

# JOURNAL of THE SENATE State of West Virginia

## **EIGHTY-FIFTH LEGISLATURE**

First Extraordinary Session, 2022

Regular Sixty-Day Session, 2022

Second Extraordinary Session, 2022

Third Extraordinary Session, 2022

Fourth Extraordinary Session, 2022

## **VOLUME III**



NOTE: The third volume continues with Journal proceedings proper (page 2285) of March 10, and concludes with the proceedings of March 12, ending with page 3458 of the Regular Session.



(c) The department shall propose a legislative rule for promulgation by July 1, 2022, to effectuate this section.

The bill (Eng. Com. Sub. for H. B. 4662), as amended, was then ordered to third reading.

**Eng. House Bill 4743**, Relating to security and surveillance requirements of medical cannabis organization facilities.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 4787**, Creating the Highly Automated Motor Vehicle Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

**CHAPTER 17H. FULLY AUTONOMOUS VEHICLE ACT.**

**ARTICLE 1. FULLY AUTONOMOUS VEHICLES.**

**§17H-1-1 Short Title.**

This article may be cited as the "Fully Autonomous Vehicle Act".

**§17H-1-2 Statement of intent and purpose.**

The Legislature finds that continuing advances in technology have improved and are expected to continue to improve the safety and operation of fully autonomous vehicles such that these vehicles should be legally permitted to be operated in West Virginia pursuant to the provisions of this act.

**§17H-1-3 Definitions.**

The following words and phrases when used in this article shall have, unless the context clearly indicates otherwise, the meanings given to them in this section.

"Automated driving system" or "ADS" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain.

"Dynamic driving task" or "DDT" means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints, and including without limitation:

(1) Lateral vehicle motion control via steering;

(2) Longitudinal motion control via acceleration and deceleration;

(3) Monitoring the driver environment via object and event detection, recognition, classification, and response preparation;

(4) Object and event response execution;

(5) Maneuver planning; and

(6) Enhanced conspicuity via lighting, signaling, and gesturing.

"DDT fallback" means the response by the person or human driver to either perform the DDT or achieve a minimal risk condition after occurrence of a DDT performance-relevant system failure or upon operational design domain exit, or the response by an automated driving system to achieve minimal risk condition given the same circumstances.

"Fully autonomous vehicle" means a motor vehicle equipped with an automated driving system (ADS) designed to function without a human driver as a level 4 or 5 system under SAE J3016.

"Human driver" means a natural person in the vehicle with a valid license to operate a motor vehicle who controls all or part of the dynamic driving task (DDT).

"Minimal risk condition" means a condition in which a person, human driver, or an ADS may bring a vehicle after performing the DDT fallback in order to reduce the risk of a crash when a given trip cannot or should not be completed.

"On-demand autonomous vehicle network" means a transportation service network that uses a software application or other digital means to dispatch or otherwise enable the pre-arrangement of transportation with fully autonomous vehicles for purposes of transporting passengers or goods, including for-hire transportation and transportation of goods or passengers for compensation.

"Operational design domain" or "ODD" means operating conditions under which a given ADS is specifically designed to function, including, but not limited to, environmental, geographical, and time-of-day restrictions, and/or the requisite presence or absence of certain traffic or roadway characteristics.

"Person" means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any legal or commercial entity.

"Platooning" means a situation when no more than three fully autonomous vehicles are traveling in concert, pursuant to a pre-determined written travel plan that identifies the vehicles and proposed route.

"Request to intervene" means notification by an ADS to a human driver, that the human driver should promptly begin or resume performance of part or all of the DDT.

"SAE J3016" means the *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles* published by the Society of Automotive Engineers (SAE) International in April, 2021.

**§17H-1-4 Construction.**

Nothing in this article shall be construed to:

(1) Prohibit a human driver from operating a fully autonomous vehicle to control all or part of the DDT;

(2) Prohibit a fully autonomous vehicle from operating without a human driver; or

(3) Prohibit a person from operating a vehicle with ADS that is not a fully autonomous vehicle on the public roads of this state.

