August 1, a county board in its sole and exclusive judgment may determine that the reason for any particular reduction in force or transfer no longer exists.

(1) If the board makes this determination, it shall rescind the reduction in force or transfer and notify the affected employee in writing of the right to be restored to his or her former position of employment.

(2) The affected employee shall notify the county board of his or her intent to return to the former position of employment within five days of being notified or lose the right to be restored to the former position.

(3) The county board may not rescind the reduction in force of an employee until all service personnel with more seniority in the classification category on the preferred recall list have been offered the opportunity for recall to regular employment as provided in this section.

(4) If there are insufficient vacant positions to permit reemployment of all more senior employees on the preferred recall list within the classification category of the service person who was subject to reduction in force, the position of the released service person shall be posted and filled in accordance with this section.

~~(l)~~ (m) If two or more service persons accumulate identical seniority, the priority is determined by a random selection system established by the employees and approved by the county board.

~~(m)~~ (n) All service personnel whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force are placed upon a preferred recall list and shall be recalled to employment by the county board on the basis of seniority.

~~(n)~~ (o) A service person placed upon the preferred recall list shall be recalled to any position openings by the county board within the classification(s) where he or she had previously been employed, to any lateral position for which the service person is qualified or to a lateral area for which a service person has certification and/or licensure.

~~(o)~~ (p) A service person on the preferred recall list does not forfeit the right to recall by the county board if compelling reasons require him or her to refuse an offer of reemployment by the county board.

~~(p)~~ (q) The county board shall notify all service personnel on the preferred recall list of all position openings that exist from time to time. The notification shall be sent annually, with written receipt notification documented by the superintendent, and shall list instructions to access job postings on any website maintained by or available for the use of the county board.

~~(q)~~ (r) A position opening may be filled by the county board, whether temporary or permanent, until all service personnel on the preferred recall list have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.

~~(r)~~ (s) A service person released from employment for lack of need as provided in ~~sections six and eight a, article two of this chapter~~ §18A-2-6 and §18A-2-8a of this code is accorded preferred recall status on July 1 of the succeeding school year if he or she has not been reemployed as a regular employee.

~~(s)~~ (t) A county board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party's reasonable attorney's fee, as determined and established by the court.

(1) A service person denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactively to the date of the violation and shall be paid entirely from local funds.

(2) The county board is liable to any party prevailing against the board for any court reporter costs including copies of transcripts."

The bill was then ordered to third reading.

Com. Sub. for S. B. 730, Clarifying compensation for county tax collector; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 738, Authorizing State Fire Marshal to promulgate emergency rules relating to increased fees; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, and adopted, on page 1 by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 10. FIRE MARSHAL.**§15A-10-7. Fees.**

(a) The State Fire Marshal ~~is authorized to~~ may propose rules for legislative authorization pursuant to §29A-3-1 *et seq.* of this code to establish fees in accordance with the following:

- (1) For blasting;
- (2) For inspections of schools or day care facilities;
- (3) For inspections of hospitals or nursing homes;
- (4) For inspections of personal care homes or board and care facilities;
- (5) For inspections of residential occupancies;
- (6) For inspections of mercantile occupancies;
- (7) For business occupancies; and
- (8) For inspections of assembly occupancies.

For purposes of this subdivision, an ‘assembly occupancy’ includes, but is not limited to, all buildings or portions of buildings used for gathering together 50 or more persons for ~~such~~ purposes such as deliberation, worship, entertainment, eating, drinking, amusement, or awaiting transportation. For purposes of this section, a ‘Class C assembly facility’ is one that accommodates 50 to 300 persons, a ‘Class B facility’ is one which accommodates more than 300 persons but ~~less~~ fewer than 1,000 persons, and a ‘Class A facility’ is one which accommodates more than 1,000 persons.

(b) The State Fire Marshal may collect fees for the fire safety review of plans and specifications for new and existing construction. Fees shall be paid by the party or parties receiving the review.

- (1) Structural barriers and fire safety plans review;
- (2) Sprinkler system review;
- (3) Fire alarm systems review;
- (4) Range hood extinguishment system review;
- (5) Carpet specifications.

(c) All fees authorized and collected pursuant to this article, §29-3B-1 *et seq.*, §29-3C-1 *et seq.*, and §29-3D-1 *et seq.* of this code shall be paid to the State Fire Marshal and thereafter deposited into the special account in the State Treasury known as the Fire Marshal Fees Fund. Expenditures from the fund shall be for the purposes set forth in this article and §29-3B-1 *et seq.*, §29-3C-1 *et seq.*, and §29-3D-1 *et seq.* of this code and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §5A-2-1 *et*

seq. of this code. Any balance remaining in the special account at the end of any fiscal year shall be reappropriated to the next fiscal year.

(d) If the owner or occupant of any occupancy arranges a time and place for an inspection with the State Fire Marshal and is not ready for the occupancy to be inspected at the appointed time and place, the owner or occupant thereof shall be charged the inspection fee provided in this section unless at least 48 hours prior to the scheduled inspection the owner or occupant requests the State Fire Marshal to reschedule the inspection. In the event a second inspection is required by the State Fire Marshal as a result of the owner or occupant failing to be ready for the inspection when the State Fire Marshal arrives, the State Fire Marshal shall charge the owner or occupant of the occupancy the inspection fees set forth ~~above~~ in the legislative rule for each inspection trip required.

(e) The State Fire Marshal may promulgate emergency rules relating to fees pursuant to the provisions of §29A-3-1 et seq. of this code: Provided, That no fee may increase more than 50 percent."

The bill was then ordered to third reading.

Com. Sub. for S. B. 740, Prohibiting digital manipulation of sexually explicit content to include minors; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-28a. Nonconsensual disclosure of private intimate images; definitions; and penalties.

(a) As used in this section:

(1) 'Deep fake' means a visual depiction of an individual that did not occur in reality and the production of which was substantially dependent upon technical means, including artificial intelligence and photo editing software, rather than the ability of another person to physically impersonate the other person, and, which is so realistic that a reasonable person would believe it depicts speech or conduct of an individual who did not in fact engage in such speech or conduct.

(2) 'Disclose' means to publish, publicly display, distribute, deliver, circulate or disseminate by any means, including, but not limited to, electronic transmission.

~~(2)~~ (3) 'Image' means a photograph, videotape, motion picture film, digital recording, deepfake, or any product of any mechanical or electronic recording process or device that can preserve, for later viewing, a visual image.

~~(3)~~ (4) 'Intimate parts' means a person's genitalia, pubic area, anus or female post-pubescent breasts.

(4) (5) To 'publicly disclose' means to disclose an image to one or more persons other than those persons whom the person depicted understood would view the image at the time it was captured.

(b) No person may knowingly and intentionally disclose, cause to be disclosed or threaten to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce, an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed, or, which purports to be the same.

(c) (1) A person convicted of a violation of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not less than \$1,000 nor more than \$5,000, or both confined and fined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person convicted of a second or subsequent violation of subsection (b) of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not more than three years, fined not less than \$2,500 nor more than \$10,000, or both imprisoned and fined.

(d) The provisions of this section do not apply to:

(1) Images disclosed with the prior written consent of the person depicted;

(2) Images depicting the person voluntarily exposing himself or herself in a public or commercial setting; or

(3) Disclosures made through the reporting of illegal conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceeding or medical treatment.

(e) Nothing in this section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U. S. C. §230(f)(2), an information service as defined by 47 U. S. C. §153(24), or telecommunications service as defined by 47 U. S. C. §153(53), for content provided by another person.

ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.

§61-8C-1. Definitions.

For the purposes of this article:

(a) 'Minor' means any child under eighteen years of age.

(b) 'Knowledge' means knowing or having reasonable cause to know which warrants further inspection or inquiry.

(c) 'Sexually explicit conduct' includes any of the following, whether actually performed or simulated:

(1) Genital to genital intercourse;

(2) Fellatio;

- (3) Cunnilingus;
- (4) Anal intercourse;
- (5) Oral to anal intercourse;
- (6) Bestiality;
- (7) Masturbation;
- (8) Sadomasochistic abuse, including, but not limited to, flagellation, torture or bondage;
- (9) Excretory functions in a sexual context; or
- (10) Exhibition of the genitals, pubic or rectal areas of any person in a sexual context.

(d) 'Person' means an individual, partnership, firm, association, corporation or other legal entity; or

(e) 'Deep fake' means a visual depiction of an individual that did not occur in reality and the production of which was substantially dependent upon technical means, including artificial intelligence and photo editing software, rather than the ability of another person to physically impersonate the other person, and, which is so realistic that a reasonable person would believe it depicts speech or conduct of an individual who did not in fact engage in such speech or conduct.

(f) 'Visual portrayal' means:

(1) A photograph;

(2) A motion picture;

(3) A digital image;

(4) A digital video recording;

(5) A deep fake; or

(6) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person that includes, but is not limited to, computers, cellphones, personal digital assistance, and other digital storage or transmitting devices.

§61-8C-2a Prohibited digital manipulation of media.

(a) Any person who modifies or otherwise changes a photograph, image, video clip, movie, recording, or any other visual portrayal containing sexually explicit conduct by the insertion therein of a visual image of an actual minor so as to create the appearance that it is the actual minor engaged in the sexually explicit conduct is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) As used in this section, 'actual minor' shall be defined as a person, whether living or deceased, whose image was taken or captured when he or she was under the age of 18 and later

inserted into a photograph, image, video clip, movie, recording, or other visual portrayal containing sexually explicit conduct.

(c) The provisions of this section constitute a separate and distinct offense from any other set forth in this code.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 741, Prohibiting creation, production, distribution or possession of artificially generated child pornography; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 751, Creating online charitable raffles; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, and adopted, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 21A. ONLINE CHARITABLE RAFFLES.

§47-21A-1. Legislative intent.

The Legislature, in recognition of the need for charitable and public service organizations to have for a practicable way of raising funds by means of the internet, declares its intent to grant the privilege of holding online raffles to those organizations as provided in this article.

§47-21A-2. Definitions.

For purposes of this article, unless specified otherwise:

‘Charitable or public service activity or endeavor’ means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Contributing to educational or religious purposes;

(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 supporting or participating in the campaign of any candidate for public office;

(5) 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;

(7) Providing or supporting nonprofit cultural or artistic activities; or

(8) Providing or supporting any political party executive committee.

'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 single candidate for public office.

'Commissioner' means the State Tax Commissioner.

'Conduct' means to direct the actual holding of an online raffle by activities including, but not limited to, selling tickets, collecting money, drawing or arranging for the drawing of the winning numbers or names, announcing the winning numbers or names, posting the winning numbers or names, verifying winners, and awarding prizes.

'Expend net proceeds for charitable or public service purposes' means to devote the net proceeds of an online raffle occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-21A-13 of this code.

'Gross proceeds' means all moneys collected or received from the conduct of an online raffle held by a licensee during a license period.

'Licensee' means any charitable or public service organization or association granted an annual or limited occasion license pursuant to the provisions of this article.

'Net proceeds' means all moneys collected or received from the conduct of an online raffle or online raffles at occasions held by a licensee during a license period after payment of the online raffle expenses authorized by §47-21A-11, §47-21A-12, and §47-21A-13 of this code.

'Person' means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

'Patron' means any individual who participates in an online raffle by purchasing an online raffle ticket other than an individual who is participating in the conduct of the online raffle.

'Platform provider' means any third-party entity that contracts by written agreement with a licensee to host, conduct, or otherwise administer an online raffle by using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

'Qualified recipient organization' means any bona fide, not-for-profit, tax-exempt, incorporated or unincorporated association or organization which is organized exclusively for charitable or public services activities or endeavors.

'Online Raffle' has the same meaning as 'raffle' as defined in §47-21-2 of this code but conducted using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

'Online raffle occasion' or 'occasion' means a single online session at which a series of one or more successive online raffles is conducted by a single licensee.

'Tax-exempt association or organization' means an association or organization which 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 of 1986, as amended; or is exempt from income taxes under subsection 527(a) of that code.

'Virtually Present' means live, real-time availability by online or other electronic means and includes, but is not limited to, audio or video appearance or by an instant, live chat or messaging program.

§47-21A-3. Authorizing the conduct of certain online raffles without a license.

Notwithstanding any other provisions of this article to the contrary, any charitable or public service organization which has been in existence in this state for at least one year may conduct online raffles without compliance with the licensing provisions of this article: *Provided*, That any prize awarded in any single online raffle in an online raffle occasion may not exceed in \$4,000 value: *Provided, however*, That the cumulative gross proceeds derived from the conduct of online raffle occasions by the charitable or public service organization may not exceed \$15,000 during any calendar year: *Provided further*, That the charitable or public service are not subject to the record keeping provisions of §47-21A-14 of the code but shall maintain a separate accounting for the operation of online raffles. All records required by this section shall be maintained for at least three calendar years and shall be available for reasonable inspection by the commissioner.

§47-21A-4. Who may hold online raffles; application for license; licenses not transferable.

