

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE  
REGULAR SESSION, 2025  
FIFTY-SIXTH DAY

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Charleston, West Virginia, Tuesday, April 8, 2025

The Senate met at 11:31 a.m.

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

Prayer was offered by the Honorable Charles H. Clements, a senator from the second district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Monday, April 7, 2025,

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

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

At the request of Senator Martin, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant Linda Hart, mother of the Honorable Craig A. Hart, a senator from the sixth district, privileges of the floor for the day.

The Senate proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 50**, Requiring municipal elections to be held on same day as statewide elections.

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

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

On page 2, section 29, line 27, by striking out "2032" and inserting in lieu thereof "2028";

And,

On page 4, section 5, line 14, by striking out "2032" and inserting in lieu thereof "2028";

And,

On page 5, section 5, line 35, by striking out "2032" and inserting in lieu thereof "2028".

On motion of Senator Martin, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 50) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Com. Sub. for Senate Bill 500**, Transferring audits of volunteer fire departments to Legislative Auditor.

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

**Eng. Senate Bill 615**, Eliminating accelerated tax payment requirements.

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

**Eng. Senate Bill 650**, Relating to full-time interventionists.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 2, section (b), line 24, after "classrooms" by striking out the semi-colon and adding in lieu thereof ": *Provided*, That kindergarten and first grade classrooms may not use an interventionist in place of a full time classroom aide."

On motion of Senator Martin, the following amendments to the House of Delegates amendment to the bill (Eng. S. B. 650) were reported by the Clerk, considered simultaneously, and adopted:

By striking out the proviso and inserting in lieu thereof a new proviso to read as follows: *Provided*, That this subdivision does not apply to kindergarten and first grade classrooms and notwithstanding subdivision (2) of this subsection or any other provision of code to the contrary, any early childhood assistant teacher, aide, paraprofessional, or interventionist assigned to a kindergarten or first grade classroom only satisfies the requirements of subsection (a) of this section if the assignment to that classroom is full-time.;

And,

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

**Eng. Senate Bill 650**—A Bill to amend and reenact §18-5-18a of the Code of West Virginia, 1931, as amended, relating to providing that a full-time interventionist hired and assigned to up to two classrooms satisfies the early childhood assistant teacher, aide, or paraprofessional related requirements for kindergarten through third grades for both classrooms; excluding kindergarten and first grade from authority to cover two classrooms with one full-time interventionist; providing that any early childhood assistant teacher, aide, paraprofessional, or interventionist assigned to a kindergarten or first grade classroom must be full-time in order to satisfy certain requirements; and clarifying that a part-time interventionist only satisfies those requirements for one classroom.

On motion of Senator Martin, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Senate Bill 650, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 650) passed with its Senate amended title.

Senator Martin moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 650) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Com. Sub. for Senate Bill 715**, Relating to personally identifiable information of member, retirant, beneficiary, or alternate payee of retirement system.

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

On further motion of Senator Martin, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of 90 days from passage.

Senator Martin moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 715) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Senate Bill 716**, Relating to failure to pay required contributions and interest payments for certain retirees who transfer between retirement systems.

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

On further motion of Senator Martin, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of 90 days from passage.

Senator Martin moved that the bill take effect from passage.

Having previously granted Senator Charnock's request to be excused from voting on any matter pertaining to the bill under Rule 43 of the Rules of the Senate,

On this question, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: None.

Excused from voting: Charnock—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 716) takes effect from passage.

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

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

**Eng. Com. Sub. for House Bill 2157**, Provide one trip temporary vehicle permits to be purchased and printed online.

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

**Eng. House Bill 2709**, Permitting a voter with a change of address to vote in his or her new precinct without having to cast a provisional ballot.

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

**Eng. House Bill 3313**, Providing more opportunities for high school students in community colleges.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 2120**, Relating to forms and disclosures to the Ethics Commission.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Barrett, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

At the further request of Senator Barrett, and by unanimous consent, the bill (Eng. H. B. 2120) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Transportation and Infrastructure has had under consideration

**Eng. House Bill 2344**, Relating generally to traffic safety.

And has amended same.

And,

**Eng. House Bill 3292**, Relating to special stops required for on-track equipment.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Stuart, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of Engrossed House Bill 2344 contained in the foregoing report from the Committee on Transportation and Infrastructure.

At the further request of Senator Stuart, and by unanimous consent, Engrossed House Bill 2344 was taken up for immediate consideration, read a first time, and ordered to second reading.

Engrossed House Bill 3292, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Transportation and Infrastructure pending.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 2389**, Relating to Dietitian Licensure Compact.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 2479**, Relating to Management and control of county authority vested in board.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. H. B. 2479) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 2491**, Relating to conditions on holding online raffles.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2491) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 2742**, Relating to creating limited waiver from certificate of public convenience and necessity requirement for certain water or sewer services projects.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. H. B. 2472) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2755**, To provide that the West Virginia Board of Education may promulgate rules or policies to be submitted to the Legislature for review.

And has amended same.

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

Respectfully submitted,

Mike Stuart,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2755) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Transportation and Infrastructure has had under consideration

**Eng. House Bill 2948**, Relating to obtaining title to abandoned or junked motor vehicles abandoned on the property or place of business of an automobile dealer.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 3000**, Relating to agency changes and updates to the West Virginia Commercial Feed Law.

And has amended same.

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



Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3000) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 3133**, Permitting counties and municipalities to enter into memoranda of understanding for demolition of dilapidated structures.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3133) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 3145**, Relating to duties of licensees under the West Virginia Real Estate License Act.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 3174**, Requiring municipalities take actions when potential customers apply for water and sewer service.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 3272**, Relating to eviction proceedings.

And has amended same.

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

Respectfully submitted,

Mike Stuart,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. H. B. 3272) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 3274**, Relating to reports of circuit court proceedings.

**Eng. House Bill 3275**, Update timing for appeals.

And,

**Eng. House Bill 3515**, Relating to appointment of officers of the West Virginia State Police.

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

Respectfully submitted,

Mike Stuart,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bills (Eng. H. B. 3274, 3275, and 3515) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 3373**, To extend and revise the sunset provision in the Tourism Development Act to December 31, 2030.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. H. B. 3373) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 3440**, Relating generally to removing and repealing obsolete provisions under the purview of the State Treasurer's Office.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3440) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 3503**, Relating to regulation by counties, municipalities, and political subdivisions of commercial horticulture under the Water Pollution Control Act.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

Senator Oliverio offered the following resolution:

**Senate Resolution 47**—Recognizing Brady Campbell as the 2024 recipient of the Earl S. Dillard Agent of the Year Award, presented to him by the Independent Insurance Agents of West Virginia for his outstanding contributions to the insurance industry and the state of West Virginia.

Which, under the rules, lies over one day.

Senator Jefferies offered the following resolution:

**Senate Resolution 48**—Designating April 9, 2025, as Cyberbullying Awareness and Prevention Day at the Legislature.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 46**, Designating April 8, 2025, as Child Care Day.

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

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2008**, Executive Branch Reorganization.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Monday, April 7, 2025, for further amendments to be received on third reading, was read a third time.

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

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

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 1. DEPARTMENT OF COMMERCE.**

#### **§5B-1-1. Department of Commerce; office of Secretary of Department of Commerce.**

(a) The Secretary of Commerce is the chief executive officer of the department. The Governor shall appoint the secretary, by and with the advice and consent of the Senate, for the term for which the Governor is elected. Any reference in this code to the Bureau of Commerce means the Department of Commerce. Any reference in this code to the Commissioner of the Department of Commerce means the Secretary of Commerce. As used in this article, "secretary" means the Secretary of Commerce and "department" means Department of Commerce.

(b) The department may receive federal funds.

(c) The secretary serves at the will and pleasure of the Governor. ~~The annual salary of the secretary is ninety thousand dollars~~ as provided in §6-7-2a of this code.

#### **§5B-1-2. Agencies, boards, commissions, divisions, and offices comprising the Department of Commerce.**

(a) The Department of Commerce consists of the following agencies, boards, commissions, divisions, and offices, including all of the allied, advisory, affiliated, or related entities, which are incorporated in and administered as part of the Department of Commerce:

(1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

~~(A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of this code; and~~

~~(B) the Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.* of this code.~~

(2) Office of Miners' Health, Safety and Training provided in §22A-1-1 *et seq.* of this code. ~~The following boards Board of Coal Mine Health and Safety and the Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code are transferred to the Office of Miners' Health, Safety, and Training for purposes of administrative support and liaison with the Office of the Governor.~~

~~(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code;~~

~~(B) Board of Miner Training, Education and Certification provided in §22A-7-1 et seq. of this code; and~~

~~(C) Mine Inspectors' Examining Board provided in §22A-9-1 et seq. of this code;~~

(3) Division of Natural Resources and Natural Resources Commission provided in §20-1-1 et seq. of this code;

(4) Division of Forestry provided in §19-1A-1 et seq. of this code;

(5) Geological and Economic Survey provided in §29-2-1 et seq. of this code; and

(6) Workforce West Virginia provided in Chapter 21A of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis; and

(7) Division of Economic Development provided in §5B-2-1 et seq. of this code, which includes:

(A) Office of Broadband provided for in 31G-1A-1 et seq.;

(B) Small Business Development Center provided for in §12-1A-1 et seq.; and

(C) Office of Energy provided for in §5B-2F-2 of this code.

(b) Beginning on July 1, 2025, all employees of the Department of Commerce, or agency, board, commission, division, and office listed under subsection (a) of this section, shall be exempt from the state grievance procedures as set forth in §6C-2-1 et seq. of this code and from the classified civil service system under §29-6-1 et seq. of this code except that:

(1) All employees of the Department of Commerce, or agency, board, commission, division, and office listed under subsection (a) of this section, who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of the Department of Commerce who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of the Department of Commerce, or agency, board, commission, division, and office listed under subsection (a) of this section, that leaves his or her position and remains an employee within the Department of Commerce shall, at that time, be transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the state grievance procedures as set forth in §6C-2-1 et seq. of this code.

(c) The Secretary of the Department of Commerce shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be

deemed necessary to comply with federal law, federal regulation, or the requirements for receipt of federal funding or assistance.

(d) Subsection (b) of this section shall not apply to:

(1) Any position appointed by the Governor; and

(2) Natural Resource Police Officers and Special Natural Resource Police Officers employed with the Division of Natural Resources who are charged with carrying out law enforcement activity, as set forth in §20-7-1 et seq. of this code.

(e) Nothing in this section shall exempt the Department of Commerce from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

## **ARTICLE 2. ~~DEPARTMENT~~ DIVISION OF ECONOMIC DEVELOPMENT.**

### **§5B-2-1. West Virginia ~~Department~~ Division of Economic Development; confidentiality.**

(a) The West Virginia Division of Economic Development, formerly the Department of Economic Development and formerly the Development Office, previously continued from the Governor's office of community and industrial development, is hereby continued but is hereafter raised to a separate and distinct department of the executive branch of state government and is designated and shall be known as the West Virginia Department of Economic Development as a division of the Department of Commerce.

(b) All references in this code to the West Virginia Department of Economic Development, West Virginia Development Office, the office of community and industrial development, or the Governor's office of community and industrial development shall be construed as references to the West Virginia ~~Department~~ Division of Economic Development. As used in this article, "Department" "division" means the Department Division of Economic Development, "department" means the Department of Commerce, and "secretary" means the Secretary of the Department of Commerce.

(c) Beginning on July 1, 2025, all employees of the Division of Economic Development shall be exempt from the state grievance procedures as set forth in §6C-2-1 et seq. of this code and from the classified civil service system under §29-6-1 et seq. of this code except that:

(1) All employees of the Division of Economic Development who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of the Division of Economic Development who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of the Division of Economic Development that leaves his or her position and remains an employee within the Department of Commerce shall, at that time, be transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the state grievance procedures as set forth in §6C-2-1 et seq. of this code.

(d) The Secretary of the Department of Commerce shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as

may be deemed necessary to comply with federal law, federal regulation, or the requirements for receipt of federal funding or assistance.

(e) Subsection (c) of this section shall not apply to any position appointed by the Governor.

(f) Nothing in this section shall exempt the Division of Economic Development from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

~~(b)~~ (g) Any documentary material, data or other writing made or received by the ~~Department~~ Division of Economic Development or other public body whose primary responsibility is economic development, for the purpose of furnishing assistance to a new or existing business shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement entered into or signed by the ~~Department~~ Division of Economic Development or other public body which obligates public funds shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement is entered into, signed, or otherwise made public.

#### **§5B-2-2. Office of ~~Secretary~~ Executive Director of ~~Department~~ the Division of Economic Development.**

(a) The ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development is the chief executive officer of the ~~department division~~. The Governor shall appoint the ~~secretary~~ the Executive Director, who shall be qualified for the position by reason of his or her extensive education and experience in the field of professional economic development, ~~by and with the advice and consent of the Senate, for the term for which the Governor is elected, and the~~ The Executive Director ~~secretary~~ shall serve at the will and pleasure of the Governor. Any reference in this code to the Secretary of the Department of Economic Development, or the Executive Director of the West Virginia Development Office means the ~~Secretary of the Department~~ Executive Director of the Division of Economic Development. As used in this article, "secretary" "executive director" means the ~~Secretary of the Department~~ Executive Director of the Division of Economic Development. Subject to the provisions of the contract provided in §5B-2-4 of this code, the ~~secretary~~ executive director may hire, and fire economic development representatives employed pursuant to §5B-2-5 of this code.

(b) The ~~secretary~~ Executive Director may promulgate rules to carry out the purposes and programs of the ~~Department~~ Division of Economic Development to include generally the programs available and the procedure and eligibility of applications relating to assistance under the programs. These rules are not subject to Chapter 29A of this code, but shall be filed with the Secretary of State. The ~~secretary~~ Executive Director may adopt any of the rules previously promulgated by the Department of Economic Development, the West Virginia Development Office, or the council for community and economic development.

#### **§5B-2-3. Powers and duties of the ~~secretary~~ Executive Director.**

(a) The ~~secretary~~ Executive Director shall enhance economic growth and development through the development of a comprehensive economic development strategy for West Virginia. "Comprehensive economic development strategy" means a plan that outlines strategies and activities designed to continue, diversify or expand the economic base of the state as a whole; create jobs; develop a highly skilled workforce; facilitate business access to capital, including venture capital; advertise and market the resources offered by the state with respect to the needs



of business and industry; facilitate cooperation among local, regional and private economic development enterprises; improve infrastructure on a state, regional and community level; improve the business climate generally; and leverage funding from sources other than the state, including federal and private sources.

~~(b) The Department of Economic Development shall utilize, to the fullest extent practicable and efficient, existing resources of the Department of Commerce for functions necessary for the operation of the department but which functions are not directly related to the purposes of the department listed in subsection (a) of this section. The Department of Economic Development may enter into such agreements with the Department of Commerce or other agencies of this state as may be necessary or advisable to utilize existing resources of this state.~~

~~(c) The Secretary of the Department of Economic Development may designate, in writing, a list of positions within the department that shall be exempt from coverage under the state's classified service.~~

~~(d)~~(b) The ~~Department~~ Division of Economic Development shall be exempt from §5A-3-1 *et seq.* of this code.

#### **§5B-2-3b. Economic development promotion and closing fund.**

The previously created fund known as the "Development Office promotion fund" is hereby continued but shall hereafter be known as the "Economic Development Promotion and Closing Fund". Moneys deposited in this fund shall be administered by the Department Division of Economic Development, with the approval of the Secretary of the Department of Commerce, and used solely to promote business formation, expansion, recruitment and retention through aggressive marketing and international development and export assistance, and to provide a fund from which moneys may be drawn to offer certain incentives for business formation or expansion, to provide assistance with respect to site development or other concerns identified by the ~~secretary~~ Executive Director, and to further facilitate economic development in this state, all of which economic development efforts and initiatives lead to more and better jobs with higher wages for all geographic regions and communities of the state, including rural areas and urban core areas, and for all residents, ~~including minorities~~.

#### **§5B-2-4. Public-private partnerships.**

The ~~Department~~ Division of Economic Development may enter into contractual or joint venture agreements with a nonprofit corporation organized pursuant to the corporate laws of the state, organized to permit qualification pursuant to section 501(c) of the Internal Revenue Code and for purposes of the economic development of West Virginia, and funded from sources other than the state. The contract shall include provisions relating to the employment of economic development representatives assigned to the Department Division of Economic Development to be paid a base salary by the state and performance-based economic incentives from private funds of the nonprofit corporation. Provisions relating to hiring practices with respect to economic development representatives, job descriptions, accountability, public-private liaison, and performance standards may be the subject of contract negotiations. The contract may include provisions for continuing education and certification in the field of economic or industrial development for persons employed as economic development representatives. Agreements providing for the payment of performance-based incentives to the ~~secretary~~ executive director are authorized. Agreements providing for the payment of travel and other expenses of or to the ~~secretary~~ executive director or of or to economic development representatives from private funds by the

nonprofit corporation are authorized. The prohibitions of §6B-2-5(b) and §6B-2-5(d) of this code are not applicable to the receipt by economic development representatives or by the ~~secretary executive director~~ of performance-based incentives and other payments made by the nonprofit corporation and specifically authorized pursuant to this section.

From time to time the ~~secretary executive director~~ may enter into joint ventures wherein the ~~department division~~ and the nonprofit corporation share in the development and funding of economic development programs.

All contracts and joint venture agreements must be approved by the ~~secretary~~ Executive Director of the Division and the Secretary of the Department of Commerce. Contracts entered into pursuant to this section for longer than one fiscal year shall contain, in substance, a provision that the contract shall be considered cancelled without further obligation on the part of the state if the State Legislature or, where appropriate, the federal government, shall fail to appropriate sufficient funds therefor or shall act to impair the contract or cause it to be cancelled.

#### **§5B-2-4a. State allocation to regional councils.**

The ~~Department Division~~ of Economic Development may enter into contractual agreements with the regional councils formed under §8-25-5 of this code to provide funding to the regional councils to be used to obtain federal matching grants and for other purposes determined to be appropriate by the department: *Provided*, That the amount of any allocation shall be determined by dividing the number of eligible regional councils into the total amount of funds made available for allocation by the Legislature. The ~~Department Division~~ of Economic Development shall develop criteria to determine a regional council's eligibility for the state allocation.

#### **§5B-2-5. Economic development representatives.**

(a) The ~~secretary executive director~~ may employ economic development representatives to be paid a base salary within legislative appropriations to the ~~department division~~, subject to applicable contract provisions pursuant to §5B-2-4 of this code. Economic development representatives may receive performance-based incentives and expenses paid from private funds from a nonprofit corporation contracting with the ~~department division~~ pursuant to §5B-2-4 of this code. The ~~secretary executive director~~ shall establish job descriptions and responsibilities of economic development representatives, subject to the provisions of any contract with a nonprofit corporation entered into pursuant to §5B-2-4 of this code.

(b) Notwithstanding any provision of this code to the contrary, economic development representatives employed within the ~~department division~~ are not subject to the procedures and protections provided by §29-6-1 *et seq.* and §29-6A-1 *et seq.* of this code. Any employee of the ~~department division~~ on the effective date of this article who applies for employment as an economic development representative is not entitled to the protections of ~~by~~ §29-6-1 *et seq.* of this code with respect to hiring procedures and qualifications; and upon accepting employment as an economic development representative, the employee relinquishes the protections provided for in §6C-2-1 *et seq.* and §29-6-1 *et seq.* of this code.

~~(c) On the last Monday in January, in years 2017, 2019 and 2021, the secretary shall submit to the Legislature a written report. The secretary shall provide copies of his or her report to the President of the Senate, the Speaker of the House of Delegates, the chair of the Senate Committee on Economic Development and the chair of the House Committee on Small Business, Entrepreneurship and Economic Development. The secretary's report shall do the following:~~

~~(1) Identify and describe loans, grants or other funding sources that economic development representatives have assisted small businesses acquire during the immediately preceding reporting cycle;~~

~~(2) Identify and describe generally inquiries, requests for assistance or other matters that other state or federal agencies have presented to the department in the immediately preceding reporting cycle in connection with those agencies' efforts to regulate or assist small businesses;~~

~~(3) Identify and describe issues with formation, registration and licensure requirements that state law imposes on small businesses that small businesses have identified to the department in the immediately preceding reporting cycle as burdensome;~~

~~(4) Identify specific forms, processes or requirements imposed by state law that small businesses have identified to the department in the immediately preceding reporting cycle that may be streamlined, simplified, combined, or eliminated in order to reduce unnecessary costs, delays, or other burdens on small businesses;~~

~~(5) Propose and describe concrete and specific steps that any branch, agency or level of state government may take to streamline, simplify, combine, or eliminate the forms, processes or requirements identified in subdivision (4) of this subsection; and~~

~~(6) Provide the following information:~~

~~(A) The number of small businesses counseled by the department during the immediately preceding reporting cycle;~~

~~(B) The number of new businesses created while being counseled by the department during the immediately preceding reporting cycle;~~

~~(C) The number of jobs created by businesses counseled by the department during the immediately preceding reporting cycle; and~~

~~(D) Any other information that, in the opinion of the executive director, demonstrates the performance of the department or economic development representatives during the immediately preceding reporting cycle.~~

#### **§5B-2-6. Transition; savings provision.**

All programs, orders, determinations, rules, permits, grants, contracts, certificates, bonds, authorizations and privileges which have been issued, made, granted or allowed to become effective pursuant to any prior enactments of this article or by the Governor, the executive director of the Development Office, the Secretary of the Department of Economic Development, the Governor's Office of Community and Industrial Development or its director, or by a court of competent jurisdiction, and which are in effect on February 1, 1992, shall continue in effect according to their terms until modified, terminated, superseded, set aside or revoked by the Governor, or the Secretary of the Department of Commerce, pursuant to this article, by a court of competent jurisdiction, or by operation of law.

**§5B-2-6a. Brownfield economic development districts; applications; fees; rules.**

(a) Any property owner of a tract of land that is a brownfield or voluntary remediated site pursuant to §22-22-1 *et seq.* of this code may, if the site and surrounding area were involved in the extraction and processing of coal, limestone, or other natural resources, apply to the ~~department~~ division to become a brownfield economic development district.

(1) Applicants for a brownfield economic development district must demonstrate that the district when designated will create significant economic development activity;

(2) Applicants shall submit a development plan that provides specific details on proposed financial investment, direct and indirect jobs to be created and the viability of the district;

(3) Brownfield economic development districts:

(A) May not contain single-family housing;

(B) Shall provide all the infrastructure within the district without cost to the state, county, public service district or local municipal government;

(4) Applicants shall demonstrate that were it not for this designation, the contemplated development would not be possible, and that the development is in the best interest of the state;

(5) The applicant shall own or control the property within the district;

(6) All costs for the application process shall be borne by the applicant;

(7) An applicant shall demonstrate that the applicant has attempted to work in good faith with local officials in regard to land-use issues;

(8) Beginning July 1, 2011, an application for a brownfield economic development district may not be approved unless the district conforms to a county's or municipality's planning and zoning laws established pursuant to §8A-7-1 *et seq.*, §8A-8-1 *et seq.*, and §8A-9-1 *et seq.* of this code.