**§17H-1-5 Operation of fully autonomous vehicles without a human driver.**

(a) A person may operate a fully autonomous vehicle on the public roads of this state without a human driver provided that the ADS is engaged and the vehicle meets the following conditions:

(1) If a failure of the ADS occurs which renders the system unable to perform the entire dynamic driving task (DDT) relevant to its intended operational design domain, the fully autonomous vehicle will achieve a minimal risk condition;

(2) The fully autonomous vehicle is capable of operating in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state when reasonable to do so, unless an exemption has been granted by the Department of Transportation; and

(3) When required by federal law, the vehicle bears the required manufacturer's certification label indicating that at the time of its manufacture it has been certified to be in compliance with all applicable Federal Motor Vehicle Safety Standards, including reference to any exemption granted by the National Highway Traffic Safety Administration.

(b) Prior to operating a fully autonomous vehicle on the public roads of this state without a human driver, a person as defined in this article shall submit a law enforcement interaction plan to the department that describes:

(1) How to communicate with a fleet support specialist who is available during the times the vehicle is in operation;

(2) How to safely remove the fully autonomous vehicle from the roadway and steps to safely tow the vehicle;

(3) How to recognize whether the fully autonomous vehicle is in autonomous mode; and

(4) Any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with the operation of the fully autonomous vehicle.

**§17H-1-6. Operation of a fully autonomous motor vehicle with an ADS by a human driver.**

(a) A person may operate a motor vehicle equipped with an ADS capable of performing the entire dynamic driving task (DDT) if:

(1) The ADS will issue a request to intervene whenever the ADS is not capable of performing the entire DDT, with the expectation that the person will respond appropriately to the request; and

(2) The ADS is capable of being operated in compliance with the applicable provisions of rules and regulations promulgated under this article, unless an exemption has been granted by the Department of Transportation or the National Highway Traffic Safety Administration.

(b) Nothing in this article prohibits or restricts a human driver from operating a fully autonomous vehicle equipped with controls that allow for the human driver to control all or part of the DDT.

**§17H-1-7 Operation of fully autonomous commercial and motor carrier vehicles.**

(a) A fully autonomous vehicle that is also a commercial vehicle under West Virginia law may operate pursuant to state laws governing the operation of commercial motor vehicles, except that any provision that by its nature reasonably applies only to a human driver does not apply to a vehicle operating with the ADS engaged.

(b) A fully autonomous vehicle that is also a motor carrier vehicle requiring a commercial driver's license pursuant to federal or state law may operate pursuant to Federal and State laws governing commercial drivers and the operation of commercial motor vehicles, except any provision which by its nature reasonably applies only to a human driver shall not apply to a fully autonomous vehicle operating with the ADS engaged. This section shall not apply to a school bus.

**§17H-1-8 Operation of an on-demand autonomous motor vehicle network.**

An on-demand autonomous motor vehicle network shall be permitted to operate pursuant to State laws governing the operation of transportation network companies, taxis, or any other ground transportation for-hire of passengers, with the exception that any provision of such laws that reasonably applies only to a human driver would not apply to the operation of fully autonomous vehicles with the ADS engaged on an on-demand autonomous vehicle network.

**§17H-1-9 Licensing, titling, and registration.**

(a) When an automated driving system (ADS) installed on a motor vehicle is engaged:

(1) The ADS is considered the driver or operator for the purpose of assessing compliance with applicable traffic or motor vehicle laws and shall be considered to satisfy electronically all physical acts required by a driver or operator of the vehicle; and

(2) The ADS is considered to be licensed to operate the vehicle.