(a) Except as provided in §47-21A-3 of this code, only persons who are residents of this state and who are active members of any charitable or public service organization which has been in existence in this state for at least two years prior to filing an application for an online raffle license issued pursuant to §47-21A-5 and §47-21A-6 of the code may hold online raffle occasions in accordance with the provisions of this article and only during the time it holds a valid license.

(b) The charitable or public service organization applies for an online raffle license to the Tax Commissioner and shall be on a form supplied by him or her. The application shall contain the information required by §47-21A-8 of the code and any other information which the commissioner considers necessary. An online raffle may not be held and online raffle tickets may not be sold pursuant to this article until the online raffle application has been approved by the Tax Commissioner and the license has been received by the applicant: *Provided*, That an online raffle occasion may not be held and online raffle tickets may not be sold until a 60-day filing period, which is that time period between the receipt of that application by the Tax Commissioner and the first online raffle occasion, has expired: *Provided, however*, That the Tax Commissioner shall send the applicant its license within five days after the application is approved. If the 60-day filing period has expired and the application has not been denied and the online raffle license has not been received by the applicant, the applicant may consider the application approved and begin

to sell tickets for the online raffle or hold the online raffle occasion. The Tax Commissioner shall send the applicant its license within five days after the expiration of the filing period if the application has not been otherwise denied.

(c) An online raffle license issued pursuant to this article may not be transferred.

§47-21A-5. Annual license; conditions on holding of online raffles.

(a) A charitable or public service organization or any of its auxiliaries or other organizations otherwise affiliated with it, may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it: *Provided*, That for purposes of this section, the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, to provide for the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the one license allowed under this section is granted. An annual license is valid for one year from the date of issuance. Charitable or public service organizations may not hold a joint online raffle occasion under any annual licenses.

(b) A licensee shall utilize geo-location or geo-fencing technology to ensure that online charitable raffles patrons are located in the state of West Virginia. A licensee shall maintain in the state of West Virginia its servers used to transmit information for the purposes of patron participation.

(c) The Tax Commissioner shall provide on his or her website a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide a conspicuous hyperlink on any online raffle ticket that is purchased by a patron to the Tax Commissioner's website. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

§47-21A-6. Limited occasion license; conditions on holding of online raffles.

(a) Two or more charitable or public service organizations may hold a joint online raffle occasion provided each participating organization has been granted a limited occasion online raffle license for the jointly held occasion: *Provided*, That a licensee which holds an annual license may not obtain more than one limited occasion license.

(b) A limited occasion license is valid only for the time period specified in the application and entitles only the licensee to hold two online raffle occasions during the specified time period which may not exceed six months from the date of issuance of the limited occasion license.

(c) Subject to the limitations set forth in this section for charitable or public service organization having an annual license, a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it, may be granted only three limited occasion licenses per year in the aggregate. For purposes of this section the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall by rulemaking provide the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the three licenses allowed under this section are granted.

(d) The Tax Commissioner shall provide a hyperlink on its website that will display a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide this hyperlink on any online raffle ticket that is purchased by a patron. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

§47-21A-7. License fee and exemption from taxes.

(a) A license fee shall be paid to the Tax Commissioner for annual licenses in the amount of \$500. A license fee shall be paid to the Tax Commissioner for a limited occasion license in the amount of \$50. All revenue from the license fees shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory activities provided for in that section. The license fee imposed by this section is in lieu of all other license or franchise taxes or fees of this state and a county or municipality or other political subdivision of this state may not impose a license or franchise tax or fee on any online raffle or online raffle occasion.

(b) The gross proceeds derived from the conduct of an online raffle occasion are exempt from state and local business and occupation taxes, income taxes, excise taxes, and all special taxes. Any charitable or public service organization conducting an online raffle occasion pursuant to the provisions of this article is exempt from payment of consumers sales and service taxes, use taxes, and all other taxes on all purchases for use or consumption in the conduct of an online raffle occasion and is exempt from collecting consumers sales taxes on any admission fees and sales of online raffle tickets.

§47-21A-8. Information required in application.

An application for an online raffle license shall include the following information:

(a) The name of the applicant and the name and headquarter's address of any state or national organization of which the applicant is a local branch or lodge;

(b) The address and telephone number of the applicant organization, if any, and if the applicant organization has no telephone, then the address and telephone number of the person applying on behalf of the organization shall be supplied;

(c) For a limited occasion license, the names and addresses of two or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses of the highest elected officer of the licensee and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; for an annual license, the names, addresses and telephone numbers of three or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses and telephone numbers of the highest elected officer of the licensee and his or her officially appointed designee, one of whom shall be virtually present and available when the winning

numbers and names are drawn, announced, posted, and verified and present when the prizes are awarded;

(e) The address and the location of any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet. A copy of all written agreements between the licensee and the platform provider providing these services shall specifically provide a statement of all costs and fees to be incurred by the licensee for receiving these services by the platform provider. A copy of any written agreements shall be provided to the Tax Commissioner;

(f) Information required by the commissioner to satisfy him or her that the applicant meets the requirements of:

(1) Being a charitable or public service organization as defined by this article; and

(2) Being in existence in this state for at least one year prior to filing an application for an online raffle license.

(g) Designate the date or dates and the time or times when the online raffle occasions will be held;

(h) State whether the applicant has ever had a previous application for any online raffle or raffle license refused, or whether any previous online raffle license or raffle license has been revoked or suspended;

(i) State the charitable or public service purpose or purposes for which the online raffle proceeds will be expended;

(j) Provide statements to the effect that the individuals specified in subdivision (c) of this section and the officers of the applicant understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct the online raffle;

(2) That they are required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and that a violation of the provisions may result in suspension or revocation of the online raffle license or other raffle license and denial of applications for subsequent online raffle licenses or raffle licenses;

(k) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(l) Provide a list and description of estimated expenses to be incurred in connection with the holding of the online raffle occasions and the name and address of each payee;

(m) A list of the names and addresses of all officers and members of the board of directors, governors or trustees, if any, of the applicant organizations; and

(n) Any other necessary and reasonable information which the commissioner may require.

§47-21A-9. Amendment of license.

If circumstances beyond the control of the licensee prohibit it from holding any online raffle occasion in accordance with the information provided by it in its license application form, the licensee may request approval by the commissioner to modify the terms and conditions of its license.

§47-21A-10. Licensee rules and regulations.

(a) Each licensee may adopt rules and regulations, not inconsistent with or in violation of the provisions of this article, or rules promulgated to govern the conduct of online raffle occasions.

(b) Any rules and regulations adopted by the licensee shall be made available for inspection at all raffle occasions held by way of advertising these rules and regulations on its website and by being posted conspicuously at their place of operation that was provided on its application for a license. Any adopted rules and regulations are a part of the records required to be kept by §47-21A-14 of this code.

§47-21A-11. Limits on prizes awarded; general provisions.

Prizes may be money, real or personal property, or merchandise other than beer, wine, spirits, or alcoholic liquor as defined in §60-1-5 of this code. If the prizes are real or personal property or merchandise, the value assigned to them is their fair market value at the time of acquisition for the online raffle or at the time of purchase.

§47-21A-12. Compensation.

(a) A licensee may pay a salary, the minimum of which is the federal minimum wage and the maximum of which is not more than 120 percent of the state minimum wage to operators of charitable online raffles who are either:

(1) Active members of the licensee organization and who have been active members in good standing for at least two years prior to the date of filing of the application for an online charitable raffle license or the most recent filing of an application for renewal of the license; or

(2) Employees of the licensee organization or its authorized auxiliary organization.

(b) If the licensee's gross receipts from online raffle occasions equal or exceed \$100,000 for the licensee's most recently filed annual financial report, a salary may be paid to not more than eight operators.

(c) If the licensee's gross receipts from online charitable raffle occasions are less than \$100,000, but equal or exceed \$50,000 for the licensee's most recently filed annual financial report, a salary may be paid to not more than five operators.

(d) If the licensee's gross receipts from online charitable raffle occasions are less than \$50,000 for the licensee's most recently filed annual financial report, a salary may be paid to no more than three operators.

§47-21A-13. Payment of reasonable expenses from proceeds; net proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of online raffle occasions, not to exceed 40 percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of the online raffle, including, but not limited to:

(1) Rent paid for the use of any premises: *Provided*, That a copy of the rental agreement was filed with the online raffle license application with any modifications to the rental agreement to be filed within 10 days of being made: *Provided, however*, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost to the licensee organization for equipment and supplies used to conduct the online raffle occasion;

(3) The cost to the licensee organization for advertising the online raffle occasion;

(4) The costs involved in the licensee using technology, Internet service providers, servers, or other necessary infrastructure by which to advertise and conduct the online raffle or online raffle occasion;

(5) The costs relating to any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in §47-21A-11 of the code, may be paid out of the gross proceeds of the conduct of an online raffle.

(c) The licensee shall expend all net online raffle proceeds and any interest earned on the net online raffle proceeds for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the online raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for an online raffle license for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) Gross proceeds from any online raffle occasion may not be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, or improvement, of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subsection (a) of this section.

(e) The Tax Commissioner may disapprove any contract for sale of goods or services to any online raffle licensee for use in or with relation to any online raffle operation or occasion, or any lease of real or tangible personal property to any online raffle licensee for use in or with relation to any online raffle operation or occasion, if the contract or lease is unreasonable or not

representative of fair market value. Disapproved contracts or leases shall be considered to be in contravention of this article, and are void. Any attempt by any online raffle licensee to engage in transactions under the terms of any disapproved lease or contract is grounds for revocation or suspension of the online raffle license or other charitable raffle license and for refusal by the Tax Commissioner to renew the online raffle license or raffle license.

(f) Any licensee which, in good faith, finds itself unable to comply with the requirements of subsections (a) through (e) of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than 60 days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file periodic reports with the commissioner as directed until the proceeds are expended.

§47-21A-14. Records; commissioner audit.

Any licensee which holds an online raffle occasion as provided by this article shall maintain a separate account and separate bookkeeping procedure for its online raffle operations. All records required by this article shall be maintained for at least three years and shall be open to the commissioner for reasonable inspection. Whenever the commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee's books and records.

§47-21A-15. Advertising.

A licensee may advertise its online raffle occasions in a manner reasonably necessary to promote the occasion.

§47-21A-16. Annual Platform Provider license; conditions on holding of online raffles.

A platform provider may apply for an annual Platform Provider license: *Provided*, That a platform provider that has a principal place of business located within this state shall be registered with the West Virginia Secretary of State and also possess a Business Registration Certificate from the West Virginia State Tax Department: *Provided, however*, That a platform provider that has a principal place of business located outside of this state shall be registered as an appropriate foreign corporation with the West Virginia Secretary of State and also possess a Business Registration Certificate from the West Virginia State Tax Department.

§47-21A-17. Annual Platform Provider License fee and exemption from taxes.

A license fee shall be paid to the Tax Commissioner for annual Platform Provider licenses in the amount of \$500. All revenue from the license fee shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory activities provided for in that section.

§47-21A-18. Information required in application for an Annual Platform Provider License.

An application for an Annual Platform Provider license shall include the following information:

(a) The name of the applicant, the legal name of the entity, the jurisdiction and locale of incorporation, telephone number, e-mail address, and the physical and mailing address of its principal place of business;

(b) A description of methods by which they manage, administer, or oversee a website software system, web application, method, or other process for the purposes of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet;

(c) Provide statements that detail the costs and fee structures for any services that are provided by the platform provider.

(d) State whether the applicant has ever had a previous application for any license relating to the regulation of an online raffle refused, or whether any previous license relating to the regulation of an online raffle has been revoked or suspended;

(e) Provide statements to the effect that the individuals and entities specified in subdivision (a) of this section understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct business related to being a platform provider;

(2) That it is required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and, that a violation of such provisions may result in suspension or revocation of the platform provider license and denial of applications for subsequent platform provider licenses;

(f) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(g) A list of the names and addresses of all officers and members of the board of directors, if any, of the platform provider; and

(h) Any other necessary and reasonable information required by the commissioner.

§47-21A-19. Records; commissioner audit.

Any licensee which holds an Annual Platform Provider License as provided by this article shall maintain a bookkeeping procedure for all of its activities relating to being a platform provider for any charitable or public service organization conducting online raffles in the state. All records required by this article shall be maintained for at least three years and shall be open to the commissioner for reasonable inspection. Whenever the commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee's books and records.

§47-21A-20. Fraud; penalties.

In addition to any other offense set forth in this code, any person, platform provider, or licensee that knowingly conducts or participates in a fraudulently or deceptively conducted, or administered online raffle with intent to defraud is guilty of a felony, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000, or imprisoned in a correctional facility not less than one, nor more than five years, or both fined and imprisoned.

§47-21A-21. Obtaining license fraudulently; penalty.

In addition to any other offense set forth in this code, any person, platform provider, or licensee that knowingly obtains or assists another person in obtaining an online raffle license or platform provider license under false, deceptive, or fraudulent pretenses is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000.