(9) Prior to granting a designation of brownfield economic development district, the applicant shall provide documentation that the applicant has met all the requirements set forth in §22-22-1 *et seq.* of this code to be designated as a brownfield site or voluntary remediated site and is in compliance with the remediation plan;

(10) Nothing may be construed by this section to exempt brownfield economic districts from environmental regulation that would pertain to the development;

(11) The decision of the ~~development office~~ division in regard to an application is final; and

(12) Once designated, the district shall work in conjunction with the regional brownfield assistance centers of Marshall University and West Virginia University as specified in §18B-11-7 of this code.

(b) The ~~department~~ division shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this section and the rules shall include, but not be limited to, the application and time line process, notice provisions, additional application

consideration criteria and application fees sufficient to cover the costs of the consideration of an application.

**§5B-2-9a. Powers and duties of Secretary of the Department of Tourism and Tourism Advisory Council for improving Cardinal Passenger Train Service; declaration of public policy and Legislative intent.**

(a) It is hereby declared the public policy of the State of West Virginia and the intent of the Legislature to facilitate, advance, and improve the availability of interstate passenger rail service to the state, the contributions of such service to local tourism development including the Boy Scouts of America Summit Bechtel Reserve in Fayette County, the marketing of such services for both interstate rail travel for the benefit of the state's citizens, businesses, and local tourism and to improve the quality and frequency of such service, including the provision of a daily passenger train service at the earliest opportunity, of the Cardinal Passenger Train operated by the National Railroad Passenger Corporation, doing business as AMTRAK, on railroad lines crossing the south-central region of the state from Huntington eastward to White Sulphur Springs, being that same route historically and continuously used by the passenger train and its predecessors since the year 1871.

(b) Notwithstanding any other provision of this code to the contrary, the Secretary of the Department of Tourism, with the advice of the tourism advisory council, and in consultation with the Secretary of the West Virginia Department of ~~Economic Development~~ Commerce, is directed to coordinate and supervise the activities of the state, to coordinate and cooperate with the political subdivisions and municipalities of the state, to cooperate with the National Railroad Passenger Corporation and with the other states served by the Cardinal Passenger Train to achieve the public policy set forth in subsection (a) of this section. The secretary may conduct such studies, and make such investigations, as may be reasonable and appropriate to advance the public policy set forth in subsection (a) of this section.

(c) The secretary may enter into contracts and memoranda of understanding with the National Railroad Passenger Corporation, with the other states served by the Cardinal Passenger Train, and with the political subdivisions and municipalities of this state, to achieve the public policy set forth in subsection (a) of this section. The secretary is further authorized to cooperate with the aforesaid other states and National Railroad Passenger Corporation in the formation of an interstate committee for the purpose of achieving the public policy set forth in subsection (a) of this section, to participate in said committee and appoint other designees thereto.

(d) In the exercise of their powers and duties under this section, the secretary and tourism advisory council shall consult with the West Virginia Department of Transportation and the ~~West Virginia State Rail Authority~~ Division of Multimodal Transportation Facilities. The West Virginia Department of Transportation and the ~~West Virginia State Rail Authority~~ Division of Multimodal Transportation Facilities shall cooperate with the secretary and the tourism advisory council, and shall provide the secretary and the tourism advisory council with such reasonable and necessary assistance as may be possible based on available staff and funds to achieve the public policy set forth in subsection (a) of this section.

(e) There is hereby created a special revenue account, designated the "Cardinal Passenger Train Enhancement Fund" into which all moneys intended to advance the purposes of this section shall be deposited. Moneys in this account shall be expended solely for the public policy and purposes set forth in this section. Funds paid into this account may also be derived from the following sources: (1) All interest or return on investment accruing to this account; (2) any gifts,

grants, bequests, transfers, appropriations, or other donations which may be received from any governmental entity or unit or any person, firm, foundation, or corporation; and (3) any appropriations by the Legislature which may be made for the purposes of this section. Any balance including accrued interest and other earnings at the end of any fiscal year shall not revert to the general fund but shall remain in the fund for the purposes set forth in this section. The moneys in the fund shall be paid out, at the sole discretion and direction of the secretary, to advance the purposes of this section.

**§5B-2-10. Program and policy action statement; submission to Joint Committee on Government and Finance.**

The tourism advisory council, the ~~Department~~ Division of Economic Development, and any other authorities, boards, commissions, corporations or other entities created or amended under this chapter and §18B-11-1 *et seq.* of this code, shall prepare and submit to the Joint Committee on Government and Finance on or before December 1, 1995, and each year thereafter, a program and policy action statement which shall outline in specific detail according to the purpose, powers and duties of the office or section, its procedure, plan and program to be used in accomplishing its goals and duties as required under this article.

**§5B-2-14. Certified development community program.**

The certified development community program is continued and is transferred to, incorporated in and administered as a program of the ~~Department~~ Division of Economic Development. The program shall provide funding assistance to the participating economic development corporations or authorities through a matching grant program. The ~~department~~ division shall establish criteria for awarding matching grants to the corporations or authorities within the limits of funds appropriated by the Legislature for the program. The matching grants to eligible corporations or authorities are in the amount of \$50,000 for each fiscal year, if sufficient funds are appropriated by the Legislature. The ~~department~~ division shall recognize existing county, regional or multicounty corporations or authorities where appropriate.

In developing its plan, the ~~department~~ division shall consider resources and technical support available through other agencies, both public and private, including, but not limited to, the state college and university systems; the West Virginia Housing Development Fund; the West Virginia Economic Development Authority; the West Virginia Parkways, ~~Economic Development and Tourism~~ Authority; the West Virginia Round Table; the West Virginia Chamber of Commerce; Regional Planning and Development Councils; Regional Partnership for Progress Councils; and state appropriations.

**§5B-2-16. Entrepreneurship and Innovation Investment Fund.**

(a) The Entrepreneurship and Innovation Investment Fund is hereby created. The fund shall be administered by the ~~Department~~ Division of Economic Development and shall consist of all moneys made available for the purposes and from the sources set forth in this section of the code.

(b) The fund consists of moneys received from the following sources:

(1) All appropriations provided by the Legislature;

(2) Any moneys available from external sources; and

(3) All interest and other income earned from investment of moneys in the fund.

(c) The ~~Department~~ Division of Economic Development shall use moneys in the fund to support entrepreneurship, creation of business startups, improvements in workforce participation, and attracting individuals to relocate to West Virginia.

(d) Any balance, including accrued interest and any other returns, in the Entrepreneurship and Innovation Investment Fund at the end of each fiscal year may not expire to the General Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

(e) Fund balances may be invested with the state's Consolidated Investment Fund. Earnings on the investments shall be used solely for the purposes defined in §5B-2-16(c) of this code.

**§5B-2-17. West Virginia Motorsport Committee.**

(a) The West Virginia Motorsport Committee is hereby created.

(b) The committee consists of 17 members, including its chairperson, appointed by the Governor to serve at his or her will and pleasure. The committee members shall represent:

- (1) Asphalt oval racing;
- (2) Dirt drag racing;
- (3) Dirt oval racing;
- (4) Drag racing;
- (5) Drift racing;
- (6) Hill climb racing;
- (7) Karting racing;
- (8) Motor cross racing;
- (9) Motorcycle road course racing;
- (10) Mud racing;
- (11) Off-road racing;
- (12) Rallying racing;
- (13) Rallycross racing;
- (14) Road course racing;
- (15) Time Trials racing; and
- (16) Truck/Tractor pulls.

(c) The Secretary of the Department of Tourism and the ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development shall also serve on the committee, ex officio.

(d) The committee shall:

(1) Work with the existing facilities within the state to enhance existing racing;

(2) Develop a strategy that creates further opportunities, such as encouraging racing training schools, conducting special events, and encouraging special events and the construction of larger in-state racing facilities; and

(3) Seek opportunities to promote economic growth and manufacturing jobs related to motorsports.

(e) The committee shall hold regular meetings, at least quarterly, and conduct public hearings as it considers necessary.

~~(f) The committee shall report on the status of its duties, goals, accomplishments, and recommendations to the Legislature on at least an annual basis.~~

#### **§5B-2-18. Small Business Supplier Certification Assistance Program.**

(a) The Legislature finds that there is currently no standardized certification process for small business enterprises in West Virginia. As a result, there is no uniform method for verifying or certifying small business contractors or suppliers seeking to participate in government contracting and procurement processes. The Legislature further finds that it is important to develop such a certification program to promote more in-state businesses and to strengthen regional supply chains within the institutions of the state or its political subdivisions. Therefore, it is the purpose of this section to establish the Small Business Supplier Certification Assistance Pilot Program, to develop and implement a certification process for the benefit of small business enterprises seeking to further engage in the government contracting and bidding processes.

(b) The ~~Department~~ Division of Economic Development is hereby authorized to work in collaboration with Marshall University to establish a Small Business Supplier Certification Assistance Pilot Program to be implemented for purposes of developing a certification process for small business enterprises.

(c) Prior to implementation of the pilot program, Marshall University shall coordinate with the ~~Department~~ division to develop a master plan for the pilot program, the focus of which should include, but not be limited to, the following:

(1) A mission statement and small business participation plan for the program aimed at creating a competitive business environment by promoting the growth and success of small businesses through meaningful participation in the procurement process. The small business participation plan shall include:

(A) A study to determine any inequities that exist in public procurement and contracting that adversely affect small business vendors;

(B) An outreach program to identify and provide education to small business vendors;



(C) Initial and continuing education opportunities for the small business vendor community through both virtual and in-person workshops;

(D) A small business vendor notification process for bidding opportunities; and

(E) A method of assessing overall program results and establishing recommendations for future goals and participation.

(2) Development of an application and certification process for small business enterprises, including guidelines for certification, based upon existing federal Small Business Administration guidelines;

(3) Education and outreach proposals relating to program certifications and the benefits of small business participation;

(4) Technical training to be provided on state and government contracting and the public bidding process;

(5) Notification of current bidding opportunities for small business providers;

(6) Opportunities for collaboration with other public and private sector entities; and

(7) Methods of implementation of the pilot program, which shall include:

(A) Defined program goals;

(B) Program research to be conducted;

(C) Scheduling milestones, assignment of tasks, and allocation of resources; and

(D) Reporting of program certifications, successes, and benefits to the economy and small business opportunities.

(d) The pilot program shall continue in duration through December 31, 2023, and unless continued by the legislature, the program will terminate at midnight on January 1, 2024. Prior to the conclusion of the program, the ~~Department~~ division, in coordination with Marshall University, shall report to the Legislature's Joint Commission on Economic Development on the following:

(1) Progress towards and methods of implementation of the pilot program, including the required certifications and training for small business enterprises;

(2) An analysis of the overall program results based on the metrics created in the master plan of the pilot program;

(3) Recommendations as to whether the pilot program should continue beyond its current duration; and

(4) Any proposed plan or legislation necessary to accomplish the purpose of making the program permanent.

(e) For purposes of the pilot program, any information provided by a small business enterprise for purposes of the certification process shall be considered private and confidential and exempt

from the provisions of the Freedom of Information Act, as provided in §29B-1-1 *et seq.* of this code. Neither the ~~Department~~ division nor Marshall University may share any information provided by a small business enterprise with any other state or federal agencies unless required by law.

**§5B-2-19. Certified Sites and Development Readiness Program.**

(a)(1) The Certified Sites and Development Readiness Program is hereby created and is to be administered as a program within the ~~Department~~ Division of Economic Development with appropriate rules as necessary. The program shall establish evaluation criteria and site certification levels based upon developmental readiness of an applicant's site. In developing the program, the ~~department~~ division shall consider utilizing all available resources and technical support, both public and private.

(2) The ~~department~~ division shall establish an application process and forms through which an applicant may begin to participate in the program and identify and describe potential sites for economic development and investment. The application process and forms should include site specific information such as property ownership and control, descriptions and mapping, historical and current uses, access to various forms of transportation, availability of various utility services, environmental studies, conceptual plans, marketing materials, and all other information requested by the department.

(3) Applicants may include only state, county, municipal, or regional governmental entities such as, without limitation, economic development authorities, economic development corporations, economic development alliances, or economic development partnerships.

(4) The ~~department~~ division shall select applicant's sites to participate in the program from the application materials. The ~~department~~ division will select sites to participate in the program, evaluate the selected sites, and certify each site based upon its readiness to be developed from the established criteria. After evaluation, the ~~department~~ division shall provide a report to the applicant detailing the results of the site evaluation, identifying site deficiencies and strengths, and suggesting a prioritized list of site improvements which may be made to improve the site's readiness to develop. The ~~department~~ division may thereafter reevaluate and recertify a site as improvements are made to a site and deficiencies cured.

(5) The ~~department~~ division may provide to applicants funding assistance up to a 50 percent match through a matching grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The ~~department~~ division shall establish criteria and an application process for awarding matching grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than a maximum amount established by the ~~department~~ division through this grant matching program. Applications for this grant matching program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the ~~department~~ division. Grant matching funds must be spent, contracted to be spent, or returned to the department within 12 months of the date of receipt of the grant matching funds. Grant matching funds shall be paid back to the ~~department~~ division when a participating site is sold or leased for development. The ~~department~~ division shall take prudent steps to receive a security interest in a participating site in the amount of the grant matching funds award including, but not limited to, placing of record in the county where the participating site is located, an appropriate lien against the title. All funds repaid under this section shall remain within the program for use on participating sites. The ~~department~~ division shall

monitor, and request appropriate evidence documenting the cured deficiencies and thereafter reevaluate and recertify a participating site as part of this grant matching program.

(6) The ~~department~~ division may provide funding assistance to applicants through a micro grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The ~~department~~ division shall establish criteria and an application process for awarding the micro grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than \$75,000 through this micro grant program. Applications for this micro grant program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the ~~department~~ division. Micro grant funds must be spent, contracted to be spent, or returned to the ~~department~~ division within 12 months of the date of receipt of the micro grant funds. All funds returned under this section shall remain within the program for use on participating sites. The ~~department~~ division shall monitor and request appropriate evidence documenting the cured deficiency and thereafter reevaluate and recertify a participating site as part of this micro grant program.

(b) (1) The Certified Sites and Development Readiness Fund is hereby created. The fund shall be administered by the ~~Department~~ Division of Economic Development and shall consist of all moneys made available for the purposes from:

(A) Appropriations provided by the Legislature;

(B) Any moneys available from external sources; and

(C) All interest and other income earned from investment of moneys in the fund.

(2) The ~~Department~~ Division of Economic Development shall use moneys in the fund to support The Certified Sites and Development Readiness Program.

(3) Any balance, including accrued interest and any other returns, in the fund at the end of each fiscal year may not expire to the General Revenue Fund but shall remain in the fund and be expended for the purposes provided by this section.

(4) Fund balances may be invested under §12-6C-6 of this code. Earnings on the investments shall be used solely for the purposes defined in this section.

#### **§5B-2-20. West Virginia Uncrewed Aircraft Systems Advisory Council.**

(a) The West Virginia Uncrewed Aircraft Systems Advisory Council is hereby created within the ~~Department~~ Division of Economic Development.

(b) The council consists of the following nine members, including the chairperson:

(1) The ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development or his or her designee, ex officio, who shall serve as the chair of the council, and who shall vote when necessary in the event the appointed members of the council become deadlocked;

(2) The following eight members shall be appointed by the Governor and serve at his or her will and pleasure:

- (A) One member representing the Secretary of the Department of Transportation;
- (B) One member from the Adjutant General's Department;
- (C) One member representing the uncrewed aircraft system industry with at least five years of experience operating an uncrewed aircraft;
- (D) One member representing a national association of the uncrewed aerial vehicle industry;
- (E) One member with experience managing a commercial services airport;
- (F) One member representing business and industry, generally;
- (G) One member representing academia; and
- (H) One member representing the advanced air mobility industry developing human transit capabilities.

(3) Members of the council will receive no compensation but are entitled to reimbursement for mileage expenses while attending meetings of the committee to the extent that funds are available through the ~~Department~~ Division of Economic Development.

(c) The council shall:

- (1) Identify trends and technologies driving innovation in uncrewed aircraft systems;
- (2) Develop comprehensive strategies, including, but not limited to, the promotion of research and development, education, economic growth, and jobs in the uncrewed aircraft system industry in West Virginia; public acceptance of the uncrewed aircraft system industry; business planning; air vehicle technology and manufacturing; and airspace management and national airspace system integration; and
- (3) Develop recommended legislation addressing specific issues and in furtherance of the comprehensive strategies identified in subdivision (2), subsection (c) of this section.

(d) The council shall meet at least annually and may convene public meetings to gather information or receive public comments.

(e) The council shall report on the status of its duties, goals, accomplishments, and recommendations to the Legislature on at least an annual basis.

## **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§5F-1-2. Executive departments created; offices of secretary created.**

(a) There are created, within the executive branch of the state government, the following departments:

- (1) Department of Administration;
- (2) Department of Environmental Protection;
- (3) Department of Health;
- (4) Department of Homeland Security;
- (5) Department of Revenue;
- (6) Department of Transportation;
- (7) Department of Commerce;
- (8) Department of Veterans' Assistance;
- ~~(9) Department of Economic Development;~~
- ~~(10)~~(9) Department of Tourism;
- ~~(11)~~(10) Department of Human Services; and
- ~~(12)~~(11) Department of Health Facilities.

(b) Each department will be headed by a secretary appointed by the Governor with the advice and consent of the Senate. Each secretary serves at the will and pleasure of the Governor.

**§5F-1-3a. Executive compensation commission.**

[Repealed.]

**§5F-1-6. House Bill 4006 amendments effective date.**

[Repealed.]

**ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

**§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

(a) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:

- (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
- (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
- (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this code;
- (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;

- (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
- (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;
- (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- (9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and
- (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

(b) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Commerce:

- (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

~~(A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of this code; and~~

~~(B) the Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.* of this code.~~

(2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code. The following boards Board of Coal Mine Health and Safety and the Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code are transferred to the Office of Miners' Health, Safety, and Training for purposes of administrative support and liaison with the Office of the Governor.

~~(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code;~~

~~(B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of this code; and~~

~~(C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.~~

(3) Division of Natural Resources and Natural Resources Commission provided in §20-1-1 *et seq.* of this code;

(4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

(5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

(6) Workforce West Virginia provided in chapter 21A of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development;

(D) Division of Research, Information and Analysis; ~~and~~

(7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code; and

(8) Division of Economic Development provided in §5B-2-1 *et seq.* of this code, which includes:

(A) Office of Broadband provided for in 31G-1A-1 *et seq.*;

(B) Small Business Development Center provided for in §12-1A-1 *et seq.*; and

(C) The Office of Energy provided for in §5B-2F-2 of this code.

(c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is continued as an independent agency within the executive branch.

(d) The Water Development Authority and the Water Development Authority Board provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the executive branch.

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

~~(f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is continued as an agency within the Executive Branch as the Department of Arts, Culture, and History. All references throughout this code to the "Division of Culture and History" mean the "Department of Arts, Culture, and History".~~

~~(g)~~ (f) The following agencies and boards, including all of the allied, advisory, and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the Office of the Governor:

(1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

(2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

(3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of this code;

(4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

~~(5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;~~

~~(6)~~ (5) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

~~(7)~~ (6) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

~~(h)~~ (g) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health:

(1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

(2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

(3) Office of Emergency Medical Services and the Emergency Medical Service Advisory Council provided in §16-4C-1 *et seq.* of this code;

(4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

(5) The Developmental Disabilities Council established by Executive Order No. 6-88 and continued by Executive Order No. 15-99;

(¶) (h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in, and administered as a part of, the Department of Human Services:

(1) Women's Commission provided in §29-20-1 *et seq.* of this code; and

(2) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

(¶) (i) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Homeland Security:

(1) West Virginia State Police;

(2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule promulgated thereunder, a reference is made to the Division of Homeland Security and Emergency Management, it shall be construed to mean the Division of Emergency Management;

(3) Division of Administrative Services;

(4) Division of Corrections and Rehabilitation;

(5) Fire Commission;

(6) State Fire Marshal;

(7) Board of Probation and Parole;

(8) The West Virginia Fusion Center;

(9) Division of Protective Services; and

(10) Any other agency or entity hereinafter established within the Department of Homeland Security by an act of the Legislature.



~~(k)~~ (j) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:

- (1) Tax Division provided in §11-1-1 *et seq.* of this code;
- (2) Racing Commission provided in §19-23-1 *et seq.* of this code;
- (3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this code;
- (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;
- (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of this code and §60-2-1 *et seq.* of this code;
- (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;
- (7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;
- (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;
- (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;
- (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;
- (11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and
- (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

~~(j)~~ (k) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Transportation:

- (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;
- (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;
- (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;
- (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code; and
- (5) ~~Aeronautics Commission provided in §29-2A-1 *et seq.* of this code~~ Division of Multimodal Transportation Facilities provided in §17-16F-1 *et seq.* of this code.
- ~~(6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and~~
- ~~(7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.~~

~~(m)~~ (l) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code, including all of the allied, advisory, affiliated, or related entities and funds associated with it, is incorporated in and administered as a part of the Department of Veterans' Assistance.

~~(n)~~ (m) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the position of administrator and the powers, authority, and duties of each administrator and agency are not affected by the enactment of this chapter.

~~(o)~~ (n) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards and the membership, terms, and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers may not have their appellate or independent decision-making status affected by the enactment of this chapter.

~~(p)~~ (o) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in §5F-1-2 of this code, the reference means a division of the appropriate department and any reference to a division of a department so transferred and incorporated means a section of the appropriate division of the department.

~~(q)~~ (p) When an agency, board, or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the Office of the Governor, a department secretary, or a bureau. Nothing in this section extends the powers of department secretaries under §5F-2-2 of this code to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

~~(r)~~ (q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this code is continued as a ~~separate independent agency within the Executive Branch~~ division of the Department of Commerce.

~~(s)~~ (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch.-, which includes the following sections and commissions listed under §29-1-1 of this code:

(1) The Arts Section;

(2) The Archives and History Section;

(3) The Museums Section;

(4) The Historic Preservation Section;

(5) The State Library Section;

(6) The National Coal Heritage Area Commission;

(7) The Administrative Section;

(8) The Educational Broadcasting Commission;

(9) A Commission on the Arts;

(10) A Commission on Archives and History;

(11) A Library Commission; and

(12) An Educational Broadcasting Council.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 1. ~~DIVISION OF~~ ARTS, CULTURE AND HISTORY.**

#### **§29-1-8d. National Coal Heritage Area Commission.**

(a)(1) The National Coal Heritage Area originally was a partnership project of the National Park Service and the State of West Virginia as represented by the Division of Tourism and the Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28 experts from the state and the region to the National Coal Heritage Area Steering Committee to provide guidance in the development of the National Coal Heritage Area, and in 2002 the West Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an independent board, to serve as the management entity for the National Coal Heritage Area.

(2) The West Virginia Legislature finds that there continues to be a significant need for a public body to promote and enhance historic preservation, tourism, and economic development activities that relate to the state's history as a coal-producing state within the counties of Boone, Cabell, Fayette, Lincoln, Logan, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and Wyoming.

(3) The Legislature additionally finds that the state entity previously known as the National Coal Heritage Area Authority may more effectively serve the people of West Virginia through the Department of Arts, Culture, and History as the National Coal Heritage Area Commission, where it will continue to work with the landowners, county officials, and community leaders, state and federal government agencies, and other interested parties to enable and facilitate the development of the National Coal Heritage Area will greatly assist in the realization of these potential benefits.