(b) A fully autonomous vehicle shall be properly registered in accordance with the laws of this state. If a fully autonomous vehicle is registered in this state, the vehicle shall be identified on the registration as a fully autonomous vehicle. The requirements under this article relating to exhibiting a driver's license and registration card are satisfied if the license and vehicle registration card are in the fully autonomous vehicle physically or electronically, and available for inspection by a police officer.



**§17H-1-10 Insurance.**

Before operating a fully autonomous motor vehicle on public roads in this state without a human driver, a person shall submit proof of financial responsibility satisfactory to the Department of Motor Vehicles that the fully autonomous vehicle is covered by insurance or proof of self-insurance that satisfy the applicable laws of this state.

**§17H-1-11 Control.**

(a) Unless otherwise provided in this article and notwithstanding any other provision of this code, fully autonomous vehicles and automated driving systems are governed exclusively by this article. The Department of Transportation is the sole and exclusive state agency that may implement the provisions of this article.

(b) A state agency, political subdivision, municipality, or local entity may prohibit the operation of fully autonomous vehicles, ADS, or on-demand autonomous vehicle networks, or otherwise enact or keep in force rules or ordinances that would impose taxes, fees, or other requirements (including performance standards), specific to the operation of fully autonomous vehicles, ADS, or on-demand autonomous vehicle networks in addition to the requirements of this act.

**§17H-1-12 Platooning.**

(a) *General rule.* The department shall be the lead state agency on fully autonomous vehicle platooning under this section.

(b) *Platoon restrictions.* A platoon shall observe the following restrictions:

(1) A maximum of three vehicles shall be in a platoon;

(2) Vehicles in a platoon shall travel only on limited access highways or interstate highways, unless otherwise permitted by the Department or the West Virginia Division of Highways;

(3) The department or the West Virginia Division of Highways, as applicable under subdivision (2) of this subsection, may restrict movement under this section for operational or safety reasons, including, but not limited to, emergency conditions; and

(4) Consistent with applicable federal and state laws, the lead vehicle in a platoon may operate with a driver and non-lead vehicles may operate with an ADS engaged, with or without a driver.

(c) *Plan for general platoon operations.* A person may operate a platoon on a highway of this state if the person files and reviews a plan for general platoon operations with the department. The department shall review the plan in consultation with the State Police and the Division of Highways, as applicable. If the plan is not rejected by the department within 30 days after receipt of the plan, the person may operate the platoon.

(d) *Non-lead vehicles.* Non-lead vehicles in a platoon are not subject to violations of this code relating to following too closely.

(e) *Visual identifiers required.* Each vehicle in a platoon must be marked with a visual identifier. The department, after consultation with the State Police and the Division of Highways shall establish the criteria and placement of the visual identifier.

**§17H-1-13 Fully autonomous vehicles not exempt from state laws pertaining to ownership.**

Unless expressly stated in this section, fully autonomous vehicles, whether traveling individually or in a platoon, are not exempt from any other laws or rules applicable to the ownership and operation of any non-fully autonomous vehicle in this state.

**§17H-1-14 Duties following crashes involving fully autonomous vehicles.**

In the event of a crash:

(1) The fully autonomous vehicle shall remain at the scene of the accident when required by State law consistent with its capability under §17H-1-5; and

(2) The owner of the highly automated motor vehicle, or a person on behalf of the vehicle owner, shall promptly report any crashes or collisions consistent with §17C-4-1, et seq. of this code.

**§17H-1-15 Fully autonomous vehicle equipment standards.**

A fully autonomous vehicle that is designed to be operated exclusively by an ADS for all trips is not subject to motor vehicle equipment laws or rules of this state that:

(1) relate to or support motor vehicle operation by a human driver seated in the vehicle; and

(2) are not relevant for an ADS.

The bill (Eng. Com. Sub. for H. B. 4787), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4826**, Relating to e-sports.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

**ARTICLE 22D. WEST VIRGINIA LOTTERY SPORTS WAGERING ACT.**

**§29-22D-3. Definitions.**

For the purposes of this article, the following terms have the meanings ascribed to them in this section:

(1) "Adjusted gross sports wagering receipts" means an operator's gross sports wagering receipts from West Virginia Lottery sports wagering, less winnings paid to wagerers in such games.