§47-21A-22. Violation of provisions; crime; civil penalties.

(a) Any person, entity, or platform provider that knowingly violates any provisions of this article, other than the provisions of §47-21A-20 or §47-21A-21 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, upon a second or subsequent conviction thereof, shall be fined not less than \$100 nor more than \$100,000 or confined in jail not more than one year, or both fined and confined.

(b) In addition to any other penalty provided by law, any person, licensed or unlicensed under this article, who violates any provisions of this article, or who fails to perform any of the duties or obligations created and imposed upon them by the provisions of this article, other than the provisions of §47-21A-20 or §47-21A-21 of this code is subject to a civil penalty determined by the Tax Commissioner in an amount not to exceed \$10,000.

§47-21A-23. Administration; rules and regulations.

(a) The commissioner shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code, to administer the provisions of this article. The commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code, to administer the provisions of this article.

(b) The commissioner shall deny an application for any license or modification thereof if he or she finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend, or refuse to renew any license if the licensee or any member of a licensee organization has been convicted pursuant to §47-21A-20, §47-21A-21, or §47-21A-22 of this code, and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: *Provided*, That before revoking or suspending any license issued under the authority of this article, the commissioner shall give at least 10 days' notice to the licensee. The notice shall be in writing, state the reason for revocation or suspension, and inform the licensee of its right to petition the Office of Tax Appeals for a hearing at which the licensee may show cause why the license should not be revoked or suspended. The notice required by this section shall be by personal or substituted service, in accordance with the West Virginia rules of civil procedure for trial courts of record, on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, present evidence in its behalf and be represented by counsel. A

decision of the Office of Tax Appeals upholding in whole or in part the revoking or suspending a license is subject to judicial review as provided in §11-10A-19 of this code.

(d) The commissioner may suspend, revoke, or refuse to renew any license issued under this article for a material failure to maintain the records or file the reports required by this article if the commissioner finds that the failure will substantially impair the commissioner's ability to administer the provisions of this article with regard to the licensee.

(e) The provisions of §29A-5-1 et seq. of this code apply to the denial, revocation, suspension of, or refusal to renew any license.

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why any license should be issued or renewed and on the licensee to show cause why any license should not be revoked or suspended.

(h) Notwithstanding any other provision of this article, the commissioner may issue an emergency order suspending any license under the following circumstances and in the following manner:

(1) An emergency order may be issued only when the commissioner believes that:

(i) There has been a criminal violation of this article;

(ii) The action is necessary to prevent a criminal violation of this article; or

(iii) The action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action. This order shall be served by personal or substituted service on the licensee or the person who applied for the license on behalf of the licensee.

(3) The emergency order is effective immediately upon issuance and service upon the licensee.

(4) Within five days after issuance of an emergency order, the licensee may petition the Office of Tax Appeals to set a time and place for a hearing where the licensee may appear and show cause why its license should not be revoked.

§47-21A-24. Filing of reports.

(a) Each licensee holding an annual, limited occasion, or platform provider license shall file with the commissioner a financial report summarizing its online raffle operations within 30 days after the expiration date of the license. The time period covered by an annual report is the full license year or, at the election of a licensee receiving state or federal funding, the most recently ended state or federal fiscal year.

(b) The reports required by this section relating to a platform provider license shall additionally contain the name, address, and telephone number of each charitable organization to which the platform provider provided services. The report shall also list the specific online raffle occasions in which platform provider participated, including the date of each online raffle occasion, any costs and fees associated with these online raffle occasions, and any other information required by the commissioner.

(c) The reports required by this section relating to an annual license or a state fair license shall additionally contain the name, address, and social security number of any individual who received during the course of an online raffle occasion prizes the aggregate value of which exceeded \$100, and other information required by the commissioner: *Provided*, That any licensee failing to file the report when due is liable for a penalty of \$25 for each month or fraction of a month during which the failure continues, the penalty not to exceed \$100: *Provided, however*, That annual financial reports shall contain either a compilation or review of the financial report by a certified or licensed public accountant, or may be audited by a certified or licensed public accountant, if a licensee's gross receipts exceed \$50,000.

§47-21A-25. Filing of copy of license; application open to public inspection.

Whenever any license is granted pursuant to this article, the commissioner shall cause a copy of the license to be filed and recorded with the clerk of the county commission of the county in which the licensee's physical operations exist as provided in its application: *Provided*, That a platform provider license issued to an entity that has a principal place of business outside of the state shall provide a hyperlink on their website which will be directed towards a viewable version of the platform provider license. A copy of any application shall be made available for public inspection in the office of the commissioner.

§47-21A-26. Prohibited acts by convicted persons.

Any person convicted of any felony, or a misdemeanor for a gambling offense, or of a violation of any provision of §47-20-1 *et seq.* of this code, is prohibited from directly or indirectly obtaining an online raffle license, conducting an online raffle occasion, or leasing or providing to a licensee any premises where online raffle occasions may be overseen or held, within 10 years from said conviction.

§47-21A-27. Proceeds of state fair.

The Legislature declares that the net proceeds of any online raffle game which accrue to the West Virginia state fair are considered used for charitable or public service purposes as defined in §47-21A-2 of this code. Any proceeds allowed by the state fair board to be paid to or retained by persons who conduct or oversee online raffle occasions are considered to be expenses incurred by the state fair board.

§47-21A-28. State fair online raffle license; rules and regulations.

The West Virginia state fair board may apply annually to the Tax Commissioner for a state fair online raffle license to provide for the conduct of online raffle occasions. The license shall permit the state fair board to have one or more persons conduct online raffle occasions who have conducted online raffle occasions on a regular basis for a least one year prior to the date of the state fair board's application. The state fair shall pay a license fee of \$500 which shall be paid to the Tax Commissioner for the state fair online raffle license. The provisions of §47-21A-11, §47-

21A-12, and §47-21A-13 of the code do not apply to a state fair raffle license. A state fair online raffle license may not be issued unless the application includes a copy of any agreement entered into between the state fair board and the persons or entities who are to conduct online raffle occasions. The state fair board may adopt reasonable rules and regulations, not inconsistent with or in violation of the provisions of this article, to govern the holding of online raffle occasions.

§47-21A-29. Additional remedies for the commissioner; administrative procedures; deposit of money penalties.

(a) Additional remedies. Notwithstanding any provision of this article to the contrary, the commissioner may:

(1) Revoke or refuse to renew any license issued under this article for any material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article;

(2) Suspend the license of any licensee for the period of time the commissioner considers appropriate, not to be less than one week nor more than 12 months, for any material violation of the provisions of this article or legislative rule of the commissioner promulgated under this article;

(3) Place any licensee on probation for not less than six months nor more than five years: *Provided*, That if a licensee is placed on probation, as a condition of the probation, the licensee shall pay to the commissioner a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of online raffle occasions, or a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of providing a platform within the state during the period of the suspension, but, in no event, may the probation supervision fee be less than \$2,000. All probation supervision fee revenue shall be placed in a special account and used by the commissioner to offset the expenses and costs incurred by the Tax Division to supervise the licensee;

(4) Require any licensee to replace any officer who knew or should have known of a material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article;

(5) Require any licensee to prohibit one or more members, supporters, volunteers, or employees of the licensee involved in acts of material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article, from all future online raffle occasions held under the license, or for the period of time specified by the commissioner;

(6) Impose a civil money penalty in an amount not less than \$100 nor more than two times the annual gross proceeds derived by any licensee, for each material violation of the provisions of this article or legislative rules of the commissioner: *Provided*, That in setting any monetary penalty for a first offense, the commissioner shall take into consideration the ability of the licensee to continue to exist and operate. For each material violation which is a second or subsequent offense, the amount of the civil penalty that may be imposed may not be less than \$500 and may not exceed two times the annual gross proceeds of the licensee. The commissioner may file this rule as an emergency rule. Any licensee aggrieved by the amount of the civil penalty may surrender its license, or, after exhausting all administrative remedies, have the matter reviewed in the West Virginia Intermediate Court of Appeals; or

(7) Order any one or more, or any combination, of the penalties provided for in subdivisions (1) through (6) of this subsection: *Provided*, That no sanctions or other remedy shall be imposed under this article on a licensee which is exempt or qualified to be exempt from federal income taxation under subsection 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, but does not have bona fide members, due to failure to operate online raffle occasions with members if the occasions are or were operated by residents of this state who have been employed by the licensee or been meaningfully associated with the licensee for one or more years before the date of the licensee's application for a license under this article, or its last application for renewal of a license under this article.

(b) *Administrative procedures.*

(1) An order issued under this section shall be served by certified mail or in the manner provided in rule 4(d) of the West Virginia rules of civil procedure for trial courts of record, as amended.

(2) A licensee may appeal an order of the commissioner issued under this section by petitioning the Office of Tax Appeals within 20 days after the licensee is served with a copy of the order.

(3) When a petition is filed timely, the provisions of §11-10A-1 *et seq.* of this code apply.

(4) The burden of proof in any administrative or court proceeding is on the licensee to show cause why the order of the commissioner under this section should be modified, in whole or in part, or set aside.

(c) *Deposit of money penalties.* — All fines, money penalties, and fees imposed pursuant to this section, except the probation supervision fee imposed by subdivision (3), subsection (a) of this section, shall be deposited into the General Revenue Fund of this state.”

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 617**), and there were--yeas 82, nays 12, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Coop-Gonzalez, Dillon, Fast, Linville, Martin, Pinson, E. Pritt, Ridenour, Vance and Ward.

Absent and Not Voting: Foggin, Kump, Miller, C. Pritt, Steele and Winzenreid.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 618**), and there were--yeas 79, nays 15, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Coop-Gonzalez, Dillon, Fast, Jennings, Martin, Pinson, Ross, Street, Toney, Vance, Ward and Worrell.

Absent and Not Voting: Cannon, Foggin, Kump, Miller, C. Pritt and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 751) passed.

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

Com. Sub. for S. B. 755, Providing safeguards for online sales of tobacco products; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, by striking everything after the enacting clause and inserting, in lieu thereof, the following:

“ARTICLE 9E. DELIVERY SALES OF TOBACCO PRODUCTS.

§16-9E-1. Definitions.

For purposes of this article:

~~(a)~~ ‘Adult’ means ~~a person who is at least the legal minimum purchase age, as defined by section two, article nine-a of this chapter.~~

~~(b)~~⁽¹⁾ ‘Consumer’ means an individual who does not hold a business registration certificate in this state for the business of selling tobacco products as a wholesale or retail dealer.

~~(c)~~⁽²⁾ ‘Delivery sale’ means any sale of ~~cigarettes~~ a tobacco product to a consumer in this state where either: ~~(1) (A) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service~~ the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or (2)(B) the cigarettes are delivered by use of the mails or a delivery service. A sale of cigarettes shall be a delivery sale regardless of whether or not the seller is located within this state the tobacco product is delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco: A *Provided*, That a sale of cigarettes a tobacco product not for personal consumption to a person who holds a business registration certificate as a wholesale dealer or a retail dealer shall not be is not a delivery sale.

~~(d)~~⁽³⁾ ‘Delivery service’ means any person who is engaged in the commercial delivery of letters, packages, or other containers.

~~(e)~~⁽⁴⁾ ‘Department’ means the State Tax Department.

~~(f)~~⁽⁵⁾ ‘Electronic smoking device’ means any device that can be used to deliver any heated, aerosolized, or vaporized solution to the person inhaling from the device, including, but not limited to, any e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes

any component part, or accessory of the device, whether or not sold separately, and includes any solution intended to be heated, aerosolized, or vaporized during the use of the device, whether or not the solution contains nicotine. Electronic smoking device does not include drugs, devices, or combination products approved by the United States Food, Drug, and Cosmetic Act.

~~(f)(6)~~ 'Legal minimum purchase age' is at least eighteen 21 years of age as defined by section two, article nine-a of this chapter for the purchase of cigarettes in this state shall have the same meaning as provided in §16-9A-1 et seq. of this code.

~~(g)(7)~~ 'Mails' or 'mailing' means the shipment of cigarettes any tobacco product through the United States postal service.

~~(h)~~ 'Shipping container' means a container in which cigarettes are shipped in connection with a delivery sale.

~~(i)~~ 'Shipping documents' means bills of lading, airbills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

(8) 'Tobacco product' means any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether absorbed, inhaled, or ingested by any other means, including, but not limited to, cigarettes, cigarillos, little cigars, snuff, snus, chewing tobacco, or other common tobacco-containing products. A 'tobacco product' also includes electronic smoking devices and any accessory of a tobacco product or electronic smoking device, whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes. A 'tobacco product' does not include drugs, devices, or combination products that are regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act, , nor does 'tobacco product' include cigars as defined in Title 26 U.S.C. §5702.

§16-9E-2. Requirements for delivery sales.

~~(a) No person~~ A person shall not, make in connection with a delivery sale, of cigarettes accept a purchase order, sell, mail, deliver, or cause to be delivered any tobacco product to any individual who is under the legal minimum purchase age in this state.