(b) Unless the context clearly requires a different meaning, the terms used in this section have the following meanings:

(1) "Commission" means the National Coal Heritage Area Commission;

(2) "Department" means the Department of ~~Arts, Culture, and History~~ Tourism; and

(3) "National Coal Heritage Area" means and comprises the counties of Boone, Cabell, Fayette, Lincoln, Logan, Kanawha, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and Wyoming.

(c) Creation; appointment of commission; terms; expenses; executive director:

(1) There is hereby created the National Coal Heritage Area Commission which is a ~~division~~ section of the Department of ~~Arts, Culture, and History~~ Tourism, existing for the purposes of providing direction to and assistance with state and federal historic preservation, economic development, and tourism projects in the National Coal Heritage Area and aiding in the

development and implementation of integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, waters, and structures in the National Coal Heritage Area.

(2) The commission shall be composed of, at a minimum, 19 members as follows:

(A) The following six persons shall be nonvoting members, and shall serve by virtue of their offices, and may be represented at meetings of the commission by designees:

(i) The ~~Curator~~ secretary of the ~~Department of Arts, Culture, and History~~, or his or her designee;

(ii) The Secretary of the Department of Environmental Protection, or his or her designee;

~~(iii) The Secretary of the Department of Tourism, or his or her designee;~~

~~(iv)~~ (iii) The ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development, or his or her designee;

~~(v)~~ (iv) The State Superintendent of Schools, or his or her designee; and

~~(vi)~~ (v) The Director of the Division of Natural Resources, or his or her designee;

(B) The remaining 13 members shall be appointed for terms of four years by the Governor with the advice and consent of the Senate. The county commission of each county within the National Coal Heritage Area may submit to the Governor a list of three candidates to be considered for board appointment. Of the 13 members appointed by the Governor, each candidate must live or work within the subject county and the appointees shall be representative of the tourism industry, the coal industry, the United Mine Workers of America, economic development activity, historic preservation activity, or higher education. Additional counties may submit names of individuals fitting the above criteria for consideration as ex-officio, non-voting, board membership;

(C) The terms of office shall be four years and shall expire on June 30. No appointed member may serve more than two consecutive full terms. A member shall continue to serve until his or her successor has been appointed and qualified;

(D) If an appointed member is unable to complete a term, the Governor shall appoint a person to complete the unexpired term. Each vacancy occurring on the board must be filled within 60 days after the vacancy is created;

(E) Any appointed member of the board shall immediately and automatically forfeit his or her membership on the board if he or she becomes a nonresident of the county, or ceases to be employed in the county, from which he or she was appointed;

(F) Each member of the board shall serve without compensation, but shall receive expense reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of the office, in the same amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law: *Provided*, That no member may be reimbursed for expenses paid by a third party.

(3) The ~~Curator~~ secretary of the ~~Department of Arts, Culture, and History~~ shall appoint a director to carry out the actions of the board, which appointment may be in addition to other duties, to serve at the will and pleasure of the ~~curator~~ secretary. The director may employ necessary personnel and retain such temporary consultants or technicians as may be necessary for any special study or survey consistent with the provisions of this section. The director shall carry out plans to implement the provisions of this section and to exercise those powers. The director shall prepare annually, in consultation with the board, a budget for the commission.

(d) *Board; quorum; chairperson; bylaws.*—

(1) The board is the governing body of the National Coal Heritage Area Commission, and may exercise all the powers given the commission in this section.

(2) The director shall serve as the board chairperson. The board shall meet at such times as shall be specified by the chairperson, but in no case less than quarterly. A majority of seven appointed members shall constitute a quorum for the transaction of business.

(3) There shall be a standing committee of the National Coal Heritage Area Commission known as the Coal Heritage Trail Committee composed of the chairperson and members of the National Coal Heritage Area from the counties through which the Coal Heritage Trail passes. These counties are Mercer, McDowell, Wyoming, Raleigh, and Fayette. This standing committee shall be responsible for making recommendations to the full board regarding development and promotion of the Coal Heritage Trail, a national scenic byway.

(4) The board ~~shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the commission is conducted, shall keep a record of its proceedings, and shall review and approve an annual budget. The board may appoint such officers as necessary to carry out its meetings.~~

(e) *Powers of commission.*—

The commission may exercise all powers necessary or appropriate to carry out the purposes of this section, including, but not limited to, the power:

(1) To assist in the development and implementation of integrated cultural, historical, and land resource management policies and programs in the National Coal Heritage Area;

(2) To advise the executive director of the National Coal Heritage Commission in retaining, enhancing, and interpreting the significant values of the lands, waters, and structures of the area;

(3) To enter into partnerships with various preservation groups, landmark commissions, certified local governments, county commissions, and other entities to undertake the preservation, restoration, maintenance, operation, development, interpretation, and promotion of lands and structures that possess unique and significant historic, architectural, and cultural value associated with the coal mining heritage of the national coal heritage area;

(4) To make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

(5) To appoint officers, agents, and employees, and to contract for and engage the services of consultants;

(6) To execute contracts necessary or convenient for carrying on its business, including contracts with any other governmental agency of this state or of the federal government, or with any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

(7) Without in any way limiting any other subdivision of this section, to accept grants and loans from and enter into contracts and other transactions with any federal agency;

(8) To maintain an office at such places within the state as it may designate;

(9) To accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the federal government or from any governmental unit, or any person, firm, or corporation;

(10) To construct, reconstruct, improve, maintain, repair, operate, and manage certain facilities in the National Coal Heritage Area as may be determined by the commission;

(11) To enter into contract with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the public activities operated or managed by the commission from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or other person or any of his or her agents or employees; and

(12) To assess and collect a reasonable fee from those persons who use the designated facilities which are part of the national coal heritage area, and to retain and utilize that revenue for any purposes consistent with this article.

*(f) Continuation of legal obligations. —*

Nothing in this section may be considered as superseding, amending, modifying, or repealing any contract or agreement entered into for the benefit of the National Coal Heritage Area prior to the date of enactment of this section. All obligations, contracts, grants, and assets currently belonging to the Coal Heritage Highway Authority and the National Coal Heritage Area Authority shall be transferred to and become the responsibility and property of the National Coal Heritage Area Commission.

## **CHAPTER 31G. BROADBAND ENHANCEMENT**

### **AND EXPANSION POLICIES.**

#### **ARTICLE 1A. OFFICE OF BROADBAND.**

##### **§31G-1A-1. Office of Broadband; Director of Office.**

There is hereby ~~established~~ continued an Office of Broadband, which shall be organized within the Department of ~~Economic Development~~ Commerce under the authority of the Secretary of ~~Economic Development~~ Commerce. The Office of Broadband shall be managed by a director, who shall report to the ~~Secretary~~ Executive Director of the Division of Economic Development.

##### **§31G-1A-5. Protection of proprietary business information.**

(a) Broadband deployment information provided to the Office of Broadband or its consultants and other agents, including, but not limited to, physical plant locations, subscriber levels, and market penetration data, constitutes proprietary business information and, along with any other

information that constitutes trade secrets, shall be exempt from disclosure under the provisions of §29B-1-1 *et seq.* of this code: *Provided*, That the information is identified as or would reasonably be contemplated to be confidential information when submitted to the Office of Broadband.

(b) Trade secrets or proprietary business information obtained by the council or the Office of Broadband from broadband providers and other persons or entities shall be secured and safeguarded by the state. Such information or data shall not be disclosed to the public or to any firm, individual, or agency other than officials or authorized persons of the state.

(c) The official charged with securing and safeguarding trade secrets and proprietary data for the Office of Broadband is the ~~Secretary~~ Executive Director of the Division of Economic Development, who is authorized to establish and administer appropriate security measures.

#### **§31G-1A-6. Legislative rule-making authority.**

In order to implement and carry out the intent of this article, the Secretary of the Department of ~~Economic Development~~ Commerce may propose rules for legislative approval pursuant to the provisions of §29A-3-1 *et seq.* of this code.

#### **§31G-1A-7. Broadband Development Fund.**

(a) The Broadband Development Fund is hereby created in the State Treasury. The fund shall be administered by the Secretary of the Department of ~~Economic Development~~ Commerce and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated to the fund by the Legislature, and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the purposes set forth in subsection (b) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) Monies of the Broadband Development Fund may only be expended for the following purposes:

- (1) Expenses for the administration of the Office of Broadband;
- (2) Line extension advancement and development projects, including expansion of existing fiber and cable networks;
- (3) Major broadband project strategies, including new networks or major expansions of existing networks;
- (4) GigReady incentive projects, including a state incentive for ISP and local governments and organizations to pool some of their federal American Rescue Plan Act allocations or other local funding;

And

(5) Wireless Internet Networks, including expansions or upgrades of existing fixed wireless networks.

(c) Except funds expended for the administration of the Office of Broadband, monies of the Broadband Development Fund may only be expended for projects authorized by subsection (b) of this section that have been certified to the Joint Committee on Government and Finance by the Director of the Office of Broadband or the Secretary of the Department of ~~Economic Development~~ Commerce prior to making the expenditures.

On motion of Senator Morris, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 2008) were reported by the Clerk and considered simultaneously:

On page 2, section 2, line 31, by striking out the word "and";

On page 2, section 2, line 32, by changing the period to a semicolon and inserting the word "and";

And,

On page 2, section 2, after line 32, by inserting a new paragraph, designated paragraph (D), to read as follows:

(D) Broadband Enhancement Council provided for in §31G-1-1 et seq. of this code.

Following discussion,

The question being on the adoption of the amendments offered by Senator Morris to the Government Organization committee amendment to the bill, the same was put and prevailed.

On motion of Senator Tarr, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 2008) were next reported by the Clerk and considered simultaneously:

On page 2, section 2, lines 28-32, by striking out all of subdivision 7;

On page 4, lines 1-4, by striking out the article heading and substituting therefor a new article heading, to read as follows:

## **ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.;**

On pages 4-5, article 2, by striking out all of section 1 and inserting in lieu thereof a new section 1 to read as follows:

### **§5B-2-1. West Virginia Department of Economic Development; confidentiality.**

(a) The West Virginia Development Office, previously continued from the Governor's office of community and industrial development, is hereby continued but is hereafter raised to a separate and distinct department of the executive branch of state government and is designated and shall be known as the West Virginia Department of Economic Development. All references in this code



to the West Virginia Development Office, the office of community and industrial development, or the Governor's office of community and industrial development shall be construed as references to the West Virginia Department of Economic Development. As used in this article, "Department" means the Department of Economic Development.

(b) Any documentary material, data or other writing made or received by the Department of Economic Development or other public body whose primary responsibility is economic development, for the purpose of furnishing assistance to a new or existing business shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement entered into or signed by the Department of Economic Development or other public body which obligates public funds shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement is entered into, signed or otherwise made public.

(c) Beginning on July 1, 2025, all employees of the Department of Economic Development shall be exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from the classified civil service system under §29-6-1 *et seq.* of this code except that:

(1) All employees of the Department of Economic Development who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of the Department of Economic Development who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(d) The Secretary of the Department of Commerce shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be deemed necessary to comply with federal law, federal regulation, or the requirements for receipt of federal funding or assistance.

(e) Subsection (c) of this section shall not apply to any position appointed by the Governor.

(f) Nothing in this section shall exempt the Department of Economic Development from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

~~(b)~~ (g) Any documentary material, data or other writing made or received by the Department of Economic Development or other public body whose primary responsibility is economic development, for the purpose of furnishing assistance to a new or existing business shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement entered into or signed by the Department of Economic Development or other public body which obligates public funds shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement is entered into, signed, or otherwise made public.;

On pages 5 and 6, after line 41, by striking out all of section 2 and inserting in lieu thereof a new section 2 to read as follows:

#### **§5B-2-2. Office of Secretary of Department of Economic Development.**

(a) The Secretary of the Department of Economic Development is the chief executive officer of the department. The Governor shall appoint the secretary, who shall be qualified for the position by reason of his or her extensive education and experience in the field of professional economic

development, and by and with the advice and consent of the Senate, for the term for which the Governor is elected, and the secretary shall serve at the will and pleasure of the Governor. Any reference in this code to the Executive Director of the West Virginia Development Office means the Secretary of the Department of Economic Development. As used in this article, "secretary" means the Secretary of the Department of Economic Development. Subject to the provisions of the contract provided in §5B-2-4 of this code, the secretary may hire, and fire economic development representatives employed pursuant to §5B-2-5 of this code.

(b) The secretary may promulgate rules to carry out the purposes and programs of the Department of Economic Development to include generally the programs available and the procedure and eligibility of applications relating to assistance under the programs. These rules are not subject to Chapter 29A of this code, but shall be filed with the Secretary of State. The secretary may adopt any of the rules previously promulgated by the West Virginia Development Office or the council for community and economic development.;

On pages 6-9, by striking out all of section 3, section 3b, section 4, and section 4a;

On pages 9-11, after line 20, by striking out all of section 5 and inserting in lieu thereof a new section 5 to read as follows:

**§5B-2-5. Economic development representatives.**

(a) The secretary may employ economic development representatives to be paid a base salary within legislative appropriations to the department, subject to applicable contract provisions pursuant to §5B-2-4 of this code. Economic development representatives may receive performance-based incentives and expenses paid from private funds from a nonprofit corporation contracting with the department pursuant to §5B-2-4 of this code. The secretary shall establish job descriptions and responsibilities of economic development representatives, subject to the provisions of any contract with a nonprofit corporation entered into pursuant to §5B-2-4 of this code.

(b) Notwithstanding any provision of this code to the contrary, economic development representatives employed within the department are not subject to the procedures and protections provided by §29-6-1 *et seq.* and §29-6A-1 *et seq.* of this code. Any employee of the department on the effective date of this article who applies for employment as an economic development representative is not entitled to the protections of by §29-6-1 *et seq.* of this code with respect to hiring procedures and qualifications; and upon accepting employment as an economic development representative, the employee relinquishes the protections provided for in §6C-2-1 *et seq.* and §29-6-1 *et seq.* of this code.

~~(c) On the last Monday in January, in years 2017, 2019 and 2021, the secretary shall submit to the Legislature a written report. The secretary shall provide copies of his or her report to the President of the Senate, the Speaker of the House of Delegates, the chair of the Senate Committee on Economic Development and the chair of the House Committee on Small Business, Entrepreneurship and Economic Development. The secretary's report shall do the following:~~

~~(1) Identify and describe loans, grants or other funding sources that economic development representatives have assisted small businesses acquire during the immediately preceding reporting cycle;~~

~~(2) Identify and describe generally inquiries, requests for assistance or other matters that other state or federal agencies have presented to the department in the immediately preceding reporting cycle in connection with those agencies' efforts to regulate or assist small businesses;~~

~~(3) Identify and describe issues with formation, registration and licensure requirements that state law imposes on small businesses that small businesses have identified to the department in the immediately preceding reporting cycle as burdensome;~~

~~(4) Identify specific forms, processes or requirements imposed by state law that small businesses have identified to the department in the immediately preceding reporting cycle that may be streamlined, simplified, combined, or eliminated in order to reduce unnecessary costs, delays, or other burdens on small businesses;~~

~~(5) Propose and describe concrete and specific steps that any branch, agency or level of state government may take to streamline, simplify, combine, or eliminate the forms, processes or requirements identified in subdivision (4) of this subsection; and~~

~~(6) Provide the following information:~~

~~(A) The number of small businesses counseled by the department during the immediately preceding reporting cycle;~~

~~(B) The number of new businesses created while being counseled by the department during the immediately preceding reporting cycle;~~

~~(C) The number of jobs created by businesses counseled by the department during the immediately preceding reporting cycle; and~~

~~(D) Any other information that, in the opinion of the executive director, demonstrates the performance of the department or economic development representatives during the immediately preceding reporting cycle.;~~

On pages 11-24, after line 47, by striking out all of sections 6, 6a, 9a, 10, 14, 16, 17, 18, 19, and 20;

On pages 24-25, by striking out all of article 1;

On page 27, section 1, lines 44-45, by striking out all of subdivision (8);

On page 32, section 1, lines 160-162, by striking out all of subsection (q) and inserting in lieu thereof a new subsection (q) to read as follows:

"(q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch";

On page 34, section 8d, lines 42-43, by striking out all of subparagraph (iii) and inserting in lieu thereof a new subparagraph (iii) to read as follows:

(iii) The Secretary of the Department of Economic Development, or his or her designee;

And,

On pages 38-40, after line 135, by striking out all of Chapter 31G.

Following discussion,

The question being on the adoption of Senator Tarr's amendments to the Government Organization committee amendment to the bill, and on this question, Senator Grady demanded the yeas and nays.

The roll being taken, the yeas were: Barrett, Boley, Clements, Deeds, Garcia, Grady, Hamilton, Jeffries, Morris, Oliverio, Phillips, Queen, Takubo, Tarr, Weld, Woelfel, and Woodrum—17.

The nays were: Azinger, Bartlett, Chapman, Charnock, Fuller, Hart, Helton, Martin, Maynard, Roberts, Rose, Rucker, Stuart, Taylor, Thorne, Willis, and Smith (Mr. President)—17.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Tarr's amendments to the Government Organization committee amendment to the bill rejected on a tie vote.

On motion of Senator Woelfel, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 2008) were next reported by the Clerk and considered simultaneously:

On pages 1 through 4, by striking out all of section 2 and inserting in lieu thereof a new section 2, to read as follows:

**§5B-1-2. Agencies, boards, commissions, divisions, and offices comprising the Department of Commerce.**

The Department of Commerce consists of the following agencies, boards, commissions, divisions, and offices, including all of the allied, advisory, affiliated, or related entities, which are incorporated in and administered as part of the Department of Commerce:

(1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

~~(A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of this code; and~~

~~(B) the Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.* of this code;~~

(2) Office of Miners' Health, Safety and Training provided in §22A-1-1 *et seq.* of this code. The following ~~boards~~ Board of Coal Mine Health and Safety and the Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code are transferred to the Office of Miners' Health, Safety, and Training for purposes of administrative support and liaison with the Office of the Governor;

~~(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code;~~

~~(B) Board of Miner Training, Education and Certification provided in §22A-7-1 et seq. of this code; and~~

~~(C) Mine Inspectors' Examining Board provided in §22A-9-1 et seq. of this code;~~

(3) Division of Natural Resources and Natural Resources Commission provided in §20-1-1 et seq. of this code;

(4) Division of Forestry provided in §19-1A-1 et seq. of this code;

(5) Geological and Economic Survey provided in §29-2-1 et seq. of this code; and

(6) Workforce West Virginia provided in Chapter 21A of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis; and

(7) Division of Economic Development provided in §5B-2-1 et seq. of this code, which includes:

(A) Office of Broadband provided for in 31G-1A-1 et seq.;

(B) Small Business Development Center provided for in §12-1A-1 et seq.; and

(C) Office of Energy provided for in §5B-2F-2 of this code.;

And,

On pages 4 and 5, by striking out all of section 1 and inserting in lieu thereof a new section 1, to read as follows:

**§5B-2-1. West Virginia Department Division of Economic Development; confidentiality.**

(a) The West Virginia Division of Economic Development, formerly the Department of Economic Development and formerly the Development Office, previously continued from the Governor's office of community and industrial development, is hereby continued but is hereafter raised to a separate and distinct department of the executive branch of state government and is designated and shall be known as the West Virginia Department of Economic Development as a division of the Department of Commerce.

(b) All references in this code to the West Virginia Department of Economic Development, West Virginia Development Office, the office of community and industrial development, or the Governor's office of community and industrial development shall be construed as references to the West Virginia Department Division of Economic Development. As used in this article, "Department" "division" means the Department Division of Economic Development, "department" means the Department of Commerce, and "secretary" means the Secretary of the Department of Commerce.

~~(b)~~ (c) Any documentary material, data, or other writing made or received by the ~~Department~~ Division of Economic Development or other public body whose primary responsibility is economic development, for the purpose of furnishing assistance to a new or existing business shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement entered into or signed by the ~~Department~~ Division of Economic Development or other public body which obligates public funds shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement is entered into, signed, or otherwise made public.

Following discussion,

The question being on the adoption of Senator Woelfel's amendments to the Government Organization committee amendment to the bill, and on this question, Senator Woelfel demanded the yeas and nays.

The roll being taken, the yeas were: Deeds, Garcia, Grady, Hamilton, Oliverio, Phillips, Stuart, Woelfel, and Woodrum—9.

The nays were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Morris, Queen, Roberts, Rose, Rucker, Takubo, Tarr, Taylor, Thorne, Weld, Willis, and Smith (Mr. President)—25.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Woelfel's amendments to the Government Organization committee amendment to the bill rejected.

The question now being on the adoption of the Government Organization committee amendment to the bill, as amended by Senator Morris, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2008, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Deeds, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Oliverio, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Taylor, Thorne, Willis, Woodrum, and Smith (Mr. President)—25.

The nays were: Clements, Garcia, Grady, Hamilton, Morris, Phillips, Tarr, Weld, and Woelfel—9.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2008) passed.

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

**Eng. Com. Sub. for House Bill 2008**—A Bill to amend and reenact §5B-1-1, §5B-1-2, §5B-2-1, §5B-2-2, §5B-2-3, §5B-2-3b, §5B-2-4, §5B-2-4a, §5B-2-5, §5B-2-6, §5B-2-6a, §5B-2-9a, §5B-2-10, §5B-2-14, §5B-2-16, §5B-2-17, §5B-2-18, §5B-2-19, §5B-2-20, §5F-1-2, §5F-2-1, §29-1-8d, §31G-1A-1, §31G-1A-5, §31G-1A-6, and §31G-1A-7 of the Code of West Virginia, 1931, as

amended; and to repeal §5F-1-3a and §5F-1-6, relating to merging and reorganizing of the executive branch; reconstituting Department of Economic Development as the Division of Economic Development and placing it within Department of Commerce; specifying that starting on July 1, 2025, new hires and anyone who moves positions within Department of Commerce shall be in classified exempt service system and shall be exempt from the state grievance procedures; redesignating Department of Economic Development as Division of Economic Development under Department of Commerce; correcting titles of Division of Economic Development and Department of Commerce in several sections of code; specifying that starting on July 1, 2025, new hires and anyone who moves positions within Division of Economic Development shall be in classified exempt service system and shall be exempt from state grievance procedures; changing code provisions to reflect certain actions regarding Department of Arts, Culture and History and Department of Tourism; correcting titles of affected departments, divisions, and positions throughout based on redesignations; and technical cleanup of amended and reenacted sections.

Senator Martin moved that the bill take effect July 1, 2025.

On this question, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2008) takes effect July 1, 2025.

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

**Eng. House Bill 2009**, Relating to the merging and reorganizing of the executive branch.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Monday, April 7, 2025, for further amendments to be received on third reading, was read a third time.

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

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

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 2I. DEPARTMENT OF TOURISM.**

#### **§5B-2I-2. West Virginia Department of Tourism.**

The ~~West Virginia Department of Tourism, West Virginia Tourism Office~~, previously continued from the ~~West Virginia Tourism Office and the~~ Division of Tourism, is hereby continued ~~but is hereafter raised to a separate and distinct~~ as a department of the executive branch of state government and is designated and shall be known as the West Virginia Department of Tourism.

All references in this code to the Division of Tourism or to the West Virginia Tourism Office shall be construed as references to the West Virginia Department of Tourism. As used in this article, "department" means the Department of Tourism.