(2) "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.

(3) "Commission" or "State Lottery Commission" means the West Virginia Lottery Commission, created by §29-22-1 *et seq.* of this code.

(4) "Director" means the Director of the West Virginia State Lottery Commission, appointed pursuant to §29-22-6 of this code.

(5) "E-sports event" means leagues, competitive circuits, tournaments, or similar competitions where individuals or teams play video games, typically for spectators, either in person or online, for the purpose of prizes, money, or entertainment.

(56) "Gaming equipment" or "sports wagering equipment" means any mechanical, electronic, or other device, mechanism, or equipment, and related supplies used or consumed in the operation of West Virginia Lottery sports wagering at a licensed gaming facility including, but not limited to, a kiosk installed to accept sports wagers.

(67) "Gaming facility" means a designated area on the premises of an existing historic resort hotel, licensed under §29-25-1 *et seq.* of this code, to operate video lottery and table games or the facility of an entity authorized to operate racetrack video lottery machines pursuant to §29-22A-1 *et seq.* of this code.

(78) "Government" means any governmental unit of a national, state, or local body exercising governmental functions, other than the United States government.

(89) "Gross sports wagering receipts" means the total gross receipts received by a licensed gaming facility from sports wagering.

(910) "License" means any license applied for or issued by the commission under this article including, but not limited to:

(A) A license to act as agent of the commission in operating West Virginia Lottery sports wagering at a licensed gaming facility (operator license or West Virginia Lottery sports wagering license);

(B) A license to supply a gaming facility licensed under this article to operate sports wagering with sports wagering equipment or services necessary for the operation of sports wagering (supplier license);

(C) A license to be employed at a racetrack or gaming facility licensed under this article to operate West Virginia Lottery sports wagering when the employee works in a designated gaming area that has sports wagering or performs duties in furtherance of or associated with the operation of sports wagering at the licensed gaming facility (occupational license); or

(D) A license to provide management services under a contract to a gaming facility licensed under this article to operate sports wagering (management services provider license).

~~(4011)~~ "Licensed gaming facility" means a designated area on the premises of an existing historic resort hotel, pursuant to §29-25-1 *et seq.* of this code, or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 *et seq.* of this code licensed under this article to conduct West Virginia Lottery sports wagering.

~~(4112)~~ "Lottery" means the public gaming systems or games regulated, controlled, owned, and operated by the State Lottery Commission in the manner provided by general law, as provided in this article, §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, §29-22C-1 *et seq.*, and §29-25-1 *et seq.* of this code.

~~(4213)~~ "National criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(~~13~~14) "Operator" means a licensed gaming facility which has elected to operate a sports pool and other authorized West Virginia Lottery sports wagering activities.

(~~14~~15) "Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event.

(~~15~~16) "Sports event" or "sporting event" means any professional sport or athletic event, any collegiate sport or athletic event, motor race event, e-sports event, or any other special event authorized by the commission under this article.

(~~16~~17) "Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering.

(~~17~~18) "Sports wagering account" means a financial record established by a licensed gaming facility for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed gaming facility may credit winnings or other amounts due to that patron or authorized by that patron.

(~~18~~19) "Sports wagering agreement" means a written agreement between the commission and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments.

(~~19~~20) "Sports wagering fund" means the special fund in the State Treasury created in §29-22D-17 of this code.

(~~20~~21) "Supplier" means a person that requires a supplier license to provide a sports wagering licensee with goods or services to be used in connection with operation of West Virginia Lottery sports wagering.