~~(b)~~ Each person accepting a purchase order for, selling, mailing, delivering, or cause to be delivered of any tobacco product in connection with a delivery sale shall comply with:

~~(1)~~ The applicable age verification requirements set forth in section three of this article §16-9E-3 of this code;

~~(2)~~ The disclosure requirements set forth in subdivision (3), subsection (a), section three of this article;

~~(3)(2)~~ The applicable shipping requirements set forth in section four of this article §16-9E-4 of this code;

~~(4)(3)~~ The applicable registration and reporting requirements set forth in section five of this article §16-9E-5 of this code;

~~(5)(4)~~ The tax collection requirements set forth in ~~section six of this article~~ §16-9E-6 of this code; and

~~(6)(5)~~ All other laws of this state generally applicable to sales of ~~cigarettes~~ tobacco products that occur entirely within this state, including, but not limited to, those laws imposing:

~~(i)(A)~~ Excise taxes;

~~(ii)(B)~~ ~~sales~~ Sales taxes;

~~(iii)(C)~~ license License and revenue-stamping requirements; and

~~(iv)(D)~~ escrow Escrow or other payment obligations.

§16-9E-3. Age verification requirements.

~~(a) No person~~ A person shall ~~not~~, mail, ship, or otherwise deliver cigarettes in connection with a delivery sale, ~~unless prior to the first delivery sale to a consumer, the person:~~ accept a purchase order, sell, mail, deliver, or cause to be delivered any tobacco product that is subject to 15 U.S.C. §375 et seq. unless the delivery sale complies with all applicable age verification requirements of 15 U.S.C. §376a.

~~(1) Obtains from the prospective consumer a certification that includes a reliable confirmation that the consumer is at least the legal minimum purchase age and a statement signed by the prospective consumer in writing that certifies the prospective consumer's address and that the consumer is at least eighteen years of age. The statement shall also confirm: (i) That the prospective consumer understands that it is illegal to sign another person's name to the certification; (ii) that the sale of cigarettes to individuals under the legal minimum purchase age is illegal; and (iii) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of this state;~~

~~(2) Verifies the information contained in the certification provided by the prospective consumer against an appropriate database of government records available to the distributor or seller, or obtains simultaneous with the certificate as provided for in subdivision (1), a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order;~~

~~(3) Sends to the prospective consumer, via e-mail or other means, a notice that contains: (A) A prominent and clearly legible statement that cigarette sales to a consumer below the legal minimum purchase age is illegal; (B) a prominent and clearly legible statement that consists of one of the warnings set forth in section 4(a)(1) of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. §1333(a)(1), rotated on a quarterly basis; (C) a prominent and clearly legible statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with section three of this article; and (D) a prominent and clearly legible statement that cigarette sales are subject to excise and sales taxes in this state, and an explanation of how such taxes have been, or are to be, paid with respect to the delivery sale.~~

~~(4) In the case of an order for cigarettes pursuant to an advertisement on the Internet, receives payment for the delivery sale from the prospective consumer by a credit or debit card or check that has been issued in the consumer's name.~~

~~(b) Persons accepting purchase orders for delivery sales may request that prospective consumers provide their e-mail addresses.~~

~~(b) A person may use a check box on an internet website or mobile application to confirm the full name, birth date, and registered address of a purchaser prior to accepting a delivery sale for a tobacco product via an internet website or mobile application if:~~

~~(1) The purchaser provided his or her full name, birth date, and registered address upon registering as a user of the internet website or mobile application; and~~

~~(2) The person has verified the full name, birth date, and registered address of the purchaser upon registration using a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is of the legal minimum purchase age.~~

~~(c) A person who obtains a consumer's electronic signature upon delivery of a tobacco product shall be deemed to satisfy 15 U.S.C. § 376a.~~

§16-9E-4. Shipping and labeling requirements.

~~(a) Each person who, mails, ships, or otherwise delivers cigarettes A person shall not, in connection with a delivery sale, accept a purchase order, sell, mail, deliver, or cause to be delivered any tobacco product that is subject to 15 U.S.C. §375 et seq. unless the delivery sale complies with all applicable shipping and labeling requirements of 15 U.S.C. §376a.~~

~~(1) Shall include as part of the bill of lading or other shipping documents a clear and conspicuous statement providing as follows: 'Cigarettes: West Virginia Law Prohibits Shipping to Individuals Under 18, and Requires the Payment of all Applicable Taxes';~~

~~(2) Shall use a method of mailing, shipping, or delivery that obligates the delivery service to require: (i) The consumer placing the purchase order for the delivery sale, or another adult of legal minimum purchase age, to sign to accept delivery of the shipping container; and (ii) proof, in the form of a valid, government-issued identification bearing a photograph of the individual who signs to accept delivery of the shipping container, demonstrating that he is either the addressee or another adult of legal minimum purchase age; and~~

~~(3) Shall provide to the delivery service retained for such delivery sale evidence of full compliance with section seven of this article.~~

~~(b) A delivery service shall be in violation of this article if it: (1) Ships or otherwise delivers cigarettes in connection with a delivery sale without first receiving evidence of compliance with section seven of this article; or (2) fails to comply with the requirements described in subsection (a) or described in section six of this article:~~

~~(1) When obligated to do so under a method of shipping or delivery;~~

~~(2) When delivering any container pursuant to shipping documents containing the statement described in subdivision (1), subsection (a) of this section; or~~

~~(3) When delivering any container that the delivery service otherwise has reason to know contains cigarettes.~~

~~(c) If the person accepting a purchase order for a delivery sale delivers the cigarettes without using a delivery service, that person shall comply with all requirements of this article applicable to a delivery service and shall be in violation of the provisions of this article upon failure to comply with the requirements.~~

§16-9E-5. Registration and reporting requirements.

~~(a) Prior to making delivery sales or mailing, shipping, or otherwise delivering cigarettes in connection with any such sales, every person shall file with the department a statement setting forth the seller's name, trade name, and the address of the seller's principal place of business and any other place of business. A person shall not, in connection with a delivery sale, accept a purchase order, sell, mail, deliver, or cause to be delivered any tobacco product that is subject to 15 U.S.C. §375 et seq. unless the delivery sale complies with all applicable record-keeping requirements of 15 U.S.C. §376a.~~

~~(b) Not later than the tenth day of each calendar month, each person that has made a delivery sale or mailed, shipped, or otherwise delivered cigarettes in connection with any such sale during the previous calendar month shall file with the department a memorandum or a copy of the invoice that provides for each and every delivery sale: A person shall not, in connection with a delivery sale, accept a purchase order, sell, mail, deliver, or cause to be delivered from a location outside of this state to a consumer within this state any tobacco product that is subject to 15 U.S.C. §375 et seq. unless the person complies with all applicable requirements of 15 U.S.C. §376.~~

~~(1) The name and address of the consumer to whom the delivery sale was made;~~

~~(2) The brand or brands of the cigarettes that were sold in the delivery sale; and~~

~~(3) The quantity of cigarettes that were sold in the delivery sale.~~

~~(c) Any person that satisfies the requirements of 15 U.S.C. §376 shall be deemed to satisfy the requirements of this section.~~

§16-9E-6. Collection of taxes.

Each person accepting a purchase order for a delivery sale of any tobacco product shall collect and remit to the department all cigarette applicable taxes under §11-17-1 et seq. imposed by this state with respect to such delivery sale, except that the collection and remission shall not be required to the extent the person has obtained proof, in the form of the presence of applicable tax stamps or otherwise, that the taxes already have been paid to this state.

§16-9E-7. Penalties.

(a) Except as otherwise provided in this section, a first violation of any provision of this article shall be a misdemeanor and punishable by a fine of \$500 or five times the retail value of the cigarettes tobacco products involved, whichever is greater.

(b) Any person who knowingly violates any provision of this article, or who knowingly and falsely submits a certification under section three of this article §16-9E-3 of this code in another

person's name, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$1,000 or 10 times the retail value of the ~~cigarettes~~ tobacco products involved, whichever is greater, or confined in jail not more than six months, or both.

(c) Any person failing to collect or remit to the department any tax required in connection with a delivery sale shall be assessed, in addition to any other penalty, a penalty of five times the retail value of the ~~cigarettes~~ tobacco products involved.

(d) Any ~~cigarettes~~ tobacco products sold or attempted to be sold in a delivery sale that does not meet the requirements of this article shall be forfeited to this state and destroyed. All fixtures, equipment, and all other materials and personal property on the premises of any person who, with the intent to defraud this state, violates any of the requirements of this article, shall be forfeited to this state.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 766, Relieving railroad companies of liability during parades; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

S. B. 768, Providing exception for sharing of confidential child welfare records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 778, Amending certain qualifying offenses to enhance sentences of repeat offenders; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 785, Allowing Foster Care Ombudsman access to child protective records; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, striking everything after the enacting clause and inserting, in lieu thereof, the following:

“ARTICLE 5. RECORDKEEPING AND DATABASE.

§49-5-101. Confidentiality of records; non-release of records; exceptions; penalties.

(a) Except as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained by the Division of Corrections and Rehabilitation, the Department of Human Services, a child agency or facility, or court or law-enforcement agency, are confidential and may not be released or disclosed to anyone, including any federal or state agency.

(b) Notwithstanding the provisions of subsection (a) of this section or any other provision of this code to the contrary, records concerning a child or juvenile, except adoption records and records disclosing the identity of a person making a complaint of child abuse or neglect, may be made available:

(1) Where otherwise authorized by this chapter;

(2) To:

(A) The child;

(B) A parent whose parental rights have not been terminated;

(C) The attorney of the child or parent; and

(D) The Juvenile Justice Commission and its' designees acting in the course of their official duties;

(3) With the written consent of the child or of someone authorized to act on the child's behalf; and

(4) Pursuant to an order of a court of record: *Provided*, That the court shall review the record or records for relevancy and materiality to the issues in the proceeding and safety and may issue an order to limit the examination and use of the records or any part thereof.

(c) In addition to those persons or entities to whom information may be disclosed under subsection (b) of this section, information related to child abuse or neglect proceedings, except information relating to the identity of the person reporting or making a complaint of child abuse or neglect, shall be made available upon request to:

(1) Federal, state, or local government entities, or any agent of those entities, including law-enforcement agencies and prosecuting attorneys, having a need for that information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(2) The child fatality review team;

(3) Child abuse citizen review panels;

(4) Multidisciplinary investigative and treatment teams; or

(5) A grand jury, circuit court, or family court, upon a finding that information in the records is necessary for the determination of an issue before the grand jury, circuit court, or family court; and

(6) The West Virginia Crime Victims Compensation Fund and its designees acting in the course of their official duties.

(d) Information related to proceedings involving child abuse or neglect, or both, including information related to the identity of the person reporting or making a complaint of child abuse or neglect, or both, shall be made available, upon request, to the Foster Care Ombudsman, or his or her designee: *Provided*, That such request is made in the course of their official duties pursuant to §49-9-101 *et seq.* of this code.

~~(d)~~ (e) If there is a child fatality or near fatality due to child abuse and neglect, information relating to a fatality or near fatality shall be made public by the Department of Human Services and provided to the entities described in subsection (c) of this section, all under the circumstances described in said subsection: *Provided*, That information released by the Department of Human

Services pursuant to this subsection may not include the identity of a person reporting or making a complaint of child abuse or neglect except when such information and records are released to the Foster Care Ombudsman or his or her designee acting in the course of their official duties, the identity of a person reporting or making a complaint of child abuse or neglect may be included: Provided, however, That the Foster Care Ombudsman or his or her designee is acting in the course of their official duties pursuant to §49-9-101 et seq. of this code. For purposes of this subsection, 'near fatality' means any medical condition of the child which is certified by the attending physician to be life threatening.

~~(e)~~ (f) Except in juvenile proceedings which are transferred to criminal proceedings, law-enforcement records and files concerning a child or juvenile shall be kept separate from the records and files of adults and not included within the court files. Law-enforcement records and files concerning a child or juvenile shall only be open to inspection pursuant to §49-5-103 of this code.

~~(f)~~ (g) Any person who willfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than six months, or both fined and confined. A person convicted of violating this section is also liable for damages in the amount of \$300, or actual damages, whichever is greater.

~~(g)~~ (h) Notwithstanding the provisions of this section, or any other provision of this code to the contrary, the name and identity of any juvenile adjudicated or convicted of a violent or felonious crime shall be made available to the public.

~~(h)~~ (i)(1) Notwithstanding the provisions of this section or any other provision of this code to the contrary, the Division of Corrections and Rehabilitation may provide access to, and the confidential use of, a treatment plan, court records, or other records of a juvenile to an agency in another state which:

(A) Performs the same functions in that state that are performed by the Division of Corrections and Rehabilitation in this state;

(B) Has a reciprocal agreement with this state; and

(C) Has legal custody of the juvenile.