**§5B-2I-4. Powers and duties of the Department of Tourism.**

(a) The Department of Tourism, under the direction and charge of the secretary, shall develop and implement a comprehensive tourism advertising, promotion, and development strategy for West Virginia. "Comprehensive tourism advertising, promotion and development strategy" means a plan that outlines strategies and activities designed to continue, diversify and expand the tourism base of the state as a whole; create tourism jobs; develop a highly skilled tourism workforce; facilitate business access to capital for tourism; advertise and market the resources offered by the state with respect to tourism advertising, promotion and development; facilitate cooperation among local, regional and private tourism enterprises; improve infrastructure on a state, regional and community level in order to facilitate tourism development; improve the tourism business climate generally; and leverage funding from sources other than the state, including local, federal and private sources. In addition to all other power and duties of the department by other provisions of this code, the department shall:

(1) Coordinate media events to promote a positive image of West Virginia and new investment in the state;

(2) Provide comprehensive strategic planning services to existing tourism enterprises;

(3) Promote attractions of West Virginia in other states;

(4) Provide advertising, marketing and communications goods and services, including, without limitation, a cooperative advertising program to facilitate and allow participation in the department's advertising and marketing campaigns and activities, to state agencies, departments, units of state or local government, private tourism enterprises and other persons, entities, or private enterprises, including, without limitation, convention and visitors' bureaus; and

(5) Distribute West Virginia informational publications and manage the West Virginia Welcome Centers; and

(6) Coordinate programs, initiatives, and production of materials relating to the branding and marketing of the state, and its departments and agencies, and to provide greater coherence in such programs, initiatives, and materials across the departments and agencies of the state.

(b) In developing its strategies, plans and campaigns, the department shall consider the following:

(1) Improvement and expansion of existing tourism marketing and promotion activities;

(2) Promotion of cooperation among municipalities, counties and the West Virginia Infrastructure and Jobs Development Council in funding physical infrastructure to enhance the potential for tourism development.

(c) The Department of Tourism shall have the following powers and duties:

(1) To acquire for the state in the name of the department by purchase, lease, or agreement, or to accept or reject for the state, in the name of the department, gifts, donations, contributions,



bequests or devises of money, security or property, both real and personal, and any interest in such property, to effectuate or support the purposes of this article;

(2) To make recommendations to the Governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to exercise any other power that may be necessary or proper for the orderly conduct of the business of the department and the effective discharge of the duties of the department;

(3) To cooperate and assist in the production of motion pictures and television and other communications;

(4) To purchase advertising time or space in or upon any medium generally engaged or employed for said purpose to advertise and market the resources of the state or to inform the public at large or any specifically targeted group or industry about the benefits of living in, investing in, producing in, buying from, contracting with, or in any other way related to, the State of West Virginia or any business, industry, agency, institution, or other entity therein;

(5) To promote and disseminate information related to the attractions of the state through the operation of the state's telemarketing initiative, which telemarketing initiative shall include a centralized reservation and information system for state parks and recreational facilities;

(6) To take such additional actions as may be necessary to carry out the powers, duties and programs described in this article; and

(7) To provide assistance to and assist with retention and expansion of existing tourism-related enterprises in the state and to recruit or assist in the recruitment of new tourism-related enterprises to the state.

(d) The Department of Tourism may contract with the Division of Highways to sell advertising space on the WV511 website to promote in-state tourism and raise capital for technological improvements to the website: *Provided*, That 50 percent of the money collected for sale of advertising space is deposited into the Tourism Promotion Fund and the other 50 percent of the money collected from the sale of advertising space is remitted to the Division of Highways pursuant to the contract.

(e) The Department of Tourism may charge and collect reasonable fees for goods and services it provides to state agencies, departments, units of state or local government or other person, entity, or enterprise. All moneys collected by the department shall be deposited in the Tourism Promotion Fund and used in accordance with the provisions of this article.

(f) The Department of Tourism may engage and retain one or more advertising and marketing agencies, consultants, enterprises, firms, or persons, as deemed by the secretary, in his or her sole discretion, necessary or advisable to assist the department in carrying out its powers and duties as set forth in this article. In the procurement of advertising agencies, consultants, enterprises, or persons, from time to time, estimated to cost \$250,000 or more, the secretary shall encourage such advertising and marketing agencies, consultants, enterprises, firms, or persons to submit an expression of interest, which shall include a statement of qualifications, including anticipated concepts and proposed advertising, marketing and advertising campaigns. All potential contracts shall be announced by public notice published as a Class II legal advertisement in compliance with §59-3-3 of this code. A committee of three to five representatives of the department or the Tourism Advisory Council, as selected by the secretary,

shall evaluate the statements of qualifications and other materials submitted by interested firms and select three firms which, in their opinion, are best qualified to perform the desired service. The committee shall then rank, in order of preference, the three firms selected and shall commence scope of service and price negotiations with the first-ranked firm. If the department is unable to negotiate a satisfactory contract with the first-ranked firm, at a fee determined to be fair and reasonable, price negotiations with the firm of second choice shall commence. Failing accord with the second-ranked firm, the committee shall undertake price negotiations with the third-ranked firm. If the department is unable to negotiate a satisfactory contract with any of the selected firms, the office shall select additional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached.

If the procurement of the services is estimated by the secretary to cost less than \$250,000, the department shall conduct discussions with three or more firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract: *Provided*, That if a judgment is made that special circumstances exist and that seeking competition is not practical, the department may select a firm on the basis of previous satisfactory performance and knowledge of the department's needs. After selection, the department and selected firm shall develop the scope of desired services and negotiate a contract.

(g) The secretary of the Department of Tourism may, in order to carry out the powers and duties of the department described in this article, employ necessary personnel, contract with professional or technical experts or consultants and purchase or contract for the necessary equipment or supplies.

(h) The secretary of the Department of Tourism may designate, in writing, a list of positions within the department that shall be exempt from coverage under the state's classified service: *Provided*, That beginning on July 1, 2025, all employees of the Department of Tourism shall be exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from the classified civil service system under §29-6-1 *et seq.* of this code except that:

(1) All employees of the Department of Tourism who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of the Department of Tourism who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of the Department of Tourism that leaves his or her position and remains an employee within the Department of Tourism shall, at that time, be transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code.

(i) The secretary shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be deemed necessary to comply with federal regulation, or the requirements for receipt of federal funding or assistance.

(j) Nothing in this article shall prevent a person, at the secretary's discretion, from serving in multiple positions within the Department of Tourism.

(k) Subsection (h) of this section shall not apply to any position appointed by the Governor.

(l) Nothing in this section shall exempt the Department of Tourism from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

~~(j)~~ (m) The Department of Tourism shall submit a report annually to the Governor and the Legislature about the development of the tourism industry in the state and the necessary funding required by the state to continue the development of the tourism industry.

~~(j)~~ (n) The Department of Tourism and the secretary shall engage, collaborate, assist, and cooperate with the Department of Economic Development, when and as appropriate, to facilitate retention, expansion, recruitment, and location of existing and new tourism-related enterprises.

~~(k)~~ (o) The Department of Tourism shall utilize, to the fullest extent practicable and efficient, existing resources of the Department of Commerce for functions necessary for the operation of the department but which functions are not directly related to the purposes of the department listed above. The Department of Tourism may enter into such agreements with the Department of Commerce or other agencies of this state as may be necessary or advisable to utilize existing resources of this state.

~~(l)~~ (p) The Department of Tourism shall be exempt from §5A-3-1 *et seq.* of this code.

## **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§5F-1-3a. Executive compensation commission.**

[Repealed.]

#### **§5F-1-6. House Bill 4006 amendments effective date.**

[Repealed.]

## **CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC ESTABLISHMENTS; MONUMENTS AND MEMORIALS; ROSTER OF SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY COMMISSION.**

### **ARTICLE 5. EDUCATIONAL BROADCASTING COMMISSION.**

#### **§10-5-2. West Virginia Educational Broadcasting Commission; members; organization; officers; employees; meetings; expenses.**

(a) The West Virginia Educational Broadcasting Commission is continued as a public benefit corporation. The commission shall consist of nine voting members, who shall be residents of the state, including:

- (1) The Governor or designee;
  - (2) The State Superintendent of Schools;
  - (3) One member of the West Virginia Board of Education to be selected by it annually;
  - (4) One member of the West Virginia Higher Education Policy Commission to be selected by it annually; and
  - (5) Five members appointed by the Governor by and with the advice and consent of the Senate for overlapping terms of five years, one term expiring each year.
- (b) Not less than one appointive member shall come from each congressional district. Any vacancy among the appointed members shall be filled by the Governor by appointment for the unexpired term.
- (c) Employees of noncommercial broadcasting stations in West Virginia are not eligible for appointment to the commission.
- (d) The commission shall annually select a member to serve as the chair. The commission shall annually select one of its public members as vice chair and shall appoint a secretary who need not be a member of the commission and who shall keep records of its proceedings.
- (e) The Cabinet Secretary of the Department of ~~Arts, Culture, and History~~ Tourism shall appoint the commission section director and fix his or her salary. The commission section director is responsible for managing and administering the daily functions of the commission and for performing all other functions necessary to the effective operation of the commission. The commission may establish offices for the proper performance of its duties.
- (f) The commission shall hold at least one annual meeting. The time and place of the meetings shall be established upon its own resolution or at the call of the chairperson of the commission. The members shall serve without compensation but may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

## CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

### ARTICLE 1. ~~DIVISION OF~~ ARTS, CULTURE AND HISTORY.

#### **§29-1-1. ~~Division of Culture and History continued as~~ Abolishing the Department of Arts, Culture, and History and reorganizing its sections under the Department of Tourism; sections and commissions; purposes; definitions; effective date.**

(a) ~~The Division of Culture and History heretofore created is hereby continued as~~ On July 1, 2025, the Department of Arts, Culture, and History, is abolished and its authorities and duties transferred to the Department of Tourism. ~~The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the Cabinet Secretary of Arts, Culture, and History, who shall be the chief executive officer of the department and shall be paid an annual salary as provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science, or a related field; or (2) four years'~~

~~experience in the administration of museum management, public administration, arts, history, or a related field.~~

~~(b) The department shall consist of~~ On July 1, 2025, the following eight sections and commissions as follows shall be reorganized under the Department of Tourism:

- (1) The Arts Section;
- (2) The Archives and History Section;
- (3) The Museums Section;
- (4) The Historic Preservation Section;
- (5) The State Library Section;
- (6) The National Coal Heritage Area Commission;
- (7) The Administrative Section; ~~and~~
- (8) The Educational Broadcasting Commission;

~~(c) The department shall also consist of four citizens commissions as follows:~~

- ~~(1)~~ (9) A Commission on the Arts;
- ~~(2)~~ (10) A Commission on Archives and History;
- ~~(3)~~ (11) A Library Commission; and
- ~~(4)~~ (12) An Educational Broadcasting Council.

~~(d) (c) On and after July 1, 2025, The the Secretary of the Department of Tourism shall exercise control and supervision of the department over each section and commission listed in subsection (b) of this section and shall be responsible for the projects, programs, and actions of each of its sections. The purpose and duty of the department these sections and commissions is to advance, foster, and promote the creative and performing arts and crafts, including both indoor and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and significant architectural sites, structures, and objects in the state; to encourage the promotion, preservation, and development of significant sites, structures, and objects through the use of economic development activities such as loans, subsidies, grants, and other incentives; to coordinate all cultural, historical, and artistic activities in state government and at state-owned facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of historical interest or importance; and, in general, to do all things necessary or convenient to preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of these purposes and duties, the secretary shall report directly to the Governor as a secretary for both the intrinsic and extrinsic value for individuals, communities, and the economy of the arts, humanities, culture, and history in West Virginia. As such, the secretary shall represent the Department of Arts, Culture, and History as a full participating member in meetings of the secretaries of the departments created in §5F-1-2 of this code that are convened at the call of the Governor.~~

~~(e)(d)~~ The ~~department~~ Secretary of the Department of Tourism has jurisdiction and control and may set and collect fees for the use of all space in the building presently known as the West Virginia Science and Culture Center, including the deck and courtyards forming an integral part thereof; the building presently known as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14 of this code; and any other sites as may be transferred to or acquired by the department. Notwithstanding any provision of this code to the contrary, beginning on and after July 1, 2018, the department shall have responsibility for, and control of, all visitor touring and visitor tour guide activities within the Capitol Building at Charleston.

~~(f)(e)~~ For the purposes of this article, ~~"commissioner" or "curator" means the Cabinet Secretary of Arts, Culture, and History, and "division" or "department" means the Department of Arts, Culture and History~~ Department of Tourism and "secretary" means the Secretary of the Department of Tourism. ~~References throughout~~ On and after July 1, 2025, references throughout this code to the "Commissioner of Culture and History" or the "Curator of the Department of Arts, Culture, and History" mean the "Cabinet Secretary of Arts, Culture, and History", Secretary of the Department of Tourism and references throughout this code to the "Division of Culture and History" or "Department of Arts, Culture, and History," mean the "Department of Arts, Culture, and History Tourism".

#### **§29-1-1a. Transfer of powers and duties; existing contracts and obligations.**

(a) Except as otherwise provided in this article, the powers and duties of the West Virginia antiquities commission, the West Virginia arts and humanities council and the department of archives and history are hereby transferred to the Division of Culture and History the Department of Tourism.

(b) All existing ~~assets, equipment, contracts, and records obligations~~ of the ~~Department of Arts, Culture, and History, the~~ West Virginia antiquities commission, the West Virginia arts and humanities council, and the department of archives and history, or relating to the present science and culture center, shall ~~be transferred to remain in full force and effect and shall be performed by the Division of Culture and History the Department of Tourism.~~

(c) Beginning on July 1, 2025, all employees of any section or commission listed in §29-1-1(b) of this code shall be exempt from the state grievance procedures as set forth in §6C-2-1 et seq. of this code and from the classified civil service system under §29-6-1 et seq. of this code except that:

(1) All employees of any section or commission listed in §29-1-1(b) of this code who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of any section or commission listed in §29-1-1(b) of this code who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of any section or commission listed in §29-1-1(b) of this code that leaves his or her position and remains an employee within the Department of Tourism shall, at that time, be transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the state grievance procedures as set forth in §6C-2-1 et seq. of this code.

(d) The secretary shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be deemed necessary to comply with federal regulation, or the requirements for receipt of federal funding or assistance.

(e) Nothing in this article shall prevent a person, at the secretary's discretion, from serving in multiple positions or professions within the sections or commissions listed in §29-1-1(b) of this code.

(f) Subsection (c) of this section shall not apply to any position appointed by the Governor.

(g) Nothing in this section shall exempt any section or commission listed in §29-1-1(b) of this code from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

#### **§29-1-2. General powers of ~~curator~~ secretary.**

(a) The ~~curator~~ secretary shall assign and allocate space in all facilities assigned to the department and all space in the building presently known as the West Virginia Science and Culture Center, and any other buildings or sites under the control of the ~~curator~~ department, and may, in accordance with the provisions of §29A-3-1 *et seq.* of this code, prescribe rules, regulations and fees for the use and occupancy of said facilities, including tours.

(b) The ~~curator~~ secretary shall coordinate the operations and affairs of the sections and commissions of the department and assign each section or commission responsibilities according to criteria the curator deems most efficient, productive and best calculated to carry out the purposes of this article. The ~~curator~~ secretary shall provide to the fullest extent possible for centralization and coordination of the bookkeeping, personnel, purchasing, printing, duplicating, binding and other services which can be efficiently combined. The ~~curator~~ secretary may establish such other sections for such purposes as he or she deems necessary, and may appoint directors thereof. The ~~curator~~ secretary may appoint a director of the West Virginia Science and Culture Center. The ~~curator~~ secretary shall serve as the state historic preservation officer.

(c) ~~After consultation with the section directors and the commissions, the curator~~ The secretary shall prepare a proposed department budget for submission to the Governor for each fiscal year.

(d) No contract, agreement or undertaking may be entered into by any section of the department or any section thereof which involves the expenditure of funds without the express written approval of the ~~curator~~ secretary as to fiscal responsibility.

(e) The ~~curator~~ secretary shall prepare and submit to the Governor an annual report in accordance with the provisions of §5-1-20 of this code, which report shall include a detailed account of the activities of each section and commission of the department.

(f) The ~~curator~~ secretary shall employ all personnel for the sections, except for persons in the professional positions established within the sections as provided in this article; and shall supply support services to the commissions and to the Governor's Mansion Advisory Committee.

(g) On and after July 1, 2025, the secretary may grant or withhold written consent to the proposal of any rule, as defined by §29A-1-2 of this code, by any section or commission listed in

§29-1-1(b) of this code. Without the secretary's written consent, no proposal for a rule filed by any section or commission listed in §29-1-1(b) of this code after July 1, 2025, shall have any force or effect.

(h) The secretary may proposal a repeal, pursuant to either §29A-3-1a(b) or §29A-3-8(c) of this code, as appropriate, of any rule promulgated by the Department of Arts, Culture, and History, the Division of Culture and History, or any section or commission listed in §29-1-1(b) of this code.

### **§29-1-3. Commission on the Arts.**

(a) The Commission on the Arts is continued and shall be composed of 15 appointed voting members, the ~~Curator of the West Virginia Department of Arts, Culture and History~~ secretary as an ex officio voting member, the director of the arts section as an ex officio nonvoting member, and the ex officio nonvoting members set forth or authorized for appointment in this section.

(b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight appointed voting members may be of the same political party. ~~Effective July 1, 2004, no more than three voting members may be from the same regional educational service agency district created in §18-2-26 of this code.~~ Appointed voting members of the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state, and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the voting members constitute a quorum for the transaction of business. The director of the arts section shall serve as secretary. The curator or a majority of the members also may call a meeting upon notice as provided in this section.

(4) Each member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the duties of the office; except that if the expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the case may be, may not be reimbursed by the state.

(5) Upon recommendation of the ~~curator~~ secretary, the Governor also may appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission may:

(1) Advise the ~~curator~~ secretary and the director of the arts section concerning the accomplishment of the purposes of that section and establish a state plan with respect to the arts section;

(2) Approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;



(3) Request, accept, or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit those actions by the ~~curator~~ secretary or section director, but would permit them to be done by the commission on the arts;

(4) Otherwise encourage and promote the purposes of the arts section;

~~(5) Approve rules concerning the professional policies and functions of the section as promulgated by the director of the arts section; and~~

~~(6) Advise and consent to the appointment of the director by the curator.~~

(d) A special revenue account in the State Treasury, known as the "Cultural Facilities and Capital Resources Matching Grant Program Fund", is continued. The fund shall consist of moneys received under §29-22A-10 of this code and funds from any other source. The moneys in the fund shall be expended in accordance with the following:

(1) Fifty percent of the moneys deposited in the fund shall be expended by the Commission on the Arts for capital improvements, preservation, and operations of cultural facilities: *Provided*, That the Commission on the Arts may use no more than 25 percent of the funding for operations of cultural facilities pursuant to the rule required by this subdivision. The Commission on the Arts shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to create a matching grant program for cultural facilities and capital resources; and

(2) Fifty percent of the moneys deposited in the fund shall be expended by the Department of ~~Arts, Culture and History~~ Tourism for:

(A) Capital improvements, preservation, and operation of cultural facilities that are managed by the department; and

(B) Capital improvements, preservation, and operation of cultural facilities that are not managed by the department.

~~(e) The commission shall undertake a study, solicit designs, and make recommendations for the establishment of an appropriate memorial on state capitol grounds for soldiers killed in the conflicts in Iraq, Afghanistan, and other locations who died fighting the United States War on Terror, and to recognize and honor the West Virginians who lost their lives in these conflicts. The commission shall consult with the Capitol Building Commission and state veterans, including veterans groups and Gold Star mothers of those lost in these conflicts, prior to adoption of a proposal for the memorial. The commission shall provide a report to the Legislature's Joint Committee on Government and Finance by January 1, 2022, including recommendations for design and location of the memorial and estimated construction costs.~~

#### **§29-1-4. Arts section; director.**

(a) The purposes and duties of the arts section are to stimulate, encourage, assist, promote, foster and develop the performing and creative arts and crafts in the state; and in furtherance thereof to make awards, prizes and grants to individual performers, artists or craftsmen and to public or private corporations or associations in the field of either the performing or creative arts and crafts that would tend to encourage and foster the advancement of such arts and crafts; to support cultural, artistic or craft exhibits or performances at the ~~division's~~ department's facilities

or on tour; and to perform such other duties as may be assigned to said section by the ~~commissioner~~ secretary.

~~(b) With the advice and consent of the commission on the arts, the commissioner~~ The secretary shall appoint a director of the arts section, ~~who shall have: (1) A bachelor's degree in the fine arts or related field or equivalent training and experience; or (2) three years' experience in administration of the fine arts or a related field~~ who is qualified, with relevant experience.

~~(c) With the approval of the commissioner~~ secretary, the director shall establish professional positions within the section. The director shall employ the personnel within these professional positions for the section: : Provided, That nothing in this subsection shall prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

~~(d) The director may propose rules for legislative promulgation, in accordance with the provisions of chapter twenty-nine a~~ §29A-3-1 et seq. of this code, concerning the professional policies and functions of the arts section, subject to the approval of the ~~commission on the arts~~ secretary.

#### **§29-1-6. Archives and history section; director.**

(a) The purposes and duties of the archives and history section are to locate, survey, investigate, register, identify, preserve, protect, restore and recommend to the ~~commissioner~~ secretary for acquisition documents and records having historical, evidential, administrative and/or legal value relating to the State of West Virginia and the territory included in the state from the earliest times to the present, upon its own initiative or in cooperation with any private or public society, organization or agency; to conduct a continuing survey and study throughout the state to develop a state plan to determine the needs and priorities for the preservation of the documents and records; to direct, protect, preserve, study and disseminate information on the documents and records; to provide matching grants to political subdivisions of this state to protect and preserve the documents and records; to operate and maintain a state library for the preservation of all public records, state papers, documents and reports of all three branches of state government including all boards, commissions, departments and agencies as well as any other private or public papers, books or documents of peculiar or historic interest or significance; to designate appropriate monuments, tablets or markers for historic, architectural and scenic sites within the state and to arrange for the purchase, replacement, care of, and maintenance of the monuments, tablets, and markers and to formulate and prepare suitable copy for them; to edit and publish a historical journal devoted to the history, biography, bibliography and genealogy of West Virginia; and to perform any other duties assigned to the section by the commissioner.

~~(b) With the advice and consent of the archives and history commission, the commissioner~~ The secretary shall appoint a director of the archives and history section, who shall have: ~~(1) A graduate degree in one of the social sciences, or equivalent training and experience in the field of West Virginia history, history, or in records, library or archives management; and (2) three years' experience in administration in the field of West Virginia history, history, or in records, library or archives management~~ be qualified, with relevant experience. ~~Notwithstanding these qualifications, the~~ The person serving as the state historian and archivist on the date of enactment of this article is eligible for appointment as the director of the archives and history section. The director of the archives and history section shall serve as the state historian and archivist.

(c) With the approval of the ~~commissioner~~ secretary, the director shall establish professional positions within the section and develop appropriate organizational structures to carry out the duties of the section. The director shall employ the personnel with applicable professional qualifications to fill positions within the organizational structure with the minimum professional qualifications. At the minimum, the following professions shall be represented within the section staff: Historian, archivist, librarian and technical and clerical positions as are required. : Provided, That nothing in this subsection shall prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

(d) The director shall promulgate rules with the approval of ~~the archives and history commission~~ secretary and in accordance with ~~chapter twenty-nine-a §29A-3-1 et seq.~~ of this code concerning: (1) The professional policies and functions of the archives and history section; and (2) any other rules determined necessary to effectuate the purposes of this article.