(~~21~~22) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

(~~22~~23) "West Virginia Lottery sports wagering" or "sports wagering" means the business of accepting wagers on sporting events, and other events, the individual performance statistics of athletes in a sporting event or other events, or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms that utilize communications technology to accept wagers originating within this state. The term includes, but is not limited to, exchange wagering, parlays, over-under, moneyline, pools, and straight bets. The term does not include:

(A) Pari-mutuel betting on the outcome of horse or dog races authorized by §19-23-12a and §19-23-12d of this code;

(B) Lottery games of the West Virginia State Lottery authorized by §29-22-1 *et seq.* of this code;

(C) Racetrack video lottery authorized by §29-22A-1 *et seq.* of this code;

(D) Limited video lottery authorized by §29-22B-1 *et seq.* of this code;

(E) Racetrack table games authorized by §29-22C-1 *et seq.* of this code;

(F) Video lottery and table games authorized by §29-25-1 *et seq.* of this code; and

(G) Daily Fantasy Sports (DFS).

(~~23~~24) "West Virginia Lottery sports wagering license" means authorization granted under this article by the commission to a gaming facility that is already licensed under §29-22A-1 *et seq.* or §29-25-1 *et seq.* of this code, which permits the gaming facility as an agent of the commission to operate West Virginia Lottery sports wagering in one or more designated areas or in one or more buildings owned by the licensed gaming facility on the grounds where video lottery is conducted by the licensee or through any other authorized platform developed by the gaming facility. This term is synonymous with "operator's license".

The bill (Eng. Com. Sub. for H. B. 4826), as amended, was then ordered to third reading.

**Eng. House Bill 4829**, Modifying definitions of certain school cafeteria personnel.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 4848**, Relating to nonintoxicating beer, wine and liquor licenses.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Without objection, the Senate returned to the third order of business.

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

**Eng. Senate Bill 531**, Increasing annual salaries of certain state employees.

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

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

On page two, section five, by striking out the language on lines twenty-one through page four, line seventy in its entirety and inserting in lieu thereof the following:



## "ANNUAL SALARY SCHEDULE (BASE PAY)

## SUPERVISORY AND NONSUPERVISORY RANKS

Cadet During Training	\$ <del>38,524</del>	<u>\$48,524</u>
Cadet Trooper After Training	<del>45,784</del>	<u>55,784</u>
Trooper Second Year	<del>46,796</del>	<u>56,796</u>
Trooper Third Year	<del>47,179</del>	<u>57,179</u>
Senior Trooper	<del>47,578</del>	<u>57,578</u>
Trooper First Class	<del>48,184</del>	<u>58,184</u>
Corporal	<del>48,790</del>	<u>58,790</u>
Sergeant	<del>53,091</del>	<u>63,091</u>
First Sergeant	<del>55,242</del>	<u>65,242</u>
Second Lieutenant	<del>57,392</del>	<u>67,392</u>
First Lieutenant	<del>59,543</del>	<u>69,543</u>
Captain	<del>61,694</del>	<u>71,694</u>
Major	<del>63,844</del>	<u>73,844</u>
Lieutenant Colonel	<del>65,995</del>	<u>75,995</u>

## ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST  
CLASSIFICATION

I	\$ <del>46,796</del>	<u>\$56,796</u>
II	<del>47,578</del>	<u>57,578</u>
III	<del>48,184</del>	<u>58,184</u>
IV	<del>48,790</del>	<u>58,790</u>

V	<del>53,091</del>	<u>63,091</u>
VI	<del>55,242</del>	<u>65,242</u>
VII	<del>57,392</del>	<u>67,392</u>
VIII	<del>59,543</del>	<u>69,543</u>

~~Beginning on July 1, 2021~~ Effective July 1, 2022, designated individuals within the forensic laboratory shall receive annual base salaries payable at least twice per month as follows:

ANNUAL SALARY SCHEDULE (BASE PAY)

EVIDENCE CUSTODIAN

I	<del>\$35,650</del>	<u>\$45,650</u>
II	<del>37,978</del>	<u>47,978</u>
III	<del>41,639</del>	<u>51,639</u>
IV	<del>44,666</del>	<u>54,666</u>