(2) A record which is shared under this subsection may only provide information which is relevant to the supervision, care, custody, and treatment of the juvenile;

(3) The Division of Corrections and Rehabilitation may enter into reciprocal agreements with other states and propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement this subsection; and

(4) Other than the authorization explicitly given in this subsection, this subsection may not be construed to enlarge or restrict access to juvenile records as provided elsewhere in this code.

~~(i)~~ (j) The records subject to disclosure pursuant to subsection (b) of this section may not include a recorded/videotaped interview, as defined in §62-6B-2(6) of this code, the disclosure of which is exclusively subject to §62-6B-6 of this code.

~~(j)-(k)~~ Notwithstanding the provisions of subsection (a) of this section, records in the possession of the Division of Corrections and Rehabilitation declared to be confidential by the provisions of subsection (a) of this section may be published and disclosed for use in an employee grievance if the disclosure is done in compliance with subsections ~~(k), (l), and (m)~~ (l), (m), and (n) of this section.

~~(k)~~ (l) Records or information declared confidential by the provisions of this section may not be released for use in a grievance proceeding except:

(1) Upon written motion of a party; and

(2) Upon an order of the Public Employee's Grievance Board entered after an in-camera hearing as to the relevance of the record or information.

~~(l)~~ (m) If production of confidential records or information is disclosed to a grievant, his or her counsel or representative, pursuant to subsection ~~(k)~~ (l) of this section:

(1) The division shall ensure that written records or information is redacted of all identifying information of any juvenile which is not relevant to the resolution of the grievance;

(2) Relevant video and audio records may be disclosed without redaction; and

(3) Records or other information released to a grievant or his or her counsel or representative pursuant to subsection ~~(k)~~ (l) of this section may only be used for purposes of his or her grievance proceeding and may not be disclosed, published, copied, or distributed for any other purpose, and upon the conclusion of the grievance procedure, returned to the Division of Corrections and Rehabilitation.

~~(m)~~ (n) If a grievant or the Division of Corrections and Rehabilitation seeks judicial review of a decision of the Public Employee's Grievance Board, the relevant confidential records disclosed and used in the grievance proceeding may be used in the appeal proceeding upon entry of an order by the circuit court, and the order shall contain a provision limiting disclosure or publication of the records or information to purposes necessary to the proceeding and prohibiting unauthorized use and reproduction.

~~(n)~~ (o) Nothing in this section may be construed to abrogate the provisions of §29B-1-1 *et seq.* of this code.

~~(o)~~ (p) A child placing agency or a residential child care and treatment facility may disclose otherwise confidential information to other child placing agencies or residential child care and treatment facilities when making referrals or providing services on behalf of the child. This information shall be maintained in the same manner as provided in this code.

~~(p)~~ (q) The department shall provide electronic access to information required to perform an adoption to child placing agencies as necessary to complete the adoption.

~~(q)~~ (r) A child placing agency completing adoption as a contractor on behalf of the department shall have access to secure records from vital statistics and other pertinent record holders.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 791, Modifying membership requirements of Medical Services Fund Advisory Council; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Health and Human Resources, was reported by the Clerk, on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

~~“ARTICLE 4. STATE ADVISORY BOARD; MEDICAL SERVICES FUND; ADVISORY COUNCIL; GENERAL RELIEF FUND. MEDICAID ADVISORY COMMITTEE.~~

§9-4-3. Advisory council committee.

~~(a) The advisory council, created by chapter one hundred forty three, Acts of the Legislature, regular session, 1953, as an advisory body to the state Medicaid Agency with respect to the medical services fund and disbursements therefrom and to advise about health and medical services, is continued so long as the medical services fund remains in existence, and thereafter so long as the state Medicaid Agency considers the advisory council to be necessary or desirable, and it is organized as provided by this section and applicable federal law and has those advisory powers and duties as are granted and imposed by this section and elsewhere by law.~~

~~(b) The advisory council shall consist of not less than nine members, nor more than 15 members, all but four of whom shall be appointed by the state Medicaid Agency and serve until replaced or reappointed on a rotating basis.~~

~~(c)(1) The heads of the Bureau of Public Health and Bureau for Medical Services are members ex officio.~~

~~(2) The cochairs of the Legislative Oversight Commission on Health and Human Resources Accountability, or their designees, are nonvoting ex officio members.~~

~~(3) The remaining members comprising the council consist of:~~

~~(A) One member of recognized ability in the field of medicine and surgery with respect to whose appointment the state Medical Association shall be afforded the opportunity of making nomination of three qualified persons;~~

~~(B) One member of recognized ability in the field of dentistry with respect to whose appointment the state Dental Association shall be afforded the opportunity of nominating three qualified persons;~~

~~(C) One member chosen from a list of three persons nominated by the West Virginia Primary Care Association;~~

~~(D) One member chosen from a list of three persons nominated by the Behavioral Health Providers Association of West Virginia; and~~

~~(E) The remaining members chosen from persons of recognized ability in the fields of hospital administration, nursing and allied professions and from consumers groups, including Medicaid recipients, members of the West Virginia Directors of Senior and Community Services, labor unions, cooperatives and consumer sponsored prepaid group practices plans.~~

~~(d) The council shall meet on call of the state Medicaid Agency.~~

~~(e) Each member of the advisory council shall receive reimbursement for reasonable and necessary travel expenses for each day actually served in attendance at meetings of the council in accordance with the state's travel regulations. Requisitions for the expenses shall be accompanied by an itemized statement, which shall be filed with the Auditor and preserved as a public record.~~

~~(f) The advisory council shall assist the state Medicaid Agency in the establishment of rules, standards and bylaws necessary to carry out the provisions of this section and shall serve as consultants to the state Medicaid Agency in carrying out the provisions of this section.~~

(a) The advisory committee created as an advisory body to the state Medicaid Agency with respect to the medical services fund and disbursements therefrom and to advise about health and medical services, and to bring fiscal stability to the Medicaid program through development of annual financial plans and long-range plans designed to meet the agency's estimated total financial requirements is continued.

(b) The advisory committee shall consist of not less than nine members, nor more than 15 members, and all members shall be appointed by the state Medicaid Agency, and shall serve until replaced or reappointed on a rotating basis. These members shall include:

(1) The Secretary for the Department of Human Services, who shall serve as Chair of the Committee;

(2) The Chairs of the House of Delegates and Senate Finance Committees, or their designees, are nonvoting, ex officio members;

(3) The co-chairs and a minority committee member from each the House of Delegates and Senate of the Legislative Oversight Commission on Health and Human Resources Accountability, or their designees, are nonvoting, ex officio members;

(4) The Commissioner of the Bureau of Medical Services as a nonvoting ex officio member;

(5) The state health officer as a nonvoting ex officio member;

(6) Three members of the Beneficiary Advisory Group Subcommittee;

(7) A member of the public with at least three years of experience with employee benefit programs;

(8) A member representing a Medicaid managed care organization;

(9) Two members of the public from beneficiary advocacy organizations or associations; and

(10) One member of the public who is a health care actuary or certified public accountant with at least three years of experience with health care budgeting

(c) A committee member shall be a resident of West Virginia. A committee member shall have a fiduciary responsibility to protect the interests of Medicaid beneficiaries and the taxpayers of West Virginia. Beginning July 1, 2025, and every year thereafter, a committee member shall

complete fiduciary training and timely complete any conflict-of-interest forms required to serve as a fiduciary.

(d) A member of the committee or any subcommittee may not be a registered lobbyist.

(e) The Secretary of the Department of Human Services shall establish and chair a Beneficiary Advisory Group Subcommittee comprised of six public members who are past or present Medicaid enrollees, or the family or caregivers of a Medicaid enrollee.

(f) The advisory committee shall develop and publish a process to recruit and appoint committee and subcommittee members.

(g) The advisory committee shall assist the state Medicaid Agency in the establishment of rules, standards, and by-laws necessary to carry out the provisions of this section and shall serve as consultants to the state Medicaid Agency in carrying out the provisions of this section.

(h) The committee shall meet at least quarterly on the call of the state Medicaid Agency.

(i) At least two of the four quarterly meetings per year must be open to the public and offer a chance for the public to speak.

(j) Each member of the advisory committee shall receive reimbursement for reasonable and necessary travel expenses for each day served in attendance at meetings of the committee in accordance with the state's travel regulations. Requisitions for the expenses shall be accompanied by an itemized statement, which shall be filed with the Auditor and preserved as a public record.

(k) The advisory committee shall evaluate and administer programs to improve quality, improve health status of members, develop innovative payment methodologies, manage health care delivery costs, evaluate effective benefit designs, evaluate cost sharing and benefit-based programs, and evaluate effective industry programs that can manage the long-term effectiveness and costs for the Medicaid program.

(l) The advisory committee shall analyze the Medicaid Six-Year Plan concerning assumptions that formulate expenditure projections with the purpose of crafting strategies to mitigate long term financial liabilities in the program.

(m) The advisory committee shall publish on the Medicaid agency's website:

(1) The list of members;

(2) The meeting schedule; and

(3) Past meeting minutes and attendance.

(n) The advisory committee shall make recommendations on all elements of the Medicaid program and submit an annual report to the Legislative Oversight Commission on Health and Human Resources Accountability annually by September 1."

On motion of Delegate Summers, the committee amendment was amended on page 2, line 44, by striking, '(b) The advisory committee shall consist of not less than nine members, nor more

than 15 members, and all members shall be appointed by the state Medicaid Agency and shall serve until replaced or reappointed on a rotating basis. These members shall include:’ and inserting in lieu thereof the following, “(b) The advisory committee shall consist of not less than 9 members, nor more than 15 members, and all members shall be appointed by the state Medicaid Agency, and shall serve until replaced or reappointed on a rotating basis: *Provided*, That members appointed as non-voting, ex officio shall not be included in the total committee membership. These advisory committee members shall include:”

And,

On page 3, line 61, by inserting a new subdivision (9) to read as follows, “The provider representatives specified in the Advisory Committee bylaws as of March 1, 2024;”

And renumbering the remaining subdivisions.

The committee amendment, as amended, was adopted.

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 619**), and there were--yeas 91, nays 1, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Dillon, Foggin, Kump, Longanacre, C. Pritt, E. Pritt, Ridenour and Steele.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 620**), 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: Dillon, Foggin, Kump, Longanacre, E. Pritt, Ridenour, Steele and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 791) passed.

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

Com. Sub. for S. B. 791- “A Bill to amend and reenact §9-4-3 of the Code of West Virginia, 1931, as amended; relating to Medicaid; modifying the membership requirements of the Medical Services Fund Advisory Council; augmenting its purpose; requiring certain actions from the Commissioner for the Bureau for Medical Services; and addressing the six-year plan to mitigate long-term financial liabilities.”

Delegate Householder moved that the bill take effect July 1, 2024.

On this question, the yeas and nays were taken (**Roll No. 621**), 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: Dillon, Foggin, Kump, Longanacre, E. Pritt, Ridenour, Steele, Street and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 791) takes effect July 1, 2024.

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

S. B. 803, Updating definitions for assessment of real property; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, was reported by the Clerk, on page 1, section 3, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“ARTICLE 4. ASSESSMENT OF REAL PROPERTY.

§11-4-3. Definitions.

(a) For the purpose of giving effect to the Tax Limitations Amendment, this chapter shall be interpreted in accordance with the following definitions, unless the context clearly requires a different meaning:

(4) ‘Owner’ means the person, as defined in §2-2-10 of this code, who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability is considered the owner until the mortgagee or trustee takes possession, after which the mortgagee or trustee shall be considered the owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate who is in possession before transfer of legal title is also considered the owner. Owner ~~shall also include~~ includes the corporation or other organization possessed of the freehold of a qualified continuing care retirement community. Owner means the person who is using and occupying all or a portion of a parcel of real estate the freehold of which is possessed by a family trust: *Provided*, That the parcel is used and occupied by the owner thereof exclusively for residential purposes.

(2) ‘Used and occupied by the owner thereof exclusively for residential purpose’ means actual habitation by the owner, or the owner's spouse, an immediate family member of the owner, or a qualified resident of all or a portion of a parcel of real property as a place of abode to the exclusion of any commercial use: *Provided*, That if the parcel of real property was unoccupied at the time of assessment and either:

(A) Was used and occupied by the owner thereof exclusively for residential purposes on July 1, of the previous year assessment date;

(B) ~~was~~ Was unimproved on July 1, of the previous year but a building improvement for residential purposes was subsequently constructed thereon between that date and the time of assessment; or

(C) ~~is~~ Is retained by the property owner for noncommercial purposes and was most recently used and occupied by the owner or, the owner's spouse, or an immediate family member of the owner as a residence and the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident in a nursing home, personal care home, rehabilitation center or similar facility, then the property shall be considered 'used and occupied by the owner thereof exclusively for residential purpose': *Provided*, That nothing herein contained ~~shall permit~~ permits an unoccupied or unimproved property to be considered 'used and occupied by the owner thereof exclusively for residential purposes' for more than one year unless the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident of a nursing home, personal care home, rehabilitation center or similar facility. Except in the case of a qualified continuing care retirement community, if a license is required for an activity on the premises or if an activity is conducted thereon which involves the use of equipment of a character not commonly employed solely for domestic as distinguished from commercial purposes, the use may not be considered to be exclusively residential. ~~In the case of qualified~~ Qualified continuing care retirement community, uses attendant to the functioning of the qualified continuing care retirement community, including, without limitation, cafeteria, laundry, personal and health care services, ~~shall may~~ not be considered a commercial use uses even if such activity or equipment requires a separate license or payment.