#### **§29-1-7. Museums section; director.**

(a) The purposes and duties of the museums section are to locate, survey, investigate, register, identify, excavate, preserve, protect, restore and recommend to the ~~commissioner~~ secretary for acquisition historic objects worthy of preservation, relating to the State of West Virginia and the territory included therein from the earliest times to the present, upon its own initiative or in cooperation with any private or public society, organization or agency; to conduct a continuing survey and study throughout the state to develop a state plan to determine the needs and priorities for the preservation, restoration or development of such objects; to direct, protect, excavate, preserve, study or develop such objects; to preserve and protect all battle or regimental flags borne by West Virginians and other memorabilia of historic interest; to operate and maintain a state museum, and to coordinate activities with other museums in the state; and to perform such other duties as may be assigned to the section by the ~~commissioner~~ secretary.

(b) With the advice and consent of the ~~archives and history commission~~ secretary, in addition to the duties above set forth, the section shall determine the whereabouts of and require the return of furnishings and objects missing from the capitol building and other state-owned or controlled buildings, including, but not limited to, furnishings chosen or purchased for the capitol by its architect, Cass Gilbert. No furnishings from the capitol may be sold or disposed of except pursuant to the provisions of ~~article three, chapter five-a §5A-3-1 et seq.~~ of this code. If furnishings originally designated as capitol building furnishings have been sold or otherwise disposed of without the requisite sale procedures, such furnishings shall be returned to the capitol and, upon presentation of proof of the amount paid, the current owner shall be reimbursed for the cost of the furnishing less any appropriate depreciation or wear and tear.

(c) ~~With the advice and consent of the archives and history commission, the commissioner~~ The secretary shall appoint a director of the museums section, who shall have: ~~(1) A graduate degree in one of the social sciences, or equivalent training and experience in the field of West Virginia history, history, archaeology, or in museum administration; and (2) three years' experience in administration in the field of West Virginia history, history, archaeology, or in museum management~~ be qualified, with relevant experience.

(d) With the approval of the ~~commissioner~~ secretary, the director shall establish professional positions within the section and develop appropriate organizational structures to carry out the duties of the section. The director shall employ the personnel with applicable professional qualifications to fill positions within the organizational structure and section. At the minimum, the following professions shall be represented within the section staff: Curator and such technical and

clerical positions as are required. ~~With the approval of the commissioner, the director shall establish professional positions within the section. The director shall employ the personnel within these professional positions for the section:~~ Provided, That nothing in this subsection shall prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

(e) The director shall promulgate rules and regulations with the approval of the ~~archives and history commission~~ secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code concerning: (1) The professional policies and functions of the museums section; and (2) such other rules and regulations as may be deemed necessary to effectuate the purposes of this section.

#### **§29-1-8. Historic preservation section; director.**

(a) The purposes and duties of the historic preservation section are to locate, survey, investigate, register, identify, preserve, protect, restore and recommend to the ~~commissioner~~ secretary for acquisition historic, architectural, archaeological and cultural sites, structures and objects worthy of preservation, including human skeletal remains, graves, grave artifacts and grave markers, relating to the State of West Virginia and the territory included therein from the earliest times to the present upon its own initiative or in cooperation with any private or public society, organization or agency; to conduct a continuing survey and study throughout the state to develop a state plan to determine the needs and priorities for the preservation, restoration or development of the sites, structures and objects; to direct, protect, excavate, preserve, study or develop the sites and structures; to review all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state for the purposes of furthering the duties of the section; to carry out the duties and responsibilities enumerated in the National Historic Preservation Act of 1966, as amended, as they pertain to the duties of the section; to develop and maintain a West Virginia State Register of Historic Places for use as a planning tool for state and local government; to cooperate with state and federal agencies in archaeological work; to issue permits for the excavation or removal of human skeletal remains, grave artifacts and grave markers, archaeological and prehistoric and historic features under the provisions of ~~section eight-a of this article~~ §29-1-8a of this code; and to perform any other duties as may be assigned to the section by the ~~commissioner~~ secretary.

(b) ~~With the advice and consent of the Archives and History Commission, the commissioner~~ The secretary shall appoint a director of the historic preservation section who shall ~~have: (1) A graduate degree in one of the social sciences or equivalent training and experience in the field of historic preservation, archaeology, West Virginia history or history; and (2) three years' experience in administration in the field of West Virginia history, history, historic preservation or archaeology~~ be qualified, with relevant experience. The director of the historic preservation section shall serve as the deputy state historic preservation officer.

(c) With the approval of the ~~commissioner~~ secretary, the director shall establish professional positions within the section and develop appropriate organizational structures to carry out the duties of the section. The director shall employ the personnel with applicable professional qualifications to fill positions within the organizational structure with the minimum professional qualifications necessary to carry out the provisions of the National Historic Preservation Act of 1966, as amended. At the minimum, the following professions shall be represented within the section staff: Historian, architectural historian, a structural historian who specializes in historical preservation, an archaeologist specializing in historic and prehistoric archaeology and such technical and clerical positions as are required: Provided, That nothing in this subsection shall

prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

(d) The director shall promulgate rules with the approval of the ~~archives and history commission secretary~~ and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code concerning: (1) The professional policies and functions of the historic preservation section; (2) the review of and, when required, issuance of permits for all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state as indicated in subsection (a) of this section in order to carry out the duties and responsibilities of the section; (3) the establishment and maintenance of a West Virginia State Register of Historic Places, including the criteria for eligibility of buildings, structures, sites, districts and objects for the state Register and procedures for nominations to the state Register and protection of nominated and listed properties; (4) the review of historic structures in accordance with compliance alternatives and other provisions in any state fire regulation and shall coordinate standards with the appropriate regulatory officials regarding their application; (5) review of historic structures in conjunction with existing state or local building codes and shall coordinate standards with the appropriate regulatory officials for their application; and (6) any other rules as may be considered necessary to effectuate the purposes of this article.

#### **§29-1-8c. State Library Section.**

(a) There is hereby ~~created~~ continued a West Virginia State Library Section under the Department of ~~Arts, Culture, and History Tourism~~.

(b) The State Library Commission is continued as an advisory council to support the West Virginia State Library Section, and shall consist of the ~~Curator~~ secretary of the Department of Arts, Culture, and History as an ex officio voting member and six voting members.

(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission each for a term of four years:

(A) No more than three appointed members may reside in the same congressional district; and

(B) The Governor shall make the initial appointment of State Library Commission members for staggered terms as follows: Two members, one from each congressional district, for a term of two years; two members, one from each congressional district, for a term of three years; and two members, one from each congressional district, for a term of four years; ~~and~~

~~(C) Three appointed members of the commission shall be women and three appointed members shall be men.~~

(2) No member of the State Library Commission may receive compensation for services rendered, nor be engaged or interested in the publishing business.

(3) On or before the expiration of the terms for which the members are appointed, the Governor shall appoint their successors.

~~(b) (c) The Curator of the Department of Arts, Culture, and History~~ secretary shall appoint a library section director, ~~with the advice and consent of the State Library Commission,~~ to carry out the duties and functions of the State Library Section outlined in this section ~~through the Department of Arts, Culture, and History library section.~~ The library section director shall ~~have at~~

~~least the following qualifications: A master's degree from an American Library Association-accredited program in a library-related discipline and three years of management or administrative work experience in a library~~ be qualified, with relevant experience. The library section director shall also serve as the Secretary of the State Library Commission for the purpose of board meetings.

~~(e)~~ (d) The State Library Commission shall advise the ~~curator~~ Secretary of the Department of Tourism and the library section director on carrying out certain duties and functions of the State Library Section, as provided in this section.

~~(d)~~ (e) *General authority of the State Library Section. —*

(1) The State Library Section shall provide assistance, advice, and counsel to all school, state-institutional, free and public libraries, and to all communities in the state which may propose to establish libraries, as to the best means of establishing and administering them, selecting and cataloging books, and other details of library management, and may send any of its members to aid in organizing such libraries or assist in the improvement of those already established.

(2) The State Library Section may:

(A) Receive gifts of money, books, or other property which may be used or held for the purpose or purposes given; and may purchase and operate traveling libraries under such conditions and rules as the commission deems necessary to protect the interests of the state and best increase the efficiency of the service it is expected to render the public.

(B) Purchase suitable books for traveling libraries and distribute them as needed to those persons and places in the state without adequate public library service.

(C) Collect books and other suitable library matter and distribute the same among state institutions desiring the same.

(D) Issue and offer for sale printed material, such as lists and circulars of information, and in the publication thereof may cooperate with other state library commissions and libraries, in order to secure the more economical administration of the work for which it was formed.

(E) Conduct courses of library instruction and hold librarians' institutes in various parts of the state.

(F) Perform such other services on behalf of public libraries as it may consider to be in the best interest of the state.

~~(e)~~ (f) *West Virginia Program for Open Education Resources; material description. —*

(1) The State Library Section shall establish and maintain the West Virginia Program for Open Education Resources to encourage and facilitate the use of open education resource materials in both higher education and kindergarten through grade 12 in West Virginia schools.

(2) "Open education resource materials" means teaching, learning, and resource materials in any medium, digital or otherwise, that reside in the public domain or have been released under an open license that permits low-cost access, use, adaptation, and redistribution by others with no or limited restrictions.

(3) The State Library Commission may consult with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, and the State Superintendent of Schools, or his or her designee, to:

(A) Ascertain what institutions or faculty are currently using open education resource material;

(B) Identify material currently associated with core general education courses and readily available for use by faculty and institutions;

(C) Identify any statutory or other impediments which interfere with selection and use of open education resource materials by administrators or teachers at all levels of instruction in West Virginia schools;

(D) Identify sources of potential grants for funding for teachers and institutions to use open education resource materials for classes and courses, and propose a competitive application system to award grant funding for those faculty and institutions seeking to use the open education resource materials;

(E) Establish a digital clearinghouse that will function as a publicly accessible database for open education resource material;

(F) Develop strategies to leverage further open education resource material to benefit higher education institutions and school systems, as well as private and foundation support for the project; and

(G) Report no later than July 1 of each year the program's findings, progress, and recommendations to the State Library Section, the Governor, and the chairs of the Legislature's House and Senate Committees on Education.

~~(f)~~ (g) *State Library Section—disposition of monetary gifts. —*

(1) If any sums of money are received by the State Library Section as gifts, they shall be paid into the State Treasury and used exclusively for carrying out the provisions of this section, and paying expenses of the State Library Section and the State Library Commission.

(2) The State Library Section shall expend no sums unless they are available by gift, appropriation, or otherwise.

~~(g)~~ (h) *Regional libraries and library areas — establishment and location. —*

(1) The State Library Commission is hereby authorized to develop a plan for the establishment and location of regional libraries, and library areas throughout the state, based on a detailed survey to be made by the State Library Commission of the needs of the various localities of the state. A region shall include two or more counties.

(2) On completion of such survey of any proposed region, the State Library Commission shall report their findings to the State Library Section and the state library director, who may refer the proposal to the county commissions or councils of all the counties included in such proposed region. The county commissions or councils may act upon such proposal by resolution, and the votes of a majority of each of the county commissions or councils of the counties included in the

proposed region shall be necessary for the adoption of such proposal. The proposal may be amended and resubmitted as necessary.

(3) The State Library Section may, with advice and input from the State Library Commission, and as the state library director may consider necessary or beneficial:

(A) Establish, maintain, and operate a public library for the region;

(B) Appoint a librarian and the necessary assistants, and fix their compensation, such appointments to be based upon merit and efficiency as determined by the state library section director. The librarian shall hold a certificate from an approved school of library science and shall have had not less than three years of practical experience in library work. The state library section director may also remove said librarian and other assistants;

(C) Purchase books, periodicals, equipment, and supplies;

(D) Purchase sites and erect buildings, or lease suitable quarters, and have supervision and control of that property;

(E) Borrow books from and lend books to other libraries;

(F) Enter into contracts to receive service from, or give service to, libraries within or without the region and give service to municipalities without the region that have no libraries, or cooperate with and aid generally, without such contracts, public school, institutional, and other libraries;

(G) Make such bylaws, rules, and regulations not inconsistent with this article as may be expedient for the government of regional library areas and the regional libraries therein, and for the purpose of carrying out the provisions of this article; and

(H) Accept for the State of West Virginia any appropriations of money that may hereafter be made out of the federal treasury by an act or acts of Congress and to disburse such funds for the purpose of carrying out the provisions of this article, in accordance with §18-10-11 and §18-10-12 of this code.

~~(H)~~ (i) *Aid to libraries by State Library Section.—*

(1) The State Library Section may render such aid and assistance, financial, advisory or otherwise, to public, school, county, or regional libraries, whether established or maintained by the State Library Section or not, under such conditions and rules and regulations as the State Library Section may determine necessary to further the interests of the state and best increase the efficiency of the service it is expected to render the public.

(2) The State Library Commission may review and analyze the status of libraries across the state and advise the State Library Section on projects and libraries for which it has determined the development and support of will further the education of the people of the state as a whole and will thereby aid in the discharge of the responsibility of the state to encourage and foster education. The ~~West Virginia~~ State Library Section may pay over and contribute to any board of library directors created and maintained pursuant to the provisions of this section or any special act of the Legislature such sum or sums of money as may be available from funds included in appropriations made for the State Library Section for that purpose.



~~(j)~~ (i) Collection and preservation of library data; surveys; employment of personnel; use of data.

(1) The State Library Section may collect and preserve statistics and other data, concerning libraries of any sort located within this state; to make surveys relating to the needs or conditions of such libraries or the library conditions of any city, town, county, regional library area, or other subdivision of this state; and to publish the results and findings thereof in accordance with the provisions of this section.

(2) The State Library Section may employ necessary personnel for any of these purposes.

(3) Such data, surveys, and findings of the State Library Section shall be available to all school, public, institutional, regional, and other libraries within this state, whether proposed or established.

~~(j)~~ (k) *Confidential nature of certain library records.*—

(1) Circulation and similar records of any public library in this state which identify the user of library materials are not public records but shall be confidential and may not be disclosed except:

(A) To members of the library staff in the ordinary course of business, including paid employees and unpaid volunteers upon completing a written confidentiality agreement which shall prevent disclosure of circulation records, personal information, and similar records of any public library except to the extent allowed under this subsection and obtaining written permission from the library director of the library system wherein he or she will be working;

(B) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or

(C) Upon appropriate court order or subpoena.

(2) Any disclosure authorized by subdivision (1) of this subsection, or any unauthorized disclosure of materials made confidential by subdivision (1), does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subdivision (1) of this subsection is not liable therefor.

~~(k)~~ (l) *Library Facilities Improvement Fund.*—

(1) There is continued in the State Treasury a special fund known as the Library Facilities Fund. Expenditures from the fund shall be for the purposes set forth in this section. The fund shall be administered by the State Library Section.

(2) The fund shall consist of moneys received from the following sources:

(A) All appropriations made by the Legislature to the fund;

(B) Any moneys available from sources outside the State Library Section;

(C) Repayment of loans made by the State Library Section pursuant to this section; and

(D) All interest and other income earned from investment of moneys in the fund.

(3) The State Library Section shall utilize moneys in the fund to support public library facilities construction, renovation, maintenance, and improvement projects. The State Library Section shall evaluate potential recipient projects of funds from the fund on a competitive basis.

(A) The State Library Section may provide loans to public libraries to support energy savings and critical maintenance projects with moneys in the fund.

(B) With the exception of loans made under this section, the State Library Section may not expend any money from the fund toward a particular project unless the proposed expenditure is matched on a dollar-for-dollar basis by other sources.

(4) The State Library Section shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this section. The rule shall contain at least the following:

(A) A process for submitting and reviewing proposals;

(B) The content of proposals;

(C) Criteria for evaluating proposals; and

(D) Other provisions the State Library Section considers necessary to administer the program in accordance with this section.

(5) Any balance, including accrued interest and any other returns, in the fund at the end of each fiscal year will not expire to the General Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

(6) In any calendar year, the State Library Section may not allocate an amount in excess of four percent of the balance of the fund on December 31 of the immediately preceding calendar year for administrative expenses.

(7) The State Library Section may invest any or all of the balance of the fund with the state's Consolidated Investment Fund.

~~(4)~~ (m) Any rules promulgated by the Library Commission will remain in full force and effect until amended, repealed, or superseded by another rule promulgated by the Library Commission or State Library Section.

#### **§29-1-9. Administrative section; director.**

The purposes and duties of the administrative section are to provide centralized support to the division in all areas of operations.

~~The commissioner-secretary shall appoint a director of the administrative section, to serve at the will and pleasure of the secretary, who is qualified, with relevant experience, who shall have a bachelor's degree and two years' experience in responsible positions involving office management, public administration, budget and fiscal administration, or related fields; or six years' experience as outlined above. Notwithstanding these qualifications, the person serving as director of the administrative section on the date of enactment of this section shall be eligible for appointment as director of the administrative section.~~

With approval of the ~~commissioner~~ secretary, the director of the administrative section shall establish professional positions within the section.

**§29-1-10. Division employees classified by civil service; exceptions.**

[Repealed.]

**§29-1-11. Power to accept and receive funds; power to apply for grants; disbursal of funds; restrictions on expenditure; disposition of funds heretofore received or appropriated.**

(a) The ~~division~~ secretary may, in the name of the State of West Virginia, ~~through the commissioner or its commissions,~~ accept and receive grants, appropriations, gifts, bequests and funds from any public or private source for the purpose of carrying out the duties and purposes of this article.

(b) The ~~division~~ secretary may, through the ~~commissioner or its commissions,~~ apply for grants from the federal government, private foundations and any other source for the purposes of this article.

(c) All funds received from any source shall be paid into the Treasury of the state and disbursed upon warrant by the State Auditor following requisition by the division. The requisitions shall be signed by the secretary ~~commissioner~~ or by another person as the ~~commissioner~~ secretary may authorize by written document deposited with the Auditor or, in the event of emergency, by the Governor or the Governor's designee.

(d) No funds or gifts received from any source shall be expended or used for any purpose other than that intended as evidenced by a positive and affirmative declaration or by a negative restriction or limitation.

(e) The ~~division~~ department may assist in the promotion and operation of an annual state fair and other regional or local fairs and festivals entitled to aid when funds are available and to expend those funds for the support and development of fairs and festivals.

(f) All federal or state funds received to provide grants-in-aid or awards to further the purposes of this article shall be approved and distributed by the ~~appropriate commission established by this article~~ secretary.

**§29-1-12. Publication of materials; agreements.**

The ~~Division of Culture and History~~ department shall have the power, responsibility and duty to publish or republish material of prehistorical, historical, archaeological, architectural or cultural interest. The ~~Division of Culture and History~~ department may sell such publications as well as postcards and other items of such interest at the state museum or any other site or property administered by the state or at any special event sponsored by the state. The ~~division~~ department shall have the right to enter into agreements with responsible individuals, private historical, archaeological, architectural or cultural associations, foundations or similar organizations or any agency of the federal, state or local government for the purpose of carrying out its purposes or for raising money to fund the functions of the ~~division~~ department under this article.

**§29-1-13. Land; control and disposal; rules and regulations.**

All land owned or leased by the ~~Division of Culture and History~~ department pursuant to this article shall be titled in the name of the public land corporation of West Virginia but shall be controlled, administered and supervised by the ~~division~~ department. The ~~division, in the discretion of its commissioner~~ secretary may sell or dispose of any real or personal property which, in his or her opinion, does not have sufficient prehistorical, historical, archaeological, architectural or cultural value to justify its retention.

The ~~commissioner~~ secretary shall have the power to make and promulgate rules and regulations relating to the general management and administration of ~~the division~~ this article.

**§29-1-14. Washington-Carver Camp; prohibition of disposition or removal of minerals without authorization by the Legislature.**

Washington-Carver Camp in Fayette County, heretofore transferred to the public land corporation under the control, administration, and supervision of the ~~Division of Culture and History~~ department, shall continue under the department's control, administration and supervision of the ~~division~~.

The ~~Division of Culture and History~~ department shall undertake to develop such cultural and multicultural, artistic, humanistic and educational programs at the camp as will serve and benefit the citizens of the state and the many cultures represented therein. In order to ensure the maximum reasonable utilization of that portion of the camp under its jurisdiction, the ~~division~~ department shall, during times the camp is not being used for the ~~division's~~ department's purposes, make the camp available, under such terms as the ~~division~~ department deems proper, to any other agency of government or nonprofit group desiring to use the camp. The camp shall retain the name "Camp Washington-Carver" as indicative of its heritage of serving the black citizens of the state. The ~~division~~ department is authorized to provide necessary and suitable equipment and other resources for implementing the provisions of this section.

No minerals may be assigned, leased or otherwise encumbered, sold, mined, or removed with respect to the property heretofore transferred or the mineral rights retained without specific authorization by the Legislature.

**§29-1-15. Development or improvement on land; State Historic Preservation Office; rules and regulations.**

All development or improvement on land, including any disturbance in a right-of-way, construction project, or infrastructure project, subject to review by the State Historic Preservation Office or by any other ~~agency, office, or component of the Division of Culture and History~~ section or commission listed in §29-1-1(b) of this code for prehistorical, historical, archaeological, architectural, or cultural value shall be conducted in the most expedient manner possible. The ~~division~~ department shall not add any additional impediment to such review beyond those required by applicable Federal laws, rules, and regulations and shall have no authority to comment, regulate, or otherwise cause another governmental entity to comment upon or regulate, that activity, except in consideration for primacy or continued federal funding.

The ~~commissioner~~ secretary shall have the power to make and promulgate rules and regulations in in conformity with this section, and the ~~commissioner~~ secretary shall modify, upon the effective date of this legislation, any active rule in conflict with the provisions of this section.

On motion of Senator Garcia, the following amendments to the Government Organization committee amendment to the bill (Eng. H. B. 2009) were reported by the Clerk and considered simultaneously:

On pages 1 through 6, by striking out all of section 4;

On pages 11 and 12, by striking out all of section 1a and inserting in lieu thereof a new section 1a, to read as follows:

**§29-1-1a. Transfer of powers and duties; existing contracts and obligations.**

(a) Except as otherwise provided in this article, the powers and duties of the West Virginia antiquities commission, the West Virginia arts and humanities council and the department of archives and history are hereby transferred to ~~the Division of Culture and History~~ the Department of Tourism.

(b) All existing assets, equipment, contracts, and records ~~obligations~~ of the Department of Arts, Culture, and History, the West Virginia antiquities commission, the West Virginia arts and humanities council, and the department of archives and history, or relating to the present science and culture center, shall be transferred to ~~remain in full force and effect and shall be performed by the Division of Culture and History~~ the Department of Tourism.;

And,

On page 31, by striking out all of section 10.

Following discussion,

The question being on the adoption of Senator Garcia's amendments to the Government Organization committee amendment to the bill, and on this question, Senator Garcia demanded the yeas and nays.

The roll being taken, the yeas were: Barrett, Garcia, Grady, Hamilton, Oliverio, Phillips, and Woelfel—7.