FORENSIC TECHNICIAN

I	<del>\$37,850</del>	<u>\$47,850</u>
II	<del>39,544</del>	<u>49,544</u>
III	<del>43,426</del>	<u>53,426</u>

FORENSIC SCIENTIST

I	<del>\$45,050</del>	<u>\$55,050</u>
II	<del>47,234</del>	<u>57,234</u>
III	<del>49,338</del>	<u>59,338</u>
IV	<del>51,737</del>	<u>61,737</u>
V	<del>55,263</del>	<u>65,263</u>
VI	<del>59,063</del>	<u>69,063</u>

## FORENSIC SCIENTIST SUPERVISOR

I	\$ <del>61,762</del>	<u>\$71,762</u>
II	<del>65,326</del>	<u>75,326</u>
III	<del>69,104</del>	<u>79,104</u>
IV	<del>73,108</del>	<u>83,108</u> ".

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

Engrossed Senate Bill 531, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 531) passed with its title.

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

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 531) takes effect July 1, 2022.

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

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

**Eng. Com. Sub. for Senate Bill 250**, Budget Bill.

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

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

On page one after the enacting clause by striking the remainder of the bill and inserting in lieu thereof the following:

#### TITLE I – GENERAL PROVISIONS.

**Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2023.

**Sec. 2. Definitions.** — For the purpose of this bill:

"Governor" shall mean the Governor of the State of West Virginia.

"Code" shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

"Spending unit" shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The "fiscal year 2023" shall mean the period from July 1, 2022, through June 30, 2023.

"General revenue fund" shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

"Special revenue funds" shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

"From collections" shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated "from collections," the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

**Sec. 3. Classification of appropriations.** — An appropriation for:

"Personal services" shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. "Personal services" shall include "annual increment" for "eligible employees" and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for "personal services" shall include salaries of heads of spending units.

"Employee benefits" shall mean social security matching, workers' compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its "unclassified" appropriation, or its "current expenses" appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

"BRIM Premiums" shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for "BRIM Premium" be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its "unclassified" appropriation, its "current expenses" appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for "BRIM Premium" such costs shall be paid by each spending unit from its "current expenses" appropriation, "unclassified" appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance

Management total insurance premium cost for their respective institutions.

"Current expenses" shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

"Equipment" shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

"Repairs and alterations" shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

"Buildings" shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

"Lands" shall mean the purchase of real property or interest in real property.

"Capital outlay" shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various

agencies of the department: *Provided, however,* That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a "personal services and employee benefits" appropriation unless the source funds are also wholly from a "personal services and employee benefits" line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further,* That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to "personal services and employee benefits," "current expenses," "repairs and alterations," "equipment," "other assets," "land," and "buildings" to other appropriations within the same account and no funds from other appropriations shall be transferred to the "personal services and employee benefits" or the "unclassified" appropriation except that during Fiscal Year 2023, and upon approval from the State Budget Office, agencies with the appropriation "Salary and Benefits of Cabinet Secretary and Agency Heads" may transfer between this appropriation and the appropriation "Personal Services and Employee Benefits" an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2023, as provided by W.V. Code §6-7-2a: *And provided further,* That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further,* That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account,



capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

**Sec. 4. Method of expenditure.** — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

**Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

## TITLE II – APPROPRIATIONS.

### ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.

- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

**Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2023.

**LEGISLATIVE**

*1 - Senate*

Fund 0165 FY 2023 Org 2100

	<b>Appropriation</b>	<b>General Revenue Fund</b>
Compensation of Members (R).....00300	\$	1,010,000
Compensation and Per Diem of Officers and Employees (R) .....00500		4,011,332