~~(3)~~ 'Family member' means a person who is related by common ancestry, adoption or marriage including, but not limited to, persons related by lineal and collateral consanguinity.

'Family trust' means a trust the trustees and beneficiaries of which include only the person who is possessed of the freehold and his or her immediate family members.

'Immediate family member' means a spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, and adoptive relationships.

~~(4)~~ 'Farm' means a tract or contiguous tracts of land used for agriculture, horticulture or grazing and includes all real property designated as 'wetlands' by the United States Army Corps of Engineers or the United States Fish and Wildlife Service.

~~(5)~~ 'Occupied and cultivated' means subjected as a unit to farm purposes, whether used for habitation or not, and although parts may be lying fallow, in timber or in wastelands.

~~(6)~~ 'Qualified continuing care retirement community' means a continuing care retirement community:

(A) Owned by a corporation or other organization exempt from federal income taxes under the Internal Revenue Code;

(B) ~~used~~ Used in a manner consistent with the purpose of providing housing and health care for residents; and

(C) ~~which~~ Which receives no Medicaid funding under the provisions of ~~article four b, chapter nine §9-4B-1 et seq.~~ of this code. For purposes of this section, a continuing care retirement community is a licensed facility under the provisions of ~~articles five c and five d, chapter sixteen §16-5C-1 et seq. and §16-5D-1 et seq.~~ of this code at which independent living, assisted living, and nursing care, if necessary, are provided to qualified residents.

'Qualified resident' means a person who contracts with a qualified continuing care retirement community to reside therein, in exchange for the payment of an entrance fee or deposit, or payment of periodic charges, or both.

(b)(1) ~~Effective date of amendments.~~ Amendments to this section enacted during the 2006 regular session of the Legislature shall have retroactive effect to and including July 1, 2005, and shall apply in determining tax for tax years beginning January 1, 2006, and thereafter.

(2) ~~Effective date of amendments.~~— Amendments to this section enacted during the 2007 regular session of the Legislature shall take effect on July 1, 2007.

(3) Amendments to this section enacted during the 2024 regular session of the Legislature shall take effect on July 1, 2024."

On motion of Delegate Lucas, the amendment was amended, on page 1, section 3, line 11 after the word 'community.', by inserting the following language:

Owner includes homeowners who have vacated their owner-occupied, single-family, residential property, which was their most recent primary residence, and have listed that property for sale with a licensed real estate broker, and have not leased said property to anyone since vacating said property.

The committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 805, Modifying Medicaid reimbursements for services at residential substance abuse treatment facilities; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page three, section twenty-nine-a, beginning on line fourteen, by striking out subsections (c) and (d) in their entirety and inserting in lieu thereof the following:

"(c) Residential substance use disorder facilities shall obtain both licensure and accreditation as required by subsection (a) of this code section by January 1, 2026. Any residential substance use disorder facility beginning new operations as a result of a lawful change in ownership, or opening a facility at a new site, shall be required to comply with the requirements of this section to be accredited with CARF, the Joint Commission, or DNV, within one year of its start of operations. However, the Office of Health Facility Licensure and Certification licensure requirement in subsection (a) of this section, all other applicable state laws and regulations, and requirements of the bureau required to be eligible for reimbursement for residential substance use disorder services, shall be applicable during this one year period.", and by relettering the remaining subsections accordingly."

The bill was then ordered to third reading.

Com. Sub. for S. B. 819, Modifying requirements for public water systems or businesses having backflow preventers; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, and adopted, on page 2, section 16-1-4, line 28, after the words “once in” by striking out the word “10” and inserting in lieu thereof the word “3”.

On page 2, section 16-1-4, line 28, after the word “years” by striking out the semicolon and inserting in lieu thereof the following “for a low-hazard system, which is defined as a hazard that could cause aesthetic problems or have a detrimental secondary effect on the quality of the public potable water supply: *Provided, however,* That a high hazard system, which is defined as a hazard which is conducive to the introduction of waterborne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which presents an unreasonable risk to health, shall be inspected annually”.

On page 5, section 16-1-9a, line 28, after the words “once in” by striking out the word “10” and inserting in lieu thereof the word “3”.

And,

On page 5, section 16-1-9a, line 29, after the word “years” by striking out the semicolon and inserting in lieu thereof the following “for a low-hazard system, which is defined as a hazard that could cause aesthetic problems or have a detrimental secondary effect on the quality of the public potable water supply: *Provided, however,* That a high hazard system, which is defined as a hazard which is conducive to the introduction of waterborne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which presents an unreasonable risk to health, shall be inspected annually;”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 820, Requiring automatic enrollment of substance abuse disorder population into managed care; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 824, Increasing membership of WV Motorsport Committee; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 834, Increasing number of members for Motor Vehicle Dealers Advisory Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 837, Reorganizing offices of Public Defender Corporations to conform to circuit reconfiguration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 841, Setting amount of unemployment taxes and benefits; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 850, Updating Consumer Credit and Protection Act; on second reading, coming up in regular order, was read a second time.

Delegate Hite moved to amend the bill on page 6, after line 24, by inserting the following:

“ARTICLE 9. THE WEST VIRGINIA CONSUMER PRIVACY ACT.

§46A-9-1. Definitions; prohibitions on disclosure or sale of financial information; authorizing a consumer to opt-in to certain disclosures; information to be provided to consumers.

(a) For purposes of this article:

(1) ‘Consumer’ means a natural person engaged in a consumer transaction.

(2) ‘Consumer financial information’ means any personally identifiable financial information, unless the information is otherwise publicly available, and includes information that a credit report was obtained by a financial institution, creditor, mortgage lender, or mortgage broker.

(3) ‘Credit reporting agency’ shall have the meaning assigned in 15 U. S. Code §1681a.

(4) ‘Consumer transaction’ means any legal financial agreement for which a credit application is required for a personal, family, household, or agricultural purpose.

(b) A credit reporting agency which receives consumer financial information resulting from a consumer transaction with any financial institution or any creditor utilizing any credit reporting agency shall not disclose or sell such consumer financial information without the prior written consent of the consumer, except as required to process the consumer transaction.

(c) A consumer engaged in a consumer transaction with any financial institution, creditor utilizing any credit reporting agency, or private business, shall have the right to opt-in to each disclosure or sale of their personal financial information by the credit reporting agency. This includes information that a credit report was obtained by, but not limited to, the following:

(1) Financial institutions;

(2) Creditors;

(3) Mortgage lenders; or

(4) Mortgage brokers.

(d) The credit reporting agency shall provide the consumer with all information to determine what personal information is being sold or shared.

(e) Financial institutions, creditors, mortgage lenders, or mortgage brokers shall not be subject to any action authorized by this article for sharing consumer information with a credit reporting agency.

§46A-9-2. Enforcement.

The Attorney General may enforce the provisions of this article and may bring an action seeking either:

(1) Injunctive or other appropriate equitable relief;

(2) Civil penalties of no more than \$10,000 for each violation of this article and all costs and attorney's fees associated with bringing the action; or

(3) Both the equitable relief and civil penalties described in subdivisions (1) and (2) of this subsection, including costs and attorney's fees. This action must be brought in the name of the state and instituted in the circuit court of Kanawha County. The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of this article.

§46A-9-3. Civil remedies.

(a) A consumer may bring a civil action for damages against any credit reporting agency that violates the provisions of this article. For each violation, the individual may recover:

(1) Against credit reporting agency who negligently or recklessly violates this article, liquidated damages of \$1,000 for each violation or actual damages, whichever is greater; or

(2) Against credit reporting agency who intentionally violates this article, liquidated damages of \$5,000 for each violation or actual damages, whichever is greater.

(b) If a court finds that a violation of this article has occurred as the result of a civil action filed pursuant to subsection (a) of this section, the court shall award reasonable attorney's fees to the aggrieved party. A court may order such other relief, including an injunction, as the court may consider appropriate.

(c) Any action under this article is barred unless the action is commenced within two years after the aggrieved party either knew or, through reasonable diligence, should have known of the violation."

Delegate Westfall arose to inquire regarding the germaneness of the amendment offered by Delegate Hite.

The Speaker ruled that the amendment was not germane.

The bill was then ordered to third reading.

S. B. 858, Clarifying filing requirements and deadlines in property tax cases; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

S. B. 859, Limiting requirements for issuance of professional teaching certificate; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 864, Clarifying reporting requirements of Grant Transparency and Accountability Act; on second reading, coming up in regular order, was read a second time.

Delegate Linville moved to amend the bill on page 1, section 14, by striking everything after the enacting clause and inserting the following:

"Be it enacted by the Legislature of West Virginia:

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**§12-4-14. West Virginia Grant Transparency and Accountability Act; Accountability of grantees receiving state funds or grants, procedures, reporting, auditing, investigations, and recovery; sworn statements by volunteer fire departments; rule making, criminal penalties.**

(a) This section may be cited as The West Virginia Grant Transparency and Accountability Act. The West Virginia Grant Transparency and Accountability Act is intended to develop a coordinated, nonredundant process for the effective oversight and monitoring of state grant recipients, thereby ensuring quality programs and limiting fraud, waste, and abuse.

(b) For the purposes of this section:

(1) 'Grantor' means a state spending unit awarding a state grant.

(2) 'Grantee' means any entity receiving a state grant, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity.

(3) 'Subgrantee' means an entity, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity, ~~who~~ that receives grant money from a grantee who was awarded a state grant.

(4) 'Report' means an engagement, such as an agreed-upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended. The term 'report' does not mean a full-scope audit or review of the ~~person~~ entity receiving the state funds grant.

(5) 'State grant' means funding provided by a ~~state spending unit~~ grantor, regardless of the original source of the funds, to a grantee upon application for a specific purpose. The term 'state grant' does not include:

(A) Payments for goods and services purchased by a state spending unit;

(B) compensation to state employees and public officials;

(C) reimbursements to state employees and public officials for travel or incidental expenses;

(D) grants of student aid;

(E) government transfer payments;

(F) direct benefits provided under state insurance and welfare programs;

(G) funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds;

(H) retirement benefits; ~~and~~

(I) federal pass-through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*, and the funds required to match federal funds; ~~The term 'state grant' does not include formula;~~

(J) distributions to volunteer and part-volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, §33-12C-7 of this code; ~~and does not include;~~

(K) money received from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code; and

(L) grants made by the West Virginia Water Development Authority.

(6) 'West Virginia debarred list' means the list maintained by the State Auditor that contains the names of individuals and entities that are ineligible, either temporarily or permanently, from receiving an award of state grant funds ~~from the state~~.

(7) 'State Auditor' means the State Auditor of West Virginia, by himself or herself, or by any person appointed, designated, or approved by the State Auditor to perform the service.

(8) 'Stop payment order' means a communication from the ~~state grant making agency~~ grantor to the State Auditor and the State Treasurer, following procedures by the State Auditor, causing the cessation of payments to a grantee or subgrantee as a result of the grantee or subgrantee's failure to comply with one or more terms of the state grant or subgrant, violations of law, or the initiation of an audit or investigation.

(9) 'Stop payment procedure' means the procedure created by the State Auditor which effects a stop payment order or the lifting of a stop payment order.

(c)(1) Any grantee who receives one or more state grants in the amount of \$50,000 or more in the aggregate in a state's fiscal year shall file with the grantor and the State Auditor a report of the disbursement of the state grant funds. When the grantor causes an audit, by an independent certified public accountant, to be conducted of the state grant funds, the audit is performed using generally accepted government auditing standards, and a copy of the audit is available for public inspection, no report is required to be filed under this section. An audit performed that complies with Office of Management and Budget circular A-133, and submitted within the period provided in this section may be substituted for the report.

(2) Any grantee who receives a state grant in an amount less than \$50,000 or who is not required to file a report because an audit has been conducted or substituted as provided by subdivision (1) of this subsection shall file with the grantor and State Auditor a sworn statement of expenditures made under the state grant.

(3) *Subgrant of state grant funds* – If any grantee obtains state grant funds and grants any part or all of those funds to a subgrantee for a specific purpose or purposes, the granted funds shall be treated as a state grant.

(4) Reports and sworn statements of expenditures required by this section shall be filed within two years of the end of the grantee's fiscal year in which the disbursement of state grant funds by the grantor was made. The report shall be made by an independent certified public accountant at the cost of the grantee. State grant funds may be used to pay for the report if the applicable grant provisions allow. The scope of the report is limited to showing that the state grant funds were spent for the purposes intended when the state grant was made.