The nays were: Azinger, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Morris, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woodrum, and Smith (Mr. President)—27.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Garcia's amendments to the Government Organization committee amendment to the bill rejected.

On motion of Senator Garcia, the following amendment to the Government Organization committee amendment to the bill (Eng. H. B. 2009) was next reported by the Clerk:

On page 23, section 8c, lines 20 through 28, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c), to read as follows:

~~(b) (c) The Curator of the Department of Arts, Culture, and History~~ secretary shall appoint a library section director, ~~with the advice and consent of the State Library Commission, to carry out the duties and functions of the State Library Section outlined in this section through the Department of Arts, Culture, and History library section.~~ The library section director shall have at least the following qualifications: A master's degree from an American Library Association-accredited program in a library-related discipline and three years of management or administrative work experience in a library. The library section director shall also serve as the Secretary of the State Library Commission for the purpose of board meetings.

Following discussion,

The question being on the adoption of Senator Garcia's amendment to the Government Organization committee amendment to the bill, the same was put and did not prevail.

The question now being on the adoption of the Government Organization committee amendment to the bill, the same was put and prevailed.

Engrossed House Bill 2009, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 2009 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Oliverio, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Willis, and Smith (Mr. President)—24.

The nays were: Deeds, Garcia, Grady, Hamilton, Morris, Phillips, Queen, Weld, Woelfel, and Woodrum—10.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2009) passed.

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

**Eng. House Bill 2009**—A Bill to amend and reenact §5B-2I-2, §5B-2I-4, §10-5-2, §29-1-1, §29-1-1a, §29-1-2, §29-1-3, §29-1-4, §29-1-6, §29-1-7, §29-1-8, §29-1-8c, §29-1-9, §29-1-11, §29-1-12, §29-1-13, §29-1-14, and §29-1-15 of the Code of West Virginia, 1931, as amended; and to repeal §5F-1-3a, §5F-1-6, and §29-1-10, relating to the merging and reorganizing of the executive branch; abolishing Department of Arts, Culture, and History and reorganizing its sections and commissions under Department of Tourism; specifying the authority of the Secretary of Department of Tourism over these sections and commissions; correcting titles of affected departments, divisions, and positions based on the redesignations; specifying that starting on July 1, 2025, new hires and anyone who moves positions within Department of Tourism shall be in the classified exempt service system and shall be exempt from the state grievance procedures; governing and providing for Secretary of the Department of Tourism authority to appoint the directors of certain sections of code; substituting the title of Secretary of Department of Tourism for Secretary of the Department of Arts, Culture, and History in several sections of code; granting

Secretary of Tourism authority to approve or repeal rules promulgated by sections and commissions listed in certain sections of code; specifying that starting on July 1, 2025, new hires and employees that move positions within the sections and commissions shall be in the classified exempt service system and shall be exempt from state grievance procedures; granting Secretary of Department of Tourism discretion to allow a person to serve in multiple positions or professions within certain sections of code; removing certain specific qualifications for persons appointed as directors of various sections of code; and technical cleanup of amended and reenacted sections.

Senator Martin moved that the bill take effect July 1, 2025.

On this question, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2009) takes effect July 1, 2025.

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

**Eng. Com. Sub. for House Bill 2013**, Transfer of employees to classified exempt service.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, April 7, 2025, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for House Bill 2013 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Deeds, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Queen, Roberts, Rose, Rucker, Stuart, Tarr, Taylor, Thorne, Willis, Woodrum, and Smith (Mr. President)—24.

The nays were: Clements, Garcia, Grady, Hamilton, Morris, Oliverio, Phillips, Takubo, Weld, and Woelfel—10.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2013) passed.

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

**Eng. Com. Sub. for House Bill 2013**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §5F-2-9, relating to exempting new hires and employees who leave their positions within the Bureau of Senior Services, Department of

Administration, Department of Environmental Protection, Department of Revenue, and Department of Veterans' Assistance from the classified civil service system and the state grievance procedures beginning on July 1, 2025; making legislative finding; providing that as of July 1, 2025, any new hire and any employee who leaves his or her position will be exempt from the classified civil service system and from the state grievance procedures; providing that any employee who is currently covered by civil service system and who currently has access to the state grievance procedures will continue to be covered and have access, so long as he or she remains in his or her current position; providing that chief administrative officers of bureau and departments may designate certain employees' status within the civil service system in order to comply with federal law or receive federal funds; and clarifying that this section does not affect any other employee protections found elsewhere in code.

Senator Martin moved that the bill take effect July 1, 2025.

On this question, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2013) takes effect July 1, 2025.

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

**Eng. Com. Sub. for House Bill 2067**, West Virginia Firearms Liability Clarification Act.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2067 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Boley, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2067) passed.

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



**Eng. Com. Sub. for House Bill 2067**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-7C-1, §61-7C-2, §61-7C-3, and §61-7C-4; all relating to the creation of the West Virginia Firearms Marketing Clarification Act; providing for a short title; providing for definitions; providing limitations on negligent marketing claims; and creating a predicate exception limitation.

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

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Martin, at 12:57 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 7:26 p.m. and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 2434**, Relating to establishing the Stop Squatters Act.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Martin, Maynard, Morris, Oliverio, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—31.

The nays were: None.

Absent: Boley, Jeffries, and Phillips—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2434) passed with its title.

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

**Eng. Com. Sub. for House Bill 2499**, Training course for principals in public schools; informing teachers of their rights and protections; IEP format.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2499) passed.

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

**Eng. Com. Sub. for House Bill 2499**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-3-13, relating to requiring in-person training for principals employed in the public schools, appropriate central office personnel, superintendents and county board of education members on the Individuals with Disability Education Act, federal regulations, and West Virginia State Board of Education Policy 2419 "Regulations for the Education of Students with Exceptionalities"; specifying other information the training is to include; specifying when training is to occur; requiring each principal and county board member to inform teachers, in person, of their rights and listing minimum information this is to include; and requiring in every Individualized Education Program meeting certain information be explained to the guardian of a child.

Senator Martin moved that the bill take effect July 1, 2025.

On this question, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2499) takes effect July 1, 2025.

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

**Eng. Com. Sub. for House Bill 2711**, Relating to the repeal of the common law rule against perpetuities by extending it to 1,000 years for all trusts.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2711) passed with its title.

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

**Eng. Com. Sub. for House Bill 2752**, Relating to motorcycle safety.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2752 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Grady, Hart, Helton, Jeffries, Martin, Maynard, Morris, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Tarr, Taylor, Thorne, Willis, Woodrum, and Smith (Mr. President)—27.

The nays were: Garcia, Hamilton, Oliverio, Takubo, Weld, and Woelfel—6.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2752) passed with its title.

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

**Eng. Com. Sub. for House Bill 2761**, Relating generally to magistrate courts.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Willis, Woelfel, Woodrum, and Smith (Mr. President)—32.

The nays were: Weld—1.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2761) passed with its title.

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

**Eng. House Bill 2773**, Higher Ed Rules.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2773) passed with its title.

Senator Martin moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2773) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence in the changed effective date.

**Eng. House Bill 2867**, Relating to Small Estates.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2867) passed.

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

**Eng. House Bill 2867**—A Bill to amend and reenact §44-1A-2 of the Code of West Virginia, 1931, as amended, relating to precluding an estate with probate real property or with an interest in probate real property from being processed as a small estate.

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

**Eng. Com. Sub. for Com. Sub. for House Bill 2871**, Relating to the crime of negligent homicide.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for H. B. 2871) passed.

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

**Eng. Com. Sub. for Com. Sub. for House Bill 2871**—A Bill to amend and reenact §14-2A-3, §17B-1A-1, §17B-3-5, 17C-5-1, §17C-5-3, §17C-14-15, §17C-19-3, §17E-1-13, §33-6A-1, §33-6A-1, §49-1-207, and §61-2-30 of the Code of West Virginia, 1931, as amended, relating generally to updating the offense of negligent homicide; and renaming it the offense of vehicular homicide.

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

**Eng. Com. Sub. for House Bill 2897**, Permitting the Legislative Auditor to conduct periodic performance and financial audits of the West Virginia Department of Education.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2897) passed with its title.

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

**Eng. Com. Sub. for House Bill 2964**, Amending residency requirements for regional airport boards.

On third reading, coming up in regular order, was reported by the Clerk.

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

**Eng. Com. Sub. for House Bill 3024**, Guaranteed course transfer bill.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3024) passed.

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

**Eng. Com. Sub. for House Bill 3024**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18B-14-5, relating to the guaranteed transfer of credit for courses completed in career pathways between high schools, career and technical education centers, community and technical colleges, and baccalaureate institutions; imposing duties on the Higher Education Policy Commission and the Council for Community and Technical College Education; establishing a statewide guaranteed transfer and articulation advisory committee; setting forth membership of the advisory committee; allowing for subcommittees; requiring the commission and the council to oversee the development of a statewide articulation and guaranteed transfer agreement and setting forth parameters therefore; requiring the commission and the council, in collaboration with the advisory committee, to develop, coordinate, and maintain guaranteed degree transfer pathways for selected baccalaureate programs and the parameters therefore; setting forth additional requirements for guaranteed statewide transfer pathways; and requiring the commission and council to propose rules for legislative approval.

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

**Eng. House Bill 3080**, Military Spouse hiring preference.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3080) passed.

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

**Eng. House Bill 3080**—A Bill to amend and reenact §16B-17-9 and §16B-17-9a of the Code of West Virginia, 1931, as amended, relating to establishing that an employer granting preference in hiring a military spouse does not violate the state Human Rights Act under certain circumstances.

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

**Eng. House Bill 3156**, Create exemption for Legislature for reporting requirements in Shared Services Section.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3156) passed.

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

**Eng. House Bill 3156**—A Bill to amend and reenact §5A-2B-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that the Legislature is not subject to the cost-assessment, accounting, and reporting services of the Department of Administration Shared Services Section.

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

**Eng. House Bill 3157**, Relating to shortened procedure for road condition claims.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3157) passed with its title.

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

**Eng. House Bill 3277**, Relating to defining terms for the West Virginia Hospital Finance Authority Act.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3277) passed with its title.

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

**Eng. House Bill 3389**, Exclude the Department of Tourism as a Governmental agency.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Bartlett, Chapman, Charnock, Clements, Deeds, Fuller, Garcia, Grady, Hamilton, Hart, Helton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Roberts, Rose, Rucker, Stuart, Takubo, Tarr, Taylor, Thorne, Weld, Willis, Woelfel, Woodrum, and Smith (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3389) passed.

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

**Eng. House Bill 3389**—A Bill to amend and reenact §18-10G-2 of the Code of West Virginia, 1931, as amended, relating to excluding the Department of Tourism from the agencies required to have their food service facilities operated by the Division of Vocational Rehabilitation.

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

The Senate proceeded to the ninth order of business.



**Com. Sub. for Senate Bill 300**, Budget Bill.

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

**Senate Bill 937**, Supplementing and amending appropriations to Department of Economic Development.

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

**Eng. Com. Sub. for Com. Sub. for House Bill 2002**, Establishing One Stop Shop Permitting Process.

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

**Eng. Com. Sub. for Com. Sub. for House Bill 2003**, Prohibiting Cell phones in class.

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

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

On page 2, section 46, lines 34 through 39, by striking out all of paragraph (A) and inserting in lieu thereof a new paragraph (A) to read as follows:

(A) Students with an approved documented need, as required by a medical doctor or licensed healthcare professional or as a requirement of an Individualized Education Plan (IEP) or 504 plan, the student's health care provider's medical orders, or other written accommodation plan, may have access to personal electronic devices if the device relates to the student's specific need. An exemption related to a student's IEP, 504 plan, medical order, or other written accommodation shall include a timeline of the required exemption and specify what electronic device(s) shall be included in the exemption.

The bill (Eng. Com. Sub. for Com. Sub. for H. B. 2003), as amended, was then ordered to third reading.

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

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

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

On page one, sec. three, line eight, by striking out "75,000,000" and inserting in lieu thereof "150,000,000".

The bill (Eng. Com. Sub. for H. B. 2011), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2026**, Budget Bill.

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

At the request of Senator Martin, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 2152**, Prompt Payment Act of 2025.

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

**Eng. Com. Sub. for Com. Sub. for House Bill 2164**, To allow for public and private schools in West Virginia to employ security personnel.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Eng. House Bill 2165**, Allowing disabled purple heart recipients park free at municipal metered parking spaces.

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

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

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

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.****§17A-3-15a. Free parking for disabled veterans and veterans awarded the purple heart.**

Notwithstanding any provision of law to the contrary, any person who is a disabled veteran from the United States Armed Forces or who was awarded the Purple Heart, may park at any metered parking space in any municipality in this state without being required to deposit any sum of coins or currency into the meter: *Provided*, That an appropriate designation must appear on the person's registration plate under the provisions of §17A-3-14 demonstrating that the person is a disabled veteran or was awarded the Purple Heart.

**ARTICLE 13. STOPPING, STANDING, AND PARKING.****§17C-13-6. Stopping, standing, or parking privileges for persons with a mobility impairment; disabled veterans; definitions; qualification; special registration plates and removable windshield placards; expiration, application; violation; penalties.**

(a)(1) The commissioner may issue up to two special registration plates or removable windshield placards to a person with a mobility impairment or a West Virginia organization which transports persons with disabilities and facilitates the mobility of its customers, patients, students, or persons otherwise placed under its responsibility.

(2) Special registration plates or placards may only be issued for placement on a Class A or Class G motor vehicle registered under the provisions of §17A-3-1 *et seq.* of this code.

(3) The applicant shall specify whether he or she is applying for a special registration plate, a removable windshield placard, or both on the application form prescribed and furnished by the commissioner.

(4) The applicant shall submit, with the application, a certificate issued by any physician, chiropractor, advanced nurse practitioner, or physician's assistant who is licensed in this state, stating that the applicant has a mobility impairment, or that the applicant is an organization which regularly transports a person with a mobility impairment as defined in this section. The physician, chiropractor, advanced nurse practitioner, or physician's assistant shall specify in the certificate whether the disability is temporary or permanent. A disability which is temporary is one expected to last for a limited duration and improve during the applicant's life. A disability which is permanent is one which is expected to last during the duration of the applicant's life.

(5) Upon receipt of the completed application, the physician's certificate, and the regular registration fee for the applicant's vehicle class, if the commissioner finds that the applicant qualifies for the special registration plate or a removable windshield placard as provided in this section, he or she shall issue to the applicant a special registration plate (upon remittance of the regular registration fee) or a removable windshield placard (red for temporary and blue for permanent), or both. Upon request, the commissioner shall also issue to any otherwise qualified applicant one additional placard having the same expiration date as the applicant's original placard. The placard shall be displayed by hanging it from the interior rearview mirror of the motor vehicle so that it is conspicuously visible from outside the vehicle when parked in a designated accessible parking space. The placard may be removed from the rearview mirror whenever the vehicle is being operated to ensure clear vision and safe driving. Only in the event that there is no suitable rearview mirror in the vehicle may the placard be displayed on the dashboard of the vehicle.

(6) Organizations which transport people with disabilities will be provided with a placard which will permit them to park in a designated area for the length of time necessary to load and unload passengers. These vehicles must be moved to a nondesignated space once the loading or unloading process is complete.

(b) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a "mobility impairment" means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath, chiropractor, advanced nurse practitioner, or physician's assistant licensed to practice in West Virginia:

(A) Cannot walk 200 feet without stopping to rest;

(B) Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device, or another person;

(C) Is restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(D) Uses portable oxygen;

(E) Has a cardiac condition to such an extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association; or

(F) Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic condition;

(2) "Special registration plate" means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) "Removable windshield placard" (permanent or temporary) means a two-sided, hanger-style placard measuring three inches by nine and one-half inches, with all of the following on each side:

(A) The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

(B) An identification number measuring one inch in height;

(C) An expiration date in numbers measuring one inch in height for a temporary placard; and

(D) The seal or other identifying symbol of the issuing authority;

(4) "Regular registration fee" means the standard registration fee for a vehicle of the same class as the applicant's vehicle;

(5) "Public entity" means state or local government or any department, agency, special purpose district, or other instrumentality of a state or local government;

(6) "Public facility" means all or any part of any buildings, structures, sites, complexes, roads, parking lots, or other real or personal property, including the site where the facility is located;

(7) "Place or places of public accommodation" means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

(A) Inns, hotels, motels, and other places of lodging;

(B) Restaurants, bars, or other establishments serving food or drink;

(C) Motion picture houses, theaters, concert halls, stadiums, or other places of exhibition or entertainment;

(D) Auditoriums, convention centers, lecture halls, or other places of public gatherings;

(E) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers, or other sales or rental establishments;

(F) Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals, or other service establishments;

(G) Terminals, depots, or other stations used for public transportation;

(H) Museums, libraries, galleries, or other places of public display or collection;

(I) Parks, zoos, amusement parks, or other places of recreation;

(J) Public or private nursery, elementary, secondary, undergraduate, or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies, or other social services establishments; and

(K) Gymnasiums, health spas, bowling alleys, golf courses, or other places of exercise or recreation;

(8) "Commercial facility" means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity;

(9) "Accessible parking" formerly known as "handicapped parking" is the present phrase consistent with language within the Americans with Disabilities Act (ADA);

(10) "Parking enforcement personnel" includes any law-enforcement officer as defined by §30-29-1 of this code, and private security guards, parking personnel, and other personnel authorized by a city, county, or the state to issue parking citations.

Any person who falsely or fraudulently obtains or seeks to obtain the special plate or the removable windshield placard provided for in this section, and any person who falsely certifies that a person is mobility impaired in order that an applicant may be issued the special registration plate or windshield placard under this section is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500. Any person who fabricates, uses, or sells unofficially issued windshield placards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500 per placard fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued identification cards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$700 per identification card fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued labels imprinted with a future expiration date to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$700. Any person covered by this section who sells or gives away their officially issued windshield placard to any person or organization not qualified to apply for or receive the placard and then reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or

she, or they may otherwise incur, shall lose their right to receive or use a special placard or special license plate for a period of not less than five years.

(c) The commissioner shall set the expiration date for special registration plates on the last day of a given month and year, to be valid for a minimum of one year but not more than five years, after which time a new application must be submitted to the commissioner. After the commissioner receives the new application, signed by a certified physician, chiropractor, advanced nurse practitioner, or physician's assistant if required under this subsection, the commissioner shall issue: (i) A new special registration plate or new permanent or temporary removable windshield placard; or (ii) official labels imprinted with the new expiration date and designed so as to be placed over the old dates on the original registration plate or windshield placard: *Provided*, That a new application under this subsection must not be accompanied by a certificate pursuant to §17C-13-6(a)(4) of this code if a prior application is on file with the commissioner, such application includes a certificate issued pursuant to §17C-13-6(a)(4) of this code, such certificate specifies that the applicant's disability is permanent for life, and such certificate was made within 10 years of the new application.

(d) The commissioner shall set the expiration date of temporary removable windshield placards to be valid for a period of approximately six months after the application was received and approved by the commissioner. Permanent removable windshield placards are valid for the duration of the applicant's life.

(e) The commissioner shall issue to each applicant who is granted a special registration plate or windshield placard an identification card bearing the applicant's name, assigned identification number, and expiration date. The applicant shall thereafter carry this identification card on his or her person whenever parking in an accessible parking space. The identification card shall be identical in design for both registration plates and removable windshield placards.

(f) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps, or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every 12 or 24 inches apart along with the words "no parking" in painted letters which are at least 12 inches in height. All accessible parking spaces must have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(g) A vehicle displaying a disabled veterans special registration plate issued pursuant to §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of this section.

(h) A vehicle from any other state, United States territory, or foreign country displaying an officially issued special registration plate, placard, or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard, or decal is mounted or displayed on the vehicle.

(i) Stopping, standing, or parking places marked with the international symbol of access shall be designated in close proximity to all public entities, including state, county, and municipal

buildings and facilities, places of public accommodation, and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment and disabled veterans at all times.

(j) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not mean that the vehicle may park in any zone where stopping, standing, or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this state is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise, these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment is guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(k) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand, or park a motor vehicle in an area designated, zoned, or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(l) All signs that designate areas as "accessible parking" or that display the international symbol of access shall also include the words "up to \$500 fine".

(m) No person may stop, stand, or park a motor vehicle in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(n) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(o) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time, and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned, or designated accessible parking areas by the supervising law-enforcement agency.

(p) Local authorities who adopt the basic enforcement provisions of this section and issue their own local ordinances shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (o) of this section, if adopted by local authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys collected as fines shall be collected for and remitted to the state.

(q) The commissioner shall prepare and issue a document to applicants describing the privileges accorded a vehicle having a special registration plate and removable windshield placard as well as the penalties when the vehicle is being inappropriately used as described in this section and shall include the document along with the issued special registration plate or windshield placard. In addition, the commissioner shall issue a separate document informing the general public regarding the new provisions and increased fines being imposed either by way of newspaper announcements or other appropriate means across the state.

(r) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code.

(s)(1) A public entity may not require a person to pay for parking a vehicle in an accessible parking space with a parking meter if the following requirements are met:

(A) The vehicle displays a special registration plate or placard that entitles the person to park in an accessible parking space pursuant to this section;

(B) The driver has a mobility impairment and is unable to walk;

(C) The parking meter is not accessible to the driver while sitting in a wheelchair or without traveling more than 30 feet from the parked vehicle; and

(D) The parked vehicle displays an unexpired parking certification that is plainly visible with pertinent information through its windshield. For purposes of this subsection, "parking certification" means a letter completed by a licensed medical provider on the provider's letterhead that is titled "Parking Certification pursuant to W.Va. Code §17C-13-6(s)" and that certifies that the person is physically able to drive but unable to walk, which means for purposes of this



subsection that the person cannot ambulate without the aid of a wheelchair. Such letter shall specify whether the inability to walk is permanent or temporary. If the inability to walk is temporary, the letter shall include the date on which such temporary disability is anticipated to end, and the letter may not be displayed in a windshield after such date.

(2) By displaying a parking certification in the windshield of a vehicle that is parked in an accessible parking space with an expired parking meter, the person is swearing under penalty of false swearing that he or she is unable to access the parking meter without unreasonable effort.

(3) Parking enforcement personnel may not cite a vehicle that is parked in an accessible parking space of a public entity for parking at an expired meter if the requirements of this subsection are met: *Provided*, That if a parking citation is issued, it shall be prima facie evidence that the person was entitled to park in the accessible parking space with an expired meter if the person produces his or her parking certification.

The bill (Eng. H. B. 2165), as amended, was then ordered to third reading.

**Eng. Com. Sub. for Com. Sub. for House Bill 2167**, Relating to public charter schools code provisions.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Eng. House Bill 2444**, Relating to limiting financial records of limited video lottery permittees that are subject to examination by Lottery Commission.

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

**Eng. House Bill 2484**, Clarifying the probationary period for paid municipal firefighters.

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

**Eng. House Bill 2776**, Requiring Department of Health to report positive Alpha Gal tests to CDC.

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

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

**Eng. Com. Sub. for House Bill 2797**, Relating to who may diagnose post-traumatic stress disorder as a compensable injury or disease under workers compensation.