Current Expenses and Contingent Fund (R)....02100	321,392
Repairs and Alterations (R) .....06400	35,000
Technology Repair and Modernization (R)....29800	80,000
Expenses of Members (R).....39900	450,000
BRIM Premium (R) .....91300	<u>44,482</u>
Total.....	\$ 5,952,206

The appropriations for the Senate for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation

for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

*2 - House of Delegates*

Fund 0170 FY 2023 Org 2200

Compensation of Members (R).....00300	\$	3,000,000
Compensation and Per Diem of Officers and Employees (R) .....00500		575,000
Current Expenses and Contingent Fund (R) ....02100		4,399,031
Expenses of Members (R).....39900		1,350,000
Capital Outlay, Repairs and Equipment (R) ....58900		500,000
BRIM Premium (R) .....91300		<u>80,000</u>
Total.....	\$	9,904,031

The appropriations for the House of Delegates for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund

of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

*3 - Joint Expenses*

(WV Code Chapter 4)

Fund 0175 FY 2023 Org 2300

Joint Committee on Government  
and Finance (R)..... 10400 \$ 7,725,138

Legislative Printing (R).....	10500	260,000
Legislative Rule-Making		
Review Committee (R).....	10600	147,250
Legislative Computer System (R).....	10700	1,447,500
Legislative Dues and Fees (R) .....	10701	600,000
BRIM Premium (R) .....	91300	<u>60,569</u>
Total.....		\$ 10,240,457

The appropriations for the Joint Expenses for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

## JUDICIAL

### *4 - Supreme Court –*

#### *General Judicial*

#### Fund 0180 FY 2023 Org 2400

Personal Services		
and Employee Benefits (R).....	00100	\$ 124,201,587
Current Expenses (R).....	13000	21,063,451
Repairs and Alterations (R) .....	06400	40,000
Equipment (R).....	07000	2,482,300
Military Service Members Court (R) .....	09002	300,000
Judges' Retirement System (R) .....	11000	777,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	200,000
BRIM Premium (R) .....	91300	<u>834,000</u>
Total.....		\$ 149,908,338

The appropriations to the Supreme Court of Appeals for the fiscal years 2020, 2021 and 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions therefrom as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

## EXECUTIVE

### *5 - Governor's Office*

(WV Code Chapter 5)

#### Fund 0101 FY 2023 Org 0100

Personal Services and Employee Benefits ....00100	\$ 3,332,448
Current Expenses (R).....13000	799,000
Repairs and Alterations.....06400	25,000
Equipment.....07000	1,000
National Governors Association .....12300	60,700
Herbert Henderson	
Office of Minority Affairs .....13400	396,726
Community Food Program .....18500	1,000,000
Office of Resiliency (R).....18600	605,234
BRIM Premium.....91300	<u>183,645</u>
Total.....	\$ 6,403,753

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and Office of Resiliency (fund

0101, appropriation 18600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2023 Org 0100

Personal Services and Employee Benefits ....00100	\$	396,421
Current Expenses (R) .....		13000 182,158
Repairs and Alterations .....		06400 5,000
Equipment .....		07000 <u>1,000</u>
Total .....	\$	584,579

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2023 Org 0100

Milton Flood Wall (R) .....	\$	75701 3,500,000
-----------------------------	----	-----------------



Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Local Economic Development Assistance – Surplus (fund 0105, appropriation 26600), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 0105, appropriation 75799), Natural Disasters – Surplus (fund 0105, appropriation 76400), and Local Economic Development Assistance (fund 0105, appropriation 81900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.