(5) In the event the State Auditor determines that applicable reporting or record keeping provisions for state grants are delinquent or not in compliance with this code, the State Auditor

shall notify the State Treasurer and no further state grant funds appropriated to the grantor agency under the specific state grant shall be encumbered or expended until such time as the State Auditor determines that all applicable reporting or record keeping provisions are brought into compliance: *Provided*, That such suspension of funding does not violate federal law or regulations or unreasonably prevent or detrimentally impact the ability of the agency grantor to receive federal support or funding.

(6) Each ~~State grant making agency~~ grantor shall designate a Chief Accountability Officer, to the extent possible from within its existing staff, who shall serve as a liaison to the State Auditor and shall be responsible for the ~~state agency's~~ grantor's implementation of and compliance with the law, rules, and terms of state grants. Such position may be held concurrently with any other designated position.

(d)(1) ~~Grantor agencies~~ Grantors or the State Auditor shall issue stop payment orders for failure to file required reports. Any grantee failing to file a required report or sworn statement of expenditures within the two-year period as provided in this section for state grant funds is barred from subsequently receiving state grants until the grantee has filed the report or sworn statement of expenditures and is otherwise in compliance with the provisions of this section.

(2) Any grantor of a ~~state grant~~ shall report any grantee failing to file a required report or sworn statement of expenditures within the required period provided in this section to the State Auditor for purposes of debarment from receiving state grants.

(3) The State Auditor shall maintain a searchable and publicly accessible database listing all awarded state grants. All grantors shall provide a list of grantees and subgrantees to the State Auditor and all other information regarding state grant funds and grantees as required by law or rule.

(e)(1) The ~~state agency~~ grantor administering the state grant shall notify the grantee of the reporting requirements set forth in this section.

(2) All grantors ~~awarding state grants~~ shall, prior to awarding a state grant verify that the grantee is not barred from receiving state grants pursuant to this section. The verification process shall, at a minimum, include:

(A) A requirement that the grantee seeking the state grant provide a sworn statement from an authorized representative that the grantee has filed all reports and sworn statements of expenditures for state grants received as required under this section; and

(B) Confirmation from the State Auditor by the grantor that the grantee has not been identified as one who has failed to file a report or sworn statement of expenditures under this section. Confirmation may be accomplished by accessing the computerized database provided for in this section.

(3) If any report or sworn statement of expenditures submitted pursuant to the requirements of this section provides evidence of a reportable condition or violation, the grantor shall provide a copy of the report or sworn statement of expenditures to the State Auditor within 30 days of receipt by the grantor.

(4) The grantor and State Auditor shall maintain copies of reports and sworn statements of expenditures required by this section and make the reports or sworn statements of expenditures available for public inspection, as well as for use in audits and performance reviews of the grantor.

(5) *Stop payment procedures* – The State Auditor, in cooperation with ~~state grant-making agencies~~ grantors, shall promulgate legislative, procedural, and interpretive rules in accordance with the provisions of §29A-3-1 *et seq.* of this code in implementing the provisions of this section which shall include, but not be limited to:

(A) Procedures concerning issuing and lifting stop payments and other corrective actions;

~~(B) Factors to be considered in determining whether to issue a stop payment order including whether or not a stop payment order is in the best interest of the state;~~

~~(C)~~(B) Factors to be considered in determining whether a stop payment order should be lifted; and

~~(D)~~(C) Procedures for notification to the grantee or subgrantee of the issuance of a stop payment order, the lifting of a stop payment order, and any other related information.

(6) *Informal Conference* – Whenever a grantor ~~agency~~ reasonably believes that state grant funds are subject to recovery, the grantor ~~agency~~ shall provide the grantee the opportunity for at least one informal conference to determine the facts and issues and to resolve any conflicts before taking any formal recovery actions.

(7) *Formal Procedures for Recovery* –

(A) If a grantor ~~agency~~ determines that certain state grant funds are to be recovered, then, prior to taking any action to recover the state grant funds, the grantor ~~agency~~ shall provide the grantee of the funds a written notice of the intended recovery. This notice shall identify the funds and the amount to be recovered and the specific facts which permit recovery.

(B) A grantee shall have 35 days from the receipt of the notice required in paragraph (A) of this subdivision to return the state grant funds or request a hearing in writing to show why recovery is not justified or proper.

(C) If a grantee requests a hearing pursuant to paragraph (B) of this subdivision, then:

(i) The hearing shall be conducted under §29A-5-1 *et seq.* of this code, and be presided over by the grantor ~~agency head~~ director or their designee;

(ii) The grantor ~~agency~~ shall hold the hearing at which the grantee or designated representative may present evidence and witnesses to show why recovery should not be permitted; and

(iii) After the conclusion of the hearing, the grantor ~~agency~~ shall make a final decision and issue a written final recovery order in compliance with §29A-5-3 of this code and send a copy of the order to the grantee and the State Auditor.

(D)(i) If a grantee requests a hearing pursuant to paragraph (B) of this subdivision then the grantor ~~agency~~ may not take any action of recovery until at least 35 days after the grantor ~~agency~~ has issued a final recovery order pursuant to the requirements of paragraph (C) of this subdivision.

(ii) If a grantee does not return the state grant funds or request a hearing as permitted in paragraph (B) of this subdivision, then the grantor ~~agency~~ may proceed with recovery of the state grant funds identified in the notice issued pursuant to the requirements of paragraph (A) of this subdivision, at any time after the expiration of the 35 day request period established in paragraph (B) of this subdivision.

(8) *Recovery of State Grant Funds by Grantor Agency* – Any state grant funds which have been misspent or are being improperly held are subject to recovery by the grantor ~~agency~~ ~~which made the grant~~. The grantor ~~agency~~ ~~making the grant~~ shall take affirmative and timely action to recover all misspent or improperly held state grant funds. In order to effectuate the recovery of such state grant funds, the grantor ~~agency~~ ~~making the grant~~ may use any one or a combination of the following:

(A) Offset the amounts against existing state grants or future state grants to be made by the grantor ~~agency~~ making the recovery;

(B) Request offsets of the amounts from existing state grants or future state grants to be made by other ~~grantor agencies~~ grantors;

(C) Initiate any debt collection method authorized by law against any private person, business, or entity;

(D) Remove the grantee from the grantor ~~agency's~~ programs and debar the grantee's participation in future state grant programs for a period not to exceed three years or until removed from the West Virginia debarred list; or

(E) Request further action under subdivision (9) of this subsection to recover state grant funds and otherwise enforce all applicable laws.

(9) *Recovery of State Grant Funds from political subdivisions* –

(A) When a political subdivision of this state, including any economic development corporation, has received state grant funding to fund an infrastructure project, and

(1) the project is thereafter sold, granted, conveyed, or otherwise alienated; or

(2) a party is granted an indefeasible right to the use of any portion of said project,

then, the project sponsor shall reimburse the granting authority the amount of the infrastructure grant, plus applicable interest at the market rate, less any accumulated depreciation following Generally Accepted Accounting Practices;

(B) Any agreement for the sale, granting, conveyance, or other alienation of the grant funded infrastructure asset wherein insufficient proceeds would become available for repayment of the grant funds shall be invalid.

(C) Rate-regulated public utilities, regulated by the Public Service Commission may seek, and the Public Service Commission may grant, an exemption from the requirements of this subdivision on a project-by-project basis:

(D) The provisions of this subdivision do not apply to grants made under authority of §5B-2-18 of this Code, the Certified Sites and Development Readiness Program.

(10) Recovery of State Grant Funds The Attorney General, independently or on behalf of the State Auditor, may take any action within his or her authority to recover any state grant funds which have been misapplied or are being improperly held and have all the powers of collection established in this act in addition to any other powers authorized by law, including, without limitation, to file lawsuits to recover state grant funds.

~~(40)~~ (11) All state grant funds, whose use is not restricted by law or otherwise appropriated, which are recovered by the grantor, or State Auditor, and expired or unexpended state grant funds remaining at state grant completion or termination, shall be deposited in a special revenue fund, which is hereby created and established in the State Treasury to be known as the Grant Recovery Fund. The moneys in the fund, with all interest or other earnings thereon, shall be expended only upon appropriation by the Legislature.

(12) Conditions upon Repayment of Federal Funds -- Any grantee who, by their action or inaction, causes Federal funds to be returned, repaid, or otherwise clawed back from the State, shall hold the state harmless, and shall make commensurate reimbursement to the state.

~~(44)~~ (13) The State Auditor has authority to promulgate procedural and interpretive rules and propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code to assist in implementing the provisions of this section. The rules shall set forth uniform administrative requirements and reporting procedures for state grants and subgrants to ensure compliance. ~~State granting agencies~~ Grantors shall not impose additional or inconsistent requirements unless specifically required by state or federal law.

~~(42)~~ (14) *Conflicts of interest* – The State Auditor shall adopt rules regarding conflict of interest policies for state grants. Grantors, grantees, and subgrantees must disclose in writing any potential conflicts of interest to the grant applicant prior to awarding the state grant.

(f)(1) Any ~~state agency~~ grantor administering a state grant shall, in the manner designated by the State Auditor, notify the State Auditor of the maximum amount of funds to be disbursed, the identity of the grantee authorized to receive the funds, the grantee's fiscal year and federal employer identification number, and the purpose and nature of the state grant within 30 days of making the state grant or authorizing the disbursement of the funds, whichever is later.

(2) The State Treasurer shall provide the Legislative Auditor the information concerning formula distributions to volunteer and part-volunteer fire departments, made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, the Legislative Auditor requests, and in the manner designated by the Legislative Auditor.

(3) The State Auditor shall maintain a the West Virginia debarred list identifying grantees who have failed to file reports and sworn statements required by this section. The list shall be in the form of a computerized database that shall be accessible by ~~state agencies~~ grantors and the public over the Internet, unless public disclosure would violate federal law or regulations.

(g) An audit of state grant funds may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the State Auditor in cooperation with the Legislative Auditor at no cost to the grantee.

(h) Any report submitted pursuant to the provisions of this section may be filed electronically in accordance with the provisions of §39A-1-1 *et seq.* of this code.

(i) Any grantee who files a fraudulent sworn statement of expenditures under subsection (b) of the section, a fraudulent sworn statement under subsection (d) of this section, or a fraudulent report under this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(j) *Prohibition on use of state grant funds for prohibited political activity –*

(1) For the purpose of this section, ‘prohibited political activity’ means activity directed toward the success or failure of a political party, candidate for political office, or ballot issue, and includes, without limitation, express advocacy for the election or defeat of a political party, candidate, or ballot issue.

(2) Grantors, grantees, subgrantees, and personnel thereof shall not knowingly use state grant funds, or goods or services purchased with state grant funds, to engage, either directly or indirectly, in a prohibited political activity.

(3) Grantors, grantees, subgrantees and personnel thereof shall not be knowingly compensated from state grant funds for time spent engaging in a prohibited political activity.

(4) Nothing in this section shall prohibit any organization described in 26 U.S.C. § 501(c)(3) or 26 U.S.C. § 501(c)(4) receiving a state grant ~~from the state~~ from engaging in any federally permissible activity regarding advocacy, indirect and direct lobbying, and political activity, provided that the specific funds acquired by a state grant ~~from the state~~ or grantor shall not be used for those activities that are permitted by federal law but prohibited by this section.

(5) A grantor, grantee, subgrantee, or personnel thereof who knowingly uses state grant funds for prohibited political activity in violation of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(k) Reporting – Effective on or before December 31, 2022, and every three years thereafter, the State Auditor shall submit to the Joint Legislative Committee on Government and Finance a report that demonstrates the efficiencies, cost savings, and reductions in fraud, waste and abuse. The report shall include, but not be limited to, facts describing:

- (1) The number and names of entities placed on the West Virginia Debarred List;
- (2) The number of stop payment orders issued to grantees;
- (3) Any savings realized as a result of the implementation of this act;
- (4) A statement of funds recovered and funds in the recovery process;

(5) Any reductions in the number of duplicative audit report reviews; and

(6) The overall number of state grants awarded that given year and the total amount of dollars awarded by each ~~state agency~~ grantor.”

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. 622**), and there were-- yeas 35, nays 57, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Bridges, Brooks, Butler, Campbell, Cooper, Coop-Gonzalez, Crouse, Dean, Ellington, Fast, Forsht, Foster, Green, Hillenbrand, Holstein, Hornbuckle, Householder, Howell, Jeffries, Kirby, Linville, Longanacre, Martin, Miller, Moore, Petitto, E. Pritt, Ridenour, Rohrbach, Ross, Sheedy, Ward, Winzenreid and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cannon, Dillon, Foggin, Kump, Lucas, Steele, Summers and Worrell.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

S. B. 866, Designating State Treasurer as chairperson of WV Investment Management Board; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page three, section four, following line fifty-seven, by striking out subsection (h) in its entirety.

The bill was then ordered to third reading.