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

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

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

#### **ARTICLE 4. DISABILITY AND DEATH BENEFITS.**

##### **§23-4-1f. Certain psychiatric injuries and diseases not compensable; definitions; legislative findings; terms; report required.**

(a) Except as provided by this section, for the purposes of this chapter, no alleged injury or disease may be recognized as a compensable injury or disease which was solely caused by nonphysical means and which did not result in any physical injury or disease to the person claiming benefits. Except as otherwise provided in this section, it is the purpose of this section to clarify that so-called mental-mental claims are not compensable under this chapter.

(b) For the purposes of this section:

(1) "First responder" means a law enforcement officer, firefighter, emergency medical technician, paramedic, and emergency dispatcher;

(2) "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder specified by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, or a later edition as adopted by rule of the insurance commissioner; and

(3) "Licensed mental health provider" means a licensed psychiatrist, licensed psychologist, licensed professional counselor, licensed marriage and family therapist, certified mental health nurse practitioner, certified psychiatric physician assistant, or licensed social worker who:

(A) Holds a master's degree or higher;

(B) Holds a terminal license within their profession; and

(C) Is qualified to treat post-traumatic stress disorder.

(4) "Employer" means any entity that controls, consistent with the provisions of West Virginia law relating to an employment relationship, the paid or volunteer employment of a first responder eligible for benefits under this section.

(c) The Legislature finds that post-traumatic stress disorder is a unique medical condition. Although it may manifest itself as a psychiatric condition that would be otherwise precluded from workers' compensation coverage, post-traumatic stress disorder is an occupational hazard for first responders, similar to members of the military serving in combat. The Legislature further finds that because first responders are required to expose themselves to traumatic events during the course of their employment and thus are at a recognized higher risk of developing post-traumatic stress disorder, and because of the severe nature and debilitating effects of post-traumatic stress disorder, it is the moral obligation of the state to permit coverage to this class of individuals for their work-related disease.

(d)(1) Post-traumatic stress disorder suffered by a first responder may be recognized as a compensable occupational disease under §23-4-1(f) of this code when:

(A) The employer has elected to provide coverage for post-traumatic stress disorder as an occupational disease; and

(B) A diagnosis has been made by a licensed psychiatrist, certified mental health nurse practitioner, or certified psychiatric physician assistant that the first responder suffered from post-traumatic stress disorder due to exposure to an event or events that occurred in the course of and resulting from the first responder's paid or volunteer covered employment: *Provided*, That the provisions of this section shall apply only to a post-traumatic stress disorder diagnosis made on or after July 1, 2021, or the first day of the employer's next workers' compensation insurance policy or self-insurance program term for which post-traumatic stress disorder coverage has been purchased or elected, whichever is later.

~~(2) While the diagnosis must be made by a licensed psychiatrist, mental health treatment consistent for a post-traumatic stress disorder diagnosis may be offered by a licensed mental health provider other than the diagnosing psychiatrist~~

While the diagnosis must be made by a licensed psychiatrist, certified mental health nurse practitioner, or certified psychiatric physician assistant, mental health treatment consistent for a post-traumatic stress disorder diagnosis may be offered by a licensed mental health provider other than the diagnosing psychiatrist, certified mental health nurse practitioner, or certified psychiatric physician assistant.

(3) A diagnosis of post-traumatic stress disorder under this section ~~shall~~ may not include consideration of any layoff, termination, disciplinary action, or any similar personnel-related action taken in good faith by an employer.

(4) Benefits for a post-traumatic stress disorder diagnosis made under this section are contingent upon the employer electing to provide coverage for post-traumatic stress disorder from its workers' compensation insurance carrier or to provide for it through its self-insurance program, whichever is applicable.

(5) The receipt of benefits is contingent on a claim being made within three years from and after a licensed psychiatrist, certified mental health nurse practitioner, or certified psychiatric physician assistant has made the claimant aware of a post-traumatic stress disorder diagnosis in accordance with this section.

(e) ~~Any~~ An employer that elects to offer coverage to first responders for post-traumatic stress disorder under this section shall report post-traumatic stress disorder claims data to the Offices of the Insurance Commissioner directly or via the employer's private workers' compensation insurance carrier, whichever is applicable, ~~beginning July 1, 2021, or~~ from the first day of the employer's next workers' compensation insurance policy or self-insurance program term, which provides such elective coverage, whichever is later.

(f) The Offices of the Insurance Commissioner shall report annually on claims data related to post-traumatic stress disorder claims for first responders to the Joint Committee on Volunteer Fire Department and Emergency Medical Services beginning January 1, 2022.

~~(g) The amendments made to this section during the 2021 regular session of the Legislature to recognize post-traumatic stress disorder as a compensable injury subject to the provisions of this section shall expire on July 1, 2026, unless extended by the Legislature.~~

The bill (Eng. Com. Sub. for H. B. 2797), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2866**, Relating to fees and charges for municipality provided fire services.

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

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

**Eng. Com. Sub. for Com. Sub. for House Bill 2889**, To permit a fairness hearing exemption to the registration requirements of the Uniform Securities Act.

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

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

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

#### **ARTICLE 4. GENERAL PROVISIONS.**

##### **§32-4-402. Exemptions.**

(a) The following securities are exempt from §32-3-301 and §32-4-403 of this code:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution or trust company organized and supervised under the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state;

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association or similar association organized and supervised under the laws of this state;

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility or holding company which is: (A) Subject to the jurisdiction of the interstate commerce commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935, or a subsidiary of such a company within the meaning of that act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange, any other stock exchange approved by the commissioner, the National Association of Securities Dealers Automated Quotation/National Market System (NASDAQ/NMS), or any other market system approved by the commissioner, any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved, or any warrant or right to purchase or subscribe to any of the foregoing, except that the commissioner may adopt and promulgate rules pursuant to chapter 29A of this code which, after notice to such exchange or market system and an opportunity to be heard, remove any such exchange or market system from this exemption if the commissioner finds that the listing requirements or market surveillance of such exchange or market system are such that the continued availability of such exemption for such exchange or market system is not in the public interest and that removal is necessary for the protection of investors;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association, and no part of the net earnings of which inures to the benefit of any person, private stockholder or individual;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within 12 months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan if the commissioner is notified in writing 30 days before the inception of the plan or, with respect to plans which are in effect on the effective date of this chapter, within 60 days thereafter (or within 30 days before they are reopened if they are closed on the effective date of this chapter);

(12) Any security issued by an agricultural cooperative association operating in this state and organized under §19-4-1 *et seq.* of this code, or by a foreign cooperative association organized under the laws of another state and duly qualified to transact business in this state.

(b) The following transactions are exempt from ~~sections 301 and 403~~ §32-3-301 and §32-4-403 of this code:

(1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(2) Any nonissuer distribution of an outstanding security if: (A) A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that

date or the most recent year of operations; or (B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest or dividends on the security;

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the commissioner may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other ~~evidences~~ evidence of indebtedness secured thereby, is offered and sold as a unit;

(6) Any transaction by an executor, administrator, sheriff, marshal, constable, receiver, trustee in bankruptcy, guardian, or conservator, and any transaction constituting a judicial sale;

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(9) Any transaction pursuant to an offer directed by the offeror to not more than 10 persons (other than those designated in subdivision (8) ~~above of this subsection~~) in this state during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this state, if: (A) The seller reasonably believes that all the buyers in this state (other than those designated in subdivision (8) ~~above of this subsection~~) are purchasing for investment; and (B) no commission or other remuneration is paid or given, directly or indirectly, for soliciting any prospective buyer in this state (other than those designated in subdivision (8) ~~above of this subsection~~), but the commissioner may by rule or order, as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in clauses (A) and (B) with or without the substitution of a limitation on remuneration;

(10) Any offer or sale of a preorganization certificate or subscription if: (A) No commission or other remuneration is paid or given, directly or indirectly, for soliciting any prospective subscriber; (B) the number of subscribers does not exceed 10; and (C) no payment is made by any subscriber;

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than 90 days of their issuance, if: (A) No commission or other remuneration (other than a standby commission) is paid or given, directly or indirectly, for soliciting any security holder in this state; or (B) the issuer first files a

notice specifying the terms of the offer and the commissioner does not by order disallow the exemption within the next five full business days;

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either chapter;

(13) A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in exchange and partly for cash, if the terms and conditions of the issuance and exchange or delivery and exchange and the fairness of the terms and conditions have been approved by the commissioner at a hearing as provided in §32-4-402a of this code.

(c) The commissioner may by order deny or revoke any exemption specified in subdivision (9) or (11) of subsection (a) or in subsection (b) of this section with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated ~~sections 301 and 403~~ §32-3-301 and §32-4-403 of this code by reasons of any offer or sale effected after the entry of an order under this subsection if he or she sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the order.

(d) In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

**§32-4-402a. Fairness Hearing on issuance of securities involved in a reorganization, recapitalization, or refinancing.**

(a) For the purposes of this section, the terms "reorganization," "recapitalization," and "refinancing" shall mean:

(1) A readjustment by modification of the terms of securities by agreement;

(2) A readjustment by the exchange of securities by the issuer for others of its securities;

(3) The exchange of securities by the issuer for securities of another issuer;

(4) The acquisition of assets of a person, directly or indirectly, partly or wholly in consideration for securities distributed or to be distributed as part of the same transaction, directly or indirectly, to holders of securities issued by such person or secured by the assets of such person; or

(5) A merger or consolidation.

(b) The commissioner, or his or her designee, is authorized to consider and conduct a fairness hearing upon any plan of reorganization, recapitalization, or refinancing of a corporation or limited liability company organized under the laws of this state, or having its principal place of business within this state, when the plan is proposed by the corporation, limited liability company, or by any of its shareholders, members, or creditors and contains a proposal to issue securities in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange, or partly for cash: *Provided*, That this section does not apply to plans of reorganization, recapitalization, or refinancing of a corporation or limited liability company wherein there are no proposed issuance of securities.

(c) Prior to any fairness hearing authorized by this section, a corporation or limited liability company, shareholder, member, or creditor shall apply to the commissioner to approve the issuance of securities or to the delivery of other consideration pursuant to a plan of reorganization, recapitalization, or refinancing. The application shall be on a form and be accompanied by such documents and filing fees as shall be required by rule or order of the commissioner: *Provided*, That the filing fees may not exceed \$500. The applicant shall provide sufficient information to the commissioner regarding the value of the securities, claims, or interests to be exchanged and the securities to be issued in the transaction. The commissioner shall inform the applicant of any deficiencies in the application or of any additional information or documents required. The commissioner may require the applicant to amend or resubmit the application to comply with any rule or order of the commissioner prior to setting a date for the fairness hearing. The commissioner, or his or her designee, is required to hold a fairness hearing on any application for approval within 30 days after the filing of a complete application and supporting documents required by any rule or order of the commissioner.

(d) All persons to whom it is proposed securities be issued or other consideration be delivered by the applicant shall have the right to appear at the fairness hearing. Holders of a majority of the applicant's debts or holders of a majority of any outstanding class of securities issued by the applicant shall have the right to appear. The applicant shall provide notice in person or by United States mail, postage prepaid, providing the time and place of the fairness hearing to all persons to whom it is proposed securities be issued or other consideration be delivered in such exchange, not less than 10 days prior to such hearing. The applicant shall file evidence of notice required by this subsection with the commissioner, or his or her designee, prior to the fairness hearing.

(e) Any fairness hearing conducted by the commissioner, or his or her designee, under this section may be conducted in person, by video conference, by telephone conference, or by any other mode deemed appropriate by any rule or order of the commissioner.

(f) Within 10 business days after holding the fairness hearing, the commissioner, or his or her designee, shall issue a statement of findings of fairness and his or her approval or a statement that his or her approval will not be forthcoming.

(g) Securities issued in accordance with a plan approved by the commissioner, or his or her designee, pursuant to this section are exempt from the registration requirement provided in the provisions of §32-3-301, *et seq.* of this code

(h) The commissioner is authorized to invoice the applicant for the costs of conducting the fairness hearing and the preparation of the statement of findings.



The bill (Eng. Com. Sub. for Com. Sub. for H. B. 2889), as amended, was then ordered to third reading.

**Eng. House Bill 2942**, Administration of the West Virginia Department of Environmental Protection Design-Build Pilot Program.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Eng. House Bill 2943**, Administration of the West Virginia Hazardous Waste Management Act.

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

**Eng. Com. Sub. for House Bill 2960**, Allowing the Division of Highways to contract out snow removal to private companies on secondary roads in Monongalia and Preston counties.

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

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

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

#### **ARTICLE 9. GENERAL PROVISIONS APPLICABLE TO STATE ROADS.**

##### **§17-9-1. Snow removal pilot program.**

(a) The Legislature finds that snow removal in the state – particularly on secondary roads in Monongalia County and Preston County – has not been dependable, thereby providing a hardship on the citizens of West Virginia.

(b) The Division of Highways shall provide snow removal for all 55 counties of the State of West Virginia, with roads being prioritized into four categories:

(1) Priority One Routes: Interstate, Expressway, National Highway System, and all other United States and West Virginia routes with some Priority One routes also including high-traffic county routes;

(2) Priority Two Routes: All other school bus routes that are not considered Priority One;

(3) Priority Three Routes: Remaining routes, not including park and forest routes; and

(4) Priority Four Routes: Park and forest routes.

(c) The Division of Highways shall establish a two-year pilot program to issue Requests for Proposals for multiple vendors to provide snow removal for West Virginia Division of Highways District Four's secondary roads in Monongalia County and Preston County.

(d) The Division of Highways shall have sole discretion in identifying the specific roads requiring maintenance under this pilot program.

(e) No vendor employed to remove snow and ice from the secondary roads in Monongalia County and Preston County shall be afforded immunity from legal liability owing to any damage it may cause.

(f) The Commissioner of the Division of Highways may terminate any contract related to snow removal with 30 days' notice for cause.

The bill (Eng. Com. Sub. for H. B. 2960), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3012**, Relating to Lottery Money Distribution.

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

**Eng. Com. Sub. for House Bill 3017**, Compliance Audits of Tabulating Equipment.

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

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

On page 1, after the enacting clause, by inserting the following:

#### **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

##### **§3-1-50. Establishment of state-based administrative complaint procedures Election law complaints related to electronic voting systems and other violations of the law; procedures.**

(a) The Secretary of State shall establish and maintain a state-based administrative complaint procedure for complaints received concerning election violations, including, but not limited to, violations related to inspections of electronic voting systems conducted pursuant to §3-4A-13a of this code, which shall meet the following requirements:

(1) The procedures shall be uniform and nondiscriminatory.

(2) Under the procedures, the Secretary of State, members of the State Election Commission, or any person who believes that there is a violation of any provision of this chapter or Title III of the Help America Vote Act, Pub. L. 107-252, including a violation which has occurred, is occurring, or is about to occur, may file a complaint.

(3) Any complaint filed under the procedures shall be in writing, notarized, and signed and sworn by the person filing the complaint, and include all of the following:

(A) A description of the alleged incident or election violation;

(B) The name and valid contact information of any person who may have information or evidence supporting the allegations;

(C) An approximation of when the alleged violation or incident occurred;

(D) The location where the alleged incident or violation occurred;

(E) Any supporting facts or documentation about the alleged incident or violation; and

(F) An affirmation that facts articulated in the complaint are true and correct to the best of the complainant's knowledge under penalty of perjury.

(4) If a complaint alleges a violation of law under the Secretary of State's jurisdiction but fails to satisfy the procedural requirements set forth in subdivision (3) of this section, the Secretary of State shall notify the complainant in writing of the nature of the deficiency or deficiencies and inform the complainant that the complaint must be corrected within 10 days of the notice or the complaint will be dismissed without prejudice: *Provided*, That notice is not required if no contact information or mailing address is provided with the complaint.

(5) If the Secretary of State determines that a complaint is in the proper form and that the allegations, if true, establish a violation of any provision of this Chapter or Title III of the Help America Vote Act, Pub. L. 107-252, then the Secretary of State shall provide a confidential report to the State Election Commission by email or other writing that shall confirm jurisdiction, summarize the complaint including any additional information or evidence known to the secretary at the time, analyze the legal issues raised by the complaint, and recommend to either initiate an investigation formally or informally or refer the complaint to the appropriate authority.

(6) The State Election Commission shall determine whether to adopt the Secretary of State's recommendation to initiate an investigation or refer the complaint to the appropriate authority as follows:

(A) Within five business days of receipt of the report, any member of the State Election Commission may request via email or other writing to the Secretary of State or office designee to further discuss a complaint during the next State Election Commission in an executive session. At the conclusion of the discussion, the State Election Commission shall enter into public session and publicly announce its recommendation without divulging the names of any parties or witnesses or particular details of the complaint; or

(B) If no member of the State Election Commission requests to further discuss a complaint within five business days, the Secretary of State may consider the recommendation adopted and proceed with the investigation or referral.

(4) (7) The Secretary of State may consolidate complaints filed under this section and may modify an informal or formal investigation to an informal or formal investigation, as appropriate, upon discovery of sufficient facts or evidence that suggest modification would lead to an efficient resolution of the matter.

(8) Upon determination that a complaint should be investigated, whether formally or informally, the Secretary of State shall provide the respondent with:

(A) Notice that an election law complaint has been filed and the Secretary of State's jurisdiction has been confirmed;

(B) Either a copy of the complaint with the complainant's and other witnesses' information redacted, or a summary of the complaint;

(C) A summary of the facts applied to the alleged violation or violations of law; and

(D) Instructions for responding to the complaint.

(9) In an informal investigation, the Secretary of State may take all necessary actions to confirm or disprove the allegations contained in a complaint by using publicly available information and records including, but not limited to, the internet, mail pieces, photographs, and communications, and may request documents from the respondent, third parties, or other sources.

(10) In a formal investigation, the Secretary of State may submit no more than 25 written interrogatories to the respondent, conduct a formal interview with the respondent, or a combination of both written interrogatories and a formal interview with the respondent. The Secretary of State may also take additional investigative action using subpoenas or testimony obtained under oath.

(A) Interrogatory questions may request the respondent or another person to provide written statements bearing the facts, circumstances, or information relevant to the investigation. The Secretary of State may also ask the respondent or another person to produce relevant evidence and documents. The respondent or other person shall provide responses to interrogatory questions under penalty of perjury.

(B) If the Secretary of State interviews any respondent, complainant, witness, or other third party, the testimony may be taken informally or by deposition. All oral statements taken during an interview shall be provided under oath administered by the Secretary of State or his or her designee, or in the case of a deposition, by a certified court reporter.

(C) The Secretary of State may subpoena any person, book, record, communication, or other documents relevant to the investigation. The secretary shall provide the subject of the subpoena with reasonable notice of the subpoena and an opportunity to respond. By request of the secretary, if any person fails to comply with a duly served subpoena, the Attorney General may seek enforcement of the subpoena in the appropriate circuit court and serve such person a copy of the petition for the enforcement of this section.

(11) Upon completing an investigation, the Secretary of State shall submit a findings and recommendations report to the State Election Commission. The secretary may include a recommendation that the complaint be dismissed, that a letter of instruction be issued, that the complaint be forwarded to the proper authorities, or that the State Election Commission meet to consider issuing an offer of settlement.

(A) Within five business days of receipt of the report, any member of the State Election Commission may request via email or other writing to the Secretary of State or office designee to further discuss the report during the next State Election Commission in an executive session before making a final determination on the matter; or

(B) The State Election Commission shall:

(i) Direct the secretary to further investigate the complaint;

(ii) Dismiss the complaint if the facts and evidence do not support a finding of probable cause;

(iii) Issue a letter of instruction;

(iv) Refer the complaint to the proper authorities; or

(v) Take other appropriate action.

(12) If the State Election Commission finds that probable cause exists for a finding of a violation, it may issue a written offer of settlement to the respondent stating its findings and the proposed sanctions. The respondent may accept the State Election Commission's offer of settlement in writing within 10 calendar days of the issuance of the offer. If the offer is not accepted within that time frame, the State Election Commission shall either call for a public hearing or refer the complaint to the proper authorities.

(13) If the State Election Commission does not find probable cause, it shall dismiss the complaint and provide notice to all parties, and it may include a letter of instruction when the facts and other evidence indicate that such a letter is necessary and proper.

~~(5) At the request of the complainant there shall be a hearing on the record.~~

~~(6) (14) Violations of any provision of this chapter or Title III of the Help America Vote Act, Pub. L. 107-252 shall be are punishable in accordance with the provisions of article nine of this chapter.~~

(15) If requested by the secretary, the Attorney General may provide legal and investigative assistance to the Secretary of State and the State Election Commission.

(16) Upon reporting an alleged criminal violation of this article and submitting all relevant documents and records to the appropriate prosecuting authority having jurisdiction, the prosecuting authority may, upon determining that a violation has occurred, present the alleged violations to the grand jury, together with all evidence relating thereto, as soon as practicable after receiving the report. The prosecuting authority shall notify the Secretary of State if the violation was presented to the grand jury and the results therefrom.

~~(7) If, under the procedures, the Secretary of State determines that there is no violation, the Secretary of State shall dismiss the complaint and publish the results of the procedures.~~

~~(8) The Secretary of State shall make a final determination with respect to a complaint prior to the expiration of the ninety-day period which begins on the date the complaint is filed unless the complainant consents to a longer period for making a determination.~~

~~(9) If the Secretary of State fails to meet the deadline applicable under subdivision (8) of this section, the complaint shall be resolved within sixty days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.~~

~~(b) The administrative complaint procedure required by subsection (a) of this section is not applicable if, within thirty days of the filing of the complaint: (1) The Secretary of State initiates an investigation; (2) the Secretary of State determines that the allegations contained in the complaint may result in a finding of a criminal violation; and (3) the Secretary of State determines that the administrative complaint procedure required by this section would endanger or impede the~~

~~associated criminal investigation: *Provided*, That within three business days thereafter the Secretary of State shall notify the complainant in writing that the allegations contained in the complaint may result in a finding of a criminal violation and, therefore, the administrative procedure contained in this section is inapplicable~~ The Secretary of State may promulgate in accordance with §29A-3-1 *et seq.* of this code emergency and legislative rules necessary to effectuate the purposes of this section.

Senator Rucker arose to a point of order that Senator Weld's amendment to the bill was not germane to the bill (Eng. Com. Sub. for H. B. 3017).

Which point of order, the President ruled not well taken.

Following discussion,

The question being on the adoption of Senator Weld's amendment to the bill, and on this question, Senator Weld demanded the yeas and nays.

The roll being taken, the yeas were: Charnock, Clements, Deeds, Garcia, Grady, Hamilton, Jeffries, Morris, Oliverio, Phillips, Queen, Stuart, Takubo, Tarr, Weld, Woelfel, and Woodrum—17.

The nays were: Azinger, Barrett, Bartlett, Chapman, Fuller, Hart, Helton, Martin, Maynard, Roberts, Rose, Rucker, Taylor, Thorne, Willis, and Smith (Mr. President)—16.

Absent: Boley—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Weld's amendment to the bill adopted.

At the request of Senator Takubo, and by unanimous consent, the remarks by Senators Weld, Rucker, Woodrum, Willis, Garcia, and Woelfel as to the adoption of Senator Weld's amendment to Engrossed Committee Substitute for House Bill 3017 were ordered printed in the Appendix to the Journal.

The bill (Eng. Com. Sub. for H. B. 3017), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3125**, To remove restrictions from teachers receiving permanent teaching licenses.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Eng. Com. Sub. for House Bill 3152**, Claims Bill.

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

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, preceding (c) by inserting a new (c) to read as follows:

*(c) Claims against Department of Administration, General Services Division:*

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) Progressive Electric, Inc.....\$523,283.50

And,

By relettering the remaining sections.