S. B. 872, Relating to county fire service fees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 873, Schedule for tax installment payments; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 874, Relating to WV Division of Multimodal Transportation; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Economic Development and Tourism, and adopted, on page 11, section 17-16F-10c, line 19, after the word 'division' by striking the period, inserting a colon and the following text:

“Provided, That the power of eminent domain may only be exercised by the Division itself and not by any local port authority district.”

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 623**), and there were--yeas 73, nays 13, absent and not voting 14, with the nays and the absent and not voting being as follows:

Nays: Brooks, Coop-Gonzalez, Kimble, Longanacre, Marple, Martin, C. Pritt, E. Pritt, Ridenour, Thorne, Tully, Vance and Ward.

Absent and Not Voting: Dillon, Foggin, Foster, Kirby, Kump, Linville, Lucas, Nestor, Ross, Steele, Summers, Westfall, Winzenreid and Worrell.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 624**), and there were--yeas 75, nays 12, absent and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Brooks, Coop-Gonzalez, Jeffries, Jennings, Kimble, Longanacre, Martin, McGeehan, Phillips, Ridenour, Vance and Ward.

Absent and Not Voting: Dillon, Foggin, Foster, Kirby, Kump, Lucas, Nestor, Riley, Ross, Steele, Summers, Westfall and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 874) passed.

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

H. B. 874 – “A Bill to amend and reenact §17-16F-1, §17-16F-3, §17-16F-4, and §17-16F-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §17-16F-10a, §17-16F-10b, and §17-16F-10c, all relating to the West Virginia Division of Multimodal Transportation Facilities; providing for additional legislative findings; modifying definitions; authorizing division to create local port authority districts; authorizing division to propose legislative rules for application process for creation of local port authority districts; providing that political subdivisions and certain joint ventures may create local port authority districts in accordance with a certain procedure; establishing an application and approval process for creation of local port authority districts; directing division to make certain considerations relating to creation of local port authority districts; providing for creation of board of directors for local port authority districts and membership composition; authorizing board to exercise certain powers; limiting eminent domain powers to the Division itself and prohibiting its imposition directly by local port authority districts; and directing board to prepare a certain annual plan.”

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

S. B. 875, Relating to certain insurance coverage provided by BRIM; on second reading, coming up in regular order, was read a second time and ordered to third reading,

Com. Sub. for S. B. 453, Requiring pricing and payment transparency from pharmacy benefits managers contracting with PEIA; having been moved to the foot of bills, was reported by the Clerk.

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

There being no objection, the House returned to further consideration of **Com. Sub. for S. B. 217**, for an effective date motion.

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

On this question, the yeas and nays were taken (**Roll No. 625**), and there were--yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: W. Clark, Dillon, Foggin, Foster, Kirby, Kump, Lucas, Nestor, Riley, Ross, Stelle, Summers, Westfall and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 217) 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.

Conference Committee Report Availability

At 7:07 p.m., the Clerk announced that the report of the Committee of Conference on **S. B. 219**, Relating to Uniform Controlled Substances Act, would be available in the Clerk's Office.

Miscellaneous Business

Consent was obtained for the comments of Delegates Kump and Ridenour regarding Com. Sub. for H. C. R. 57 and Delegate Hornbuckle regarding S. B. 173 to be printed in the Appendix to the Journal.

At 7:10 p.m., the House of Delegates adjourned until 9:30 a.m., Friday, March 8, 2024.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Friday, March 8, 2024

59th Day

9:30 A.M.

THIRD READING

- | | |
|---------------------------|---|
| S. J. R. 10 - | Homestead Exemption for Disabled Veterans Amendment |
| Com. Sub. for S. B. 152 - | Displaying official US motto in public schools |
| S. B. 159 - | Prohibiting persons convicted of certain crimes against minors from holding positions on boards of education |
| Com. Sub. for S. B. 190 - | Modifying definition of sexual contact [RIGHT TO AMEND] |
| Com. Sub. for S. B. 222 - | Exempting WV veterans from certain fees and charges at state parks |
| Com. Sub. for S. B. 280 - | Allowing teachers in public schools to discuss scientific theories |
| Com. Sub. for S. B. 325 - | Relating to distribution of drugs to safety net providers and contract pharmacies |
| Com. Sub. for S. B. 352 - | Modifying Unborn Child Protection Act [RIGHT TO AMEND] |
| Com. Sub. for S. B. 429 - | WV Farm Use Vehicle Tag Placement Act |
| S. B. 439 - | Authorizing certain 911 personnel to be members of Emergency Medical Services Retirement System under certain circumstances |
| S. B. 452 - | Designating certain water and wastewater facilities as emergency project |
| Com. Sub. for S. B. 453 - | Requiring pricing and payment transparency from pharmacy benefits managers contracting with PEIA |
| S. B. 461 - | Relating to county economic opportunity development districts [RIGHT TO AMEND] |
| Com. Sub. for S. B. 466 - | Requiring State Board of Education develop Safety While Accessing Technology education program |
| Com. Sub. for S. B. 475 - | Relating to recovery residences |
| Com. Sub. for S. B. 482 - | Relating to rule-making authority of Ethics Commission |
| Com. Sub. for S. B. 503 - | Protecting belief-based student organizations from certain types of discrimination |

Com. Sub. for S. B. 548 - Clarifying appellate jurisdiction of Intermediate Court of Appeals

S. B. 551 - Modifying requirements related to levy of service fees

Com. Sub. for S. B. 568 - Creating multi-tiered system for school absenteeism

Com. Sub. for S. B. 571 - Creating WV Corridor H Advanced Energy and Economic Corridor Authority

Com. Sub. for S. B. 578 - Clarifying offense of burglary

Com. Sub. for S. B. 583 - Relating to employer liability and damages in civil actions involving commercial motor vehicles

Com. Sub. for S. B. 587 - Enabling State Fire Commission to propose legislative rules

Com. Sub. for S. B. 601 - Creating WV Women's Bill of Rights [RIGHT TO AMEND]

Com. Sub. for S. B. 614 - Relating to elementary behavior intervention and safety

Com. Sub. for S. B. 624 - Cancelling voter registration records for individuals no longer WV residents

Com. Sub. for S. B. 628 - Declaring certain claims as moral obligations of the state

Com. Sub. for S. B. 644 - Supplementing and amending appropriations to Department of Commerce, Division of Forestry, and Geological and Economic Survey

Com. Sub. for S. B. 656 - Supplementing and amending appropriations to DHHR, Division of Human Services

Com. Sub. for S. B. 665 - Supplementing and amending appropriations to DHHR, Division of Health

Com. Sub. for S. B. 667 - Creating Physician Assistant Compact

Com. Sub. for S. B. 679 - Regulating certain plant-based derivatives, hemp-derived cannabinoid products, and Kratom

S. B. 683 - Amending definition of "alternative fuel" under motor fuel excise tax

Com. Sub. for S. B. 716 - Relating to child support

Com. Sub. for S. B. 722 - Revising examination of records relating to limited video lottery

Com. Sub. for S. B. 727 - Revising process for county boards of education to hire support staff

Com. Sub. for S. B. 730 - Clarifying compensation for county tax collector

Com. Sub. for S. B. 738 - Authorizing State Fire Marshal to promulgate emergency rules relating to increased fees

Com. Sub. for S. B. 740 - Prohibiting digital manipulation of sexually explicit content to

include minors

Com. Sub. for S. B. 741 - Prohibiting creation, production, distribution or possession of artificially generated child pornography [RIGHT TO AMEND]

Com. Sub. for S. B. 755 - Providing safeguards for online sales of tobacco products

Com. Sub. for S. B. 766 - Relieving railroad companies of liability during parades [RIGHT TO AMEND]

S. B. 768 - Providing exception for sharing of confidential child welfare records

Com. Sub. for S. B. 778 - Amending certain qualifying offenses to enhance sentences of repeat offenders

Com. Sub. for S. B. 785 - Allowing Foster Care Ombudsman access to child protective records

S. B. 803 - Updating definitions for assessment of real property

Com. Sub. for S. B. 805 - Modifying Medicaid reimbursements for services at residential substance abuse treatment facilities

Com. Sub. for S. B. 819 - Modifying requirements for public water systems or businesses having backflow preventers

Com. Sub. for S. B. 820 - Requiring automatic enrollment of substance abuse disorder population into managed care

Com. Sub. for S. B. 824 - Increasing membership of WV Motorsport Committee

S. B. 834 - Increasing number of members for Motor Vehicle Dealers Advisory Board

S. B. 837 - Reorganizing offices of Public Defender Corporations to conform to circuit reconfiguration

Com. Sub. for S. B. 841 - Setting amount of unemployment taxes and benefits [RIGHT TO AMEND]

Com. Sub. for S. B. 850 - Updating Consumer Credit and Protection Act

S. B. 858 - Clarifying filing requirements and deadlines in property tax cases [RIGHT TO AMEND]

S. B. 859 - Limiting requirements for issuance of professional teaching certificate

S. B. 864 - Clarifying reporting requirements of Grant Transparency and Accountability Act

S. B. 866 - Designating State Treasurer as chairperson of WV Investment Management Board

- S. B. 872 - Relating to county fire service fees
- S. B. 873 - Schedule for tax installment payments
- S. B. 875 - Relating to certain insurance coverage provided by BRIM

HOUSE CALENDAR

Friday, March 8, 2024

59th Day

9:30 A.M.

THIRD READING

- S. B. 160 - Updating language and increasing penalties for indecent exposure
- Com. Sub. for S. B. 754 - Allowing car dealerships to utilize search engines to determine if buyers have valid motor vehicle insurance
- Com. Sub. for H. B. 4025 - Budget Bill
- H. B. 5245 - Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways
- Com. Sub. for H. B. 5331 - Relating to boating safety education certificate
- H. B. 5449 - Supplementing and amending appropriations to Health Facilities, William R. Sharpe Jr. Hospital and Mildred Mitchell-Bateman Hospital
- H. B. 5453 - Supplementing and amending appropriations to the Division of Health, Central Office
- Com. Sub. for H. B. 5457 - Supplementing and amending appropriations to the Division of Human Services
- H. B. 5471 - Supplementing and amending appropriations to the Division of Administrative Services, Criminal Justice Fund

SECOND READING

- Com. Sub. for S. B. 292 - Hunger-Free Campus Act
- H. B. 4795 - Relating to permitting an academic medical center to operate an opioid treatment facility.
- H. B. 4878 - Updating the meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act
- H. B. 4881 - Relating to bringing terms not defined in that act into conformity with the meaning of those terms for federal income tax purposes
- H. B. 4957 - Relating generally to lobbying rules

- Com. Sub. for H. B. 5021 - Relating to cardiac response plans
- H. B. 5038 - Relating to research and economic development agreements for state institutions of higher education
- H. B. 5050 - Relating to authorizing legislative rules regarding higher education.
- H. B. 5263 - Relating to the Consolidated Public Retirement Board and requiring participating public employers to remit retirement contributions and fees by electronic funds transfer
- H. B. 5269 - Relating to the Municipal Police Officers and Firefighters Retirement System
- H. B. 5270 - Relating to the Natural Resources Police Officers Retirement System
- Com. Sub. for H. B. 5351 - To amend the definition of commercial solid waste facility
- Com. Sub. for H. B. 5354 - Relating to the Grant Transparency and Accountability Act
- H. B. 5455 - Supplementing and amending appropriations to the School Building Authority
- H. B. 5470 - Expiring funds from Lottery Net Profits to General Revenue Surplus
- Com. Sub. for H. B. 5606 - Relating generally to money laundering

FIRST READING

- H. B. 4429 - Relating to excluding test strips from the definition of drug paraphernalia
- H. B. 4777 - Allow staff members in public schools to eat lunch for free if there is food left over after every student has been fed
- Com. Sub. for H. B. 4864 - To prohibit municipalities from shutting off water service for the nonpayment of stormwater management fees.
- Com. Sub. for H. B. 4909 - Relating to eliminating the certificate of need program for health services
- H. B. 5022 - Relating to increasing the amount of ephedrine, pseudoephedrine or phenylpropanolamine a person may purchase annually.
- Com. Sub. for H. B. 5067 - To remove the 2 year timeframe for medical malpractice suits to be filed ONLY for individuals who were minors when they had their procedures performed
- Com. Sub. for H. B. 5441 - Relating to raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal public works projects.

- Com. Sub. for H. B. 5445 - Revising the statute to reduce the minimum age for a cadet for the West Virginia State Police from the age of 21 to the age of 18.
- Com. Sub. for H. B. 5536 - Relating to the assessment of interest on overpayments by the Bureau for Medical Services
- H. B. 5590 - Changing reference to the "Curator" of the Department of Arts, Culture, and History to the "Secretary" of the Department
- H. B. 5695 - Relating to Community Enhancement Districts

WEST VIRGINIA HOUSE OF DELEGATES

FRIDAY, MARCH 8, 2024

HOUSE CONVENES AT 9:30 A.M.

**COMMITTEE ON RULES
9:15 A.M. - BEHIND THE CHAMBER**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470