The bill (Eng. Com. Sub. for H. B. 3152), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3166**, Requirements for School Safety Mapping Data.

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

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

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

**§18-9F-10a. Standardized school safety mapping data.**

(a) In addition to other requirements contained in this article, the Crisis Response Plan required by §18-9F-9 of this code, or the safety program required by §18-9F-10 of this code, each county board of education shall create standardized school safety mapping data that, at a minimum, requires that mapping data:

(1) Be in formats that conform to, integrate with, and are accessible within software platforms used in local public safety answering points and by the city, county, state, and federal public safety agencies that could provide emergency services at the school without requiring the purchase of additional software or payment of fees to access the data;

(2) Be in formats capable of being printed, shared electronically, and, if requested, digitally integrated into interactive mobile platforms in use;

(3) Be viewable and printable from open-source document or image viewers;

(4) Be oriented to true north and include a fixed grid with consistent "x" and "y" coordinates.

(5) Have its accuracy verified by the entity producing the data through an on-site walk-through of the school buildings and grounds;

(6) Include accurate floor plans overlaid on current, verified aerial imagery of the school campus;

(7) Include site-specific labeling for school structures, such as room names, hallway designations, exterior doors, stairwell numbers, and the locations of hazards, critical utility controls, key boxes, automated external defibrillators, and trauma kits and school grounds, including parking areas, athletic fields, surrounding roads, and neighboring properties;

(8) Include the requirement that future updates or modifications to the school mapping data conform to and integrate with software platforms used by the relevant public safety agencies; and

(9) Be created, stored, and maintained exclusively within the United States for the entire duration of the mapping process and thereafter to ensure security of the data.

(b) The school safety mapping data set forth in subsection (a) shall be provided to the state board of education, Division of Homeland Security and Emergency Management, and local first response agencies including police, fire, emergency medical services (EMS), and any other local entities the school's crisis response planning team determines should be consulted in accordance with this article. The data shall be provided at no cost beyond the initial cost of production and shall be made available to such entities permanently.

(c) Local school systems shall consult and receive approval from the primary law enforcement agency serving and supporting the district. These shall include, but are not limited to county, city, or municipal police departments, or Sheriff's Department, prior to procurement to ensure school mapping data meets the requirements in this section.

(d) Subject to available funding each county board of education may receive not greater than \$4500 per school for the purposes set out in this section.

(e) The school safety mapping requirements of this section shall be effective on September 1, 2026.

(f) Any data obtained and maintained pursuant to the provisions of this section shall not be subject to disclosure pursuant to the provisions of §29B-1-1 *et seq.* of this code.

The bill (Eng. Com. Sub. for H. B. 3166), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3179**, Funding for failing public utilities.

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

**Eng. Com. Sub. for House Bill 3279**, Relating to requirements for WVU and WVSU Board of Governors.

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

The following amendments to the bill, from the Committee on Government Organization, were reported by the Clerk, considered simultaneously, and adopted:

On page 7, section 2, lines 1 through 7, by striking out all of subsection (a) and inserting the following:

(a) The boards of Governors shall hold at least six meetings in every fiscal year, including an annual meeting each June for the purpose of electing officers.

(b) One more than half the number of voting members currently serving on an institutional board of Governors shall constitute a quorum. A quorum being present, a majority vote shall be necessary to pass upon matters properly before the institutional board of Governors.;



And,

By relettering the remaining subsection.

On motion of Senator Oliverio, the following amendments to the bill (Eng. Com. Sub. for H. B. 3279) were next reported by the Clerk and considered simultaneously:

On page 2, section 1, line 33, after the word "institution" by striking out the comma and the words "who shall serve as a nonvoting, advisory member";

On page 3, section 1, lines 35 and 36, after the word "institution" by striking out the comma and the words "who shall serve as a nonvoting, advisory member";

On page 3, section 1, lines 38 and 39, after the word "institution" by striking out the comma and the words "who shall serve as a nonvoting, advisory member";

And,

On page 3, section 1, lines 48 and 49, after the word "institution" by striking out the comma and the words "who shall serve as a nonvoting, advisory member".

Following discussion,

The question being on the adoption of Senator Oliverio's amendments to the bill, and on this question, Senator Oliverio demanded the yeas and nays.

The roll being taken, the yeas were: Bartlett, Charnock, Clements, Deeds, Garcia, Grady, Hamilton, Morris, Oliverio, Queen, Takubo, Weld, Woelfel, and Woodrum—14.

The nays were: Azinger, Barrett, Chapman, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Phillips, Roberts, Rose, Rucker, Stuart, Tarr, Taylor, Thorne, Willis, and Smith (Mr. President)—19.

Absent: Boley—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Oliverio's amendments to the bill rejected.

On motion of Senator Oliverio, the following amendment to the bill (Eng. Com. Sub. for H. B. 3279) was next reported by the Clerk:

On page 3, section 1, line 49, after the word "member" by changing the period to a colon and inserting the following proviso: *Provided*, That no later than July 1, 2027, no fewer than five of the lay members appointed shall be from each congressional district.

Following discussion,

The question being on the adoption of Senator Oliverio's amendment to the bill, and on this question, Senator Oliverio demanded the yeas and nays.

The roll being taken, the yeas were: Barrett, Bartlett, Charnock, Clements, Deeds, Garcia, Grady, Hamilton, Morris, Oliverio, Queen, Takubo, Tarr, Weld, and Woodrum—15.

The nays were: Azinger, Chapman, Fuller, Hart, Helton, Jeffries, Martin, Maynard, Phillips, Roberts, Rose, Rucker, Stuart, Taylor, Thorne, Willis, and Smith (Mr. President)—17.

Absent: Boley and Woelfel—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Oliverio's amendment to the bill rejected.

On motion of Senator Oliverio, the following amendments to the bill (Eng. Com. Sub. for H. B. 3279) were next reported by the Clerk and considered simultaneously:

On page 2, section 1, line 33, after the word "member" by inserting "and who shall be included in all discussions, board meetings and committee meetings, including both public and executive sessions; and they shall have access to all materials and information as appointed members; and be appointed to board committees.";

On page 3, section 1, lines 35 and 36, after the word "member" by adding "and who shall be included in all discussions, board meetings and committee meetings, including both public and executive sessions; and they shall have access to all materials and information as appointed members; and be appointed to board committees.";

On page 3, section 1, lines 38 and 39, after the word "member" by adding "and who shall be included in all discussions, board meetings and committee meetings, including both public and executive sessions; and they shall have access to all materials and information as appointed members; and be appointed to board committees.";

And,

On page 3, section 1, lines 48 and 49, after the word "member" by adding "and who shall be included in all discussions, board meetings and committee meetings, including both public and executive sessions; and they shall have access to all materials and information as appointed members; and be appointed to board committees."

Following discussion,

The question being on the adoption of Senator Oliverio's amendments to the bill, the same was put and did not prevail.

The bill (Eng. Com. Sub. for H. B. 3279), as amended by the Committee on Government Organization, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3342**, Firearms Industry Nondiscrimination Act.

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

**Eng. Com. Sub. for House Bill 3350**, Supplemental Appropriation - DCR - Corrections – 0608.

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

**Eng. House Bill 3361**, Supplemental Appropriation - Health, Birth to Three.

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

**Eng. Com. Sub. for House Bill 3429**, Prequalifying consultants for WVDEP- Abandon Mine Lands.

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

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

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

**ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.**

**§22-2-11. Prequalification process for consultants; project assignments.**

(a) For purposes of this section, "professional services" means engineering services provided by firms and includes those professional services of an engineering nature as well as incidental services that members of those professions and those in their employ may logically or justifiably perform.

(b) The secretary shall publish a Class II legal advertisement to solicit letters of interest for professional services used in engineering procurement. The advertisement:

(1) Shall comply with the Class II legal advertisement provisions of §59-3-1 et seq. of this code;

(2) State a time and place for submitting letters of interest and a description of the services required;

(3) Specify the secretary's right to reject any letter of interest; and

(4) Shall be published at least once in at least one daily newspaper published in the city of Charleston and in other journals or magazines as the secretary determines is advisable.

(c) The department shall evaluate any letter of interest received and generate from the letters received a list of all qualified firms, designated the "Prequalified List of Firms".

(d) Upon the department's recommendation, the Purchasing Division shall enter into a prequalification agreement with the qualified firms pursuant to §5A-3-10e of this code. The agreement shall cover the services defined in the letters of interest and have a one-year term, with an optional two-year extension if requested by the department.

(e) For all project assignments:

(1) The department shall issue an expression of interest for any project that needs to be solicited and deliver it to those prequalified firms with which the Purchasing Division has an active prequalification agreement;

(2) The department may review and consider responses only from prequalified consultants with active prequalification agreements;

(3) The department shall conduct discussions with three or more professional services firms solicited on the basis of known or submitted qualifications for the project prior to awarding a contract. If the secretary determines that special circumstances exist such that seeking competition is not practical, the department may, with the Director of Purchasing's prior approval, select a professional services firm on the basis of previous satisfactory performance and knowledge of the department's facilities and needs. After selection, the department and firm shall develop the scope of services required and negotiate a contract;

(4) The department shall notify its procurement division and the Division of Purchasing of the firm that it selected;

(5) The department shall schedule and conduct a scope of work meeting with the selected firm within 45 days of selection;

(6) Within 60 days of selection, unless an extension is requested by both parties, the department and firm shall complete cost negotiations;

(7) The department shall provide to its own procurement division and the Purchasing Division information regarding the agreed upon costs and all required forms necessary to initiate a contract; and

(8) The department may issue an advanced notice to proceed, if requested by the firm.

The bill (Eng. Com. Sub. for H. B. 3429), as amended, was then ordered to third reading.

**Eng. House Bill 3456**, Relating to the powers and duties of the Commissioner of the Division of Corrections and Rehabilitation regarding Stevens Correctional Center.

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

At the request of Senator Martin, and by unanimous consent, the Senate returned to the third order of business.

### **Executive Communications**

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



Patrick Morrisey  
Governor of West Virginia

April 8, 2025

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

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for Senate Bill No. Eight Hundred Twenty-Three (823), which was presented to me on April 2, 2025.

You will note that I have approved this bill on April 8, 2025.

Sincerely,

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

Patrick Morrisey  
Governor

PM/an

cc: The Honorable Jeff Pack, Clerk



Patrick Morrisey  
Governor of West Virginia

April 8, 2025

The Honorable Jeff Pack, Clerk  
West Virginia House of Delegates  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

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

Committee Substitute for House Bill No. Two Thousand Forty-Three (2043), which was presented to me on April 3, 2025.

House Bill No. Two Thousand Three Hundred Eighty-Seven (2387), which was presented to me on April 2, 2025.

House Bill No. Two Thousand Five Hundred Sixteen (2516), which was presented to me on April 2, 2025.

Committee Substitute for House Bill No. Three Thousand One Hundred Ninety-Two (3192), which was presented to me on April 2, 2025.

You will note that I have approved these bills on April 8, 2025.

Sincerely,

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

Patrick Morrisey  
Governor

PM/an

cc: The Honorable Lee Cassis, Clerk

The Senate again proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Concurrent Resolution 24** (originating in the Committee on Government Organization)—Requesting the Joint Committee on Government and Finance study the issues of unmatched medical students unable to gain admission into residency programs and opportunities for simultaneously addressing the shortage of medical professionals in the state of West Virginia.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Concurrent Resolution 25** (originating in the Committee on Government Organization)—Requesting the Joint Committee on Government and Finance study incentives and policies to best fund public libraries for the state of West Virginia.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Jeffries, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Eng. Com. Sub. for House Bill 2014**, Certified Microgrid Program.

And has amended same.

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

Respectfully submitted,

Glenn D. Jeffries,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2054**, Relating to liability of vendors in private farmers markets.

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

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

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

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

**Eng. Com. Sub. for H. B. 3016**, Photo voter ID.

**Eng. Com. Sub. for H. B. 3336**, Well Plugging methods.

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

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

And,

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

And reports the same back without recommendation as to passage; but with the recommendation that they be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Mike Stuart,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bills (Eng. Com. Sub. for H. 2054, Eng. Com. Sub. for H. B. 2451, Eng. H. B. 2511, Eng. H. B. 2802, Eng. Com. Sub. for H. B. 2961, Eng. Com. Sub. for H. B. 3016, Eng. Com. Sub. for H. B. 3336, Eng. Com. Sub. for H. B. 3338, Eng. H. B. 3434, and Eng. H. B. 3503) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

At the further request of Senator Martin, unanimous consent being granted, the bills were rereferred to the Committee on the Judiciary.



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

Your Committee on Health and Human Resources has had under consideration

**Eng. House Bill 2402**, Relating to providing access to medical records; providing access to a minor's medical record.

With an amendment from the Committee on Health and Human Resources pending;

And has again amended same.

Now on second reading, having been rereferred to the Committee on Health and Human Resources on April 2, 2025;

And reports the same back with the recommendation that it do pass as last amended by the Committee on Health and Human Resources.

Respectfully submitted,

Laura Wakim Chapman,  
*Chair.*

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 2528**, To permit students in Christian schools at the elementary and middle school level to participate in county level sport tournaments.

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

Respectfully submitted,

Amy N. Grady,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2528) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 2576**, NIL Protection Act.

And,

**Eng. Com. Sub. for House Bill 2595**, Non Profit Athletics Act.

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

Respectfully submitted,

Amy N. Grady,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bills (Eng. Com. Subs. for H. B. 2576 and 2595) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

**Eng. Com. Sub. for House Bill 2880**, Relating to parent resource navigators.

And has amended same.

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

Respectfully submitted,

Laura Wakim Chapman,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2880) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

**Eng. Com. Sub. for House Bill 3090**, Relating to coverage for the treatment of stuttering.

And has amended same.

And,

**Eng. House Bill 3344**, Relating to the establishment of a grant program to fund the United States Food and Drug Administration's drug development trials with ibogaine.

And has amended same.

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

Respectfully submitted,

Laura Wakim Chapman,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on Finance, with amendments from the Committee on Health and Human Resources pending.

Senator Jeffries, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Eng. Com. Sub. for House Bill 3144**, Wireless Infrastructure and Facilities Siting and Co-location.

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

Respectfully submitted,

Glenn D. Jeffries,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3144) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Jeffries, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Eng. House Bill 3187**, Relating to the West Virginia Task Force on Artificial Intelligence.

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

Respectfully submitted,

Glenn D. Jeffries,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. H. B. 3187) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Transportation and Infrastructure has had under consideration

**Eng. House Bill 3263**, Relating to providing notification of utility service disruption to its' customers.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Government Organization, with amendments from the Committee on Transportation and Infrastructure pending.

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

Your Committee on Education has had under consideration

**Eng. Com. Sub. for House Bill 3422**, Relating to requiring the State Board of Education to design, test, and deploy an internet-based reporting system to be known as the School Choice Portal.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,  
*Chair.*

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

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

Your Committee on Health and Human Resources has had under consideration

**Eng. Com. Sub. for House Bill 3444**, Relating to inflammation of the eyes of newborns.

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

Respectfully submitted,

Laura Wakim Chapman,  
*Chair.*

At the request of Senator Martin, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3444) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

**Eng. House Bill 3505**, Relating to insurance.

And has amended same.

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

Respectfully submitted,

Laura Wakim Chapman,  
*Chair.*

At the request of Senator Barrett, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

At the further request of Senator Barrett, and by unanimous consent, the bill (Eng. H. B. 3505) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

**House Concurrent Resolution 96**, Urging West Virginia's members of Congress to ask the President not to cut funding for the Local Food in Schools and Child Care nutrition.

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

Respectfully submitted,

Amy N. Grady,  
*Chair.*

The Senate proceeded to the thirteenth order of business.

The following communication was reported by the Clerk:

The Senate of West Virginia  
Charleston

LEE CASSIS  
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211  
1900 KANAWHA BLVD. EAST  
CHARLESTON, WV 25305-0800  
304-357-7800

April 8, 2025

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

Dear Governor Morrisey,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

**Com. Sub. for S. B. 199**, Relating to elementary behavior intervention and safety;

**Com. Sub. for S. B. 282**, Modifying provisions for employment of retired teachers as substitutes in areas of critical need and shortage;

**Com. Sub. for S. B. 522**, Clarifying procedure for administrative dissolution of limited liability companies by Secretary of State;

**And,**

**Com. Sub. for S. B. 525**, Clarifying procedure for administrative dissolution of nonprofit corporations by Secretary of State.

These bills are presented to you on this day, April 8, 2025.

Respectfully submitted,

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

Lee Cassis  
Clerk of the Senate

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

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was added as a co-sponsor to the following bills on April 7, 2025:

**Senate Resolution 46:** Senator Rucker.

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

On motion of Senator Martin, at 9:07 p.m., the Senate adjourned until tomorrow, Wednesday, April 9, 2025, at 11 a.m.

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## **SENATE CALENDAR**

**Wednesday, April 09, 2025  
11:00 AM**

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### **SPECIAL ORDER OF BUSINESS**

**Saturday, April 12, 2025 – 11:30 AM**

Consideration of executive nominations

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### **UNFINISHED BUSINESS**

- S. C. R. 24 - Requesting Joint Committee on Government and Finance study issues regarding admission to residency programs
- S. C. R. 25 - Requesting Joint Committee on Government and Finance study incentives and policies to fund public libraries
- S. R. 47 - Recognizing Brady Campbell as 2024 recipient of Earl S. Dillard Agent of the Year Award
- S. R. 48 - Designating April 9, 2025, as Cyberbullying Awareness and Prevention Day
- H. C. R. 96 - Urging West Virginia's members of Congress to ask the President not to cut funding for the Local Food in Schools and Child Care nutrition

### **THIRD READING**

- Eng. Com. Sub. for S. B. 300 - Budget Bill
- Eng. S. B. 937 - Supplementing and amending appropriations to Department of Economic Development (original similar to HB3509)
- Eng. Com. Sub. for Com. Sub. for H. B. 2002 - Establishing One Stop Shop Permitting Process
- Eng. Com. Sub. for Com. Sub. for H. B. 2003 - Prohibiting Cell phones in class
- Eng. Com. Sub. for H. B. 2011 - To supplement, amend, and increase an existing item of appropriation in the aforesaid accounts for the designated spending unit for expenditure during the fiscal year 2025. (original similar to SB616)
- Eng. Com. Sub. for H. B. 2026 - Budget Bill - (With right to amend)
- Eng. Com. Sub. for H. B. 2152 - Prompt Payment Act of 2025
- Eng. H. B. 2165 - Allowing disabled purple heart recipients park free at municipal metered parking spaces - (Com. title amend. pending)
- Eng. H. B. 2444 - Relating to limiting financial records of limited video lottery permittees that are subject to examination by Lottery Commission



Eng. H. B. 2484 - Clarifying the probationary period for paid municipal firefighters.

Eng. H. B. 2776 - Requiring Department of Health to report positive Alpha Gal tests to CDC - (Com. amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2797 - Relating to who may diagnose post-traumatic stress disorder as a compensable injury or disease under workers compensation (original similar to HB3341)

Eng. Com. Sub. for H. B. 2866 - Relating to fees and charges for municipality provided fire services - (Com. amend. pending) - (With right to amend)

Eng. Com. Sub. for Com. Sub. for H. B. 2889 - To permit a fairness hearing exemption to the registration requirements of the Uniform Securities Act. - (Com. title amend. pending)

Eng. H. B. 2943 - Administration of the West Virginia Hazardous Waste Management Act

Eng. Com. Sub. for H. B. 2960 - Allowing the Division of Highways to contract out snow removal to private companies on secondary roads in Monongalia and Preston counties. (original similar to SB898)

Eng. Com. Sub. for H. B. 2964 - Amending residency requirements for regional airport boards

Eng. Com. Sub. for H. B. 3012 - Relating to Lottery Money Distribution

Eng. Com. Sub. for H. B. 3017 - Compliance Audits of Tabulating Equipment

Eng. Com. Sub. for H. B. 3152 - Claims Bill

Eng. Com. Sub. for H. B. 3166 - Requirements for School Safety Mapping Data - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 3179 - Funding for failing public utilities

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

Eng. Com. Sub. for H. B. 3342 - Firearms Industry Nondiscrimination Act (original similar to SB776)

Eng. Com. Sub. for H. B. 3350 - Supplemental Appropriation - DCR - Corrections – 0608 (original similar to SB768)

Eng. H. B. 3361 - Supplemental Appropriation - Health, Birth to Three (original similar to SB791)

Eng. Com. Sub. for H. B. 3429 - Prequalifying consultants for WVDEP- Abandon Mine Lands - (Com. title amend. pending)

Eng. H. B. 3456 - Relating to the powers and duties of the Commissioner of the Division of Corrections and Rehabilitation regarding Stevens Correctional Center (original similar to SB880)

## **SECOND READING**

Eng. H. B. 2120 - Relating to forms and disclosures to the Ethics Commission - (Com. amend. pending) (original similar to SB479)

Eng. Com. Sub. for Com. Sub. for H. B. 2164 - To allow for public and private schools in West Virginia to employ security personnel. - (Com. amend. and title amend. pending)

Eng. Com. Sub. for Com. Sub. for H. B. 2167 - Relating to public charter schools code provisions - (Com. amend. pending)

Eng. H. B. 2344 - Relating generally to traffic safety - (Com. amend. and title amend. pending)

Eng. H. B. 2402 - Relating to providing access to medical records; providing access to a minor's medical record - (Com. amend. pending)

Eng. H. B. 2479 - Relating to Management and control of county authority vested in board

Eng. Com. Sub. for H. B. 2491 - Relating to conditions on holding online raffles

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

Eng. Com. Sub. for H. B. 2576 - NIL Protection Act

Eng. Com. Sub. for H. B. 2595 - Non Profit Athletics Act

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

Eng. Com. Sub. for H. B. 2755 - To provide that the West Virginia Board of Education may promulgate rules or policies to be submitted to the Legislature for review - (Com. amend. pending) (original similar to SB705)

Eng. Com. Sub. for H. B. 2880 - Relating to parent resource navigators - (Com. amend. pending)

Eng. H. B. 2942 - Administration of the West Virginia Department of Environmental Protection Design-Build Pilot Program - (com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3000 - Relating to agency changes and updates to the West Virginia Commercial Feed Law. - (Com. amend. pending)

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

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

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

Eng. H. B. 3187 - Relating to the West Virginia Task Force on Artificial Intelligence

Eng. H. B. 3272 - Relating to eviction proceedings - (Com. amend. pending)

Eng. H. B. 3274 - Relating to reports of circuit court proceedings

Eng. H. B. 3275 - Update timing for appeals

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

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

Eng. Com. Sub. for H. B. 3444 - Relating to inflammation of the eyes of newborns.

Eng. H. B. 3505 - Relating to insurance - (Com. amend. pending)

Eng. H. B. 3515 - Relating to appointment of officers of the West Virginia State Police

### **FIRST READING**

Eng. Com. Sub. for H. B. 2014 - Certified Microgrid Program - (Com. amend. and title amend. pending)

## **ANNOUNCED SENATE COMMITTEE MEETINGS**

### **Regular Session 2025**

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**Wednesday, April 9, 2025**

9:30 a.m.	Finance	(Room 451M)
9:30 a.m.	Judiciary	(Room 208W)
10:55 a.m.	Rules	(Room 219M)