*8 - Auditor's Office –*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$ 2,461,609
Current Expenses (R).....13000	13,429
BRIM Premium.....91300	<u>12,077</u>
Total.....	\$ 2,487,115

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

*9 - Treasurer's Office*

(WV Code Chapter 12)

Fund 0126 FY 2023 Org 1300

Personal Services and Employee Benefits....00100	\$ 2,649,270
Unclassified.....09900	31,463
Current Expenses (R).....13000	572,684
Abandoned Property Program.....11800	41,794
Other Assets.....69000	10,000
ABLE Program.....69201	150,000
BRIM Premium.....91300	<u>59,169</u>
Total.....	\$ 3,514,380

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

*10 - Department of Agriculture*

(WV Code Chapter 19)

Fund 0131 FY 2023 Org 1400

Personal Services and Employee Benefits....00100	\$ 6,559,737
Current Expenses (R).....13000	848,115
Animal Identification Program.....03900	134,060

State Farm Museum .....	05500	87,759
Gypsy Moth Program (R) .....	11900	1,051,759
WV Farmers Market .....	12801	150,467
Black Fly Control.....	13700	456,724
HEMP Program.....	13701	363,162
Donated Foods Program .....	36300	45,000
Veterans to Agriculture Program (R).....	36301	262,432
Predator Control (R) .....	47000	176,400
Bee Research.....	69100	72,752
Microbiology Program.....	78500	102,854
Moorefield Agriculture Center .....	78600	1,017,582
Chesapeake Bay Watershed.....	83000	115,453
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA Camp and Conference Center .....	94101	756,707
Threat Preparedness .....	94200	75,618
WV Food Banks.....	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program .....	97000	<u>55,835</u>
Total.....		\$ 12,906,141

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

*11 - West Virginia Conservation Agency*

(WV Code Chapter 19)

Fund 0132 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	836,549
Unclassified.....09900		77,059
Current Expenses (R).....13000		317,848
Soil Conservation Projects (R).....12000		9,962,895
BRIM Premium.....91300		<u>34,428</u>
Total.....	\$	11,228,779

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*12 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	695,260
Unclassified.....09900		7,090
Current Expenses .....13000		<u>82,605</u>
Total.....	\$	784,955

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –*

*Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2023 Org 1400

Programs and Awards for

4-H Clubs and FFA/FHA.....	57700	\$	15,000
Commissioner's Awards and Programs .....	73700		<u>39,250</u>
Total.....		\$	54,250

*14 - Department of Agriculture –*

*West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2023 Org 1400

Personal Services and Employee Benefits ....	00100	\$	102,573
Unclassified.....	09900		<u>950</u>
Total.....		\$	103,523

*15 - Attorney General*

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2023 Org 1500

Personal Services

and Employee Benefits (R).....	00100	\$	3,114,386
Unclassified (R) .....	09900		24,428
Current Expenses (R).....	13000		687,795
Repairs and Alterations.....	06400		1,000
Equipment .....	07000		1,000
Criminal Convictions			
and Habeas Corpus Appeals (R).....	26000		970,283
Better Government Bureau .....	74000		283,648

BRIM Premium.....	91300	<u>120,654</u>
Total.....		\$ 5,203,194

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

*16 - Secretary of State*

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2023 Org 1600

Personal Services and Employee Benefits ....	00100	\$ 118,794
Unclassified (R) .....	09900	8,352
Current Expenses (R) .....	13000	781,584
BRIM Premium.....	91300	<u>34,500</u>
Total.....		\$ 943,230

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

*17 - State Election Commission*

(WV Code Chapter 3)

Fund 0160 FY 2023 Org 1601

Personal Services and Employee Benefits ....00100	\$	2,477
Unclassified.....09900		75
Current Expenses .....13000		<u>4,956</u>
Total.....	\$	7,508

**DEPARTMENT OF ADMINISTRATION**

*18 - Department of Administration –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2023 Org 0201

Personal Services and Employee Benefits ....00100	\$	452,199
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		168,000
Unclassified.....09900		9,177
Current Expenses .....13000		85,009
Repairs and Alterations.....06400		100
Equipment.....07000		1,000
Financial Advisor (R) .....30400		27,546
Lease Rental Payments .....51600		14,850,000
Design-Build Board .....54000		4,000
Other Assets.....69000		100

BRIM Premium.....	91300	<u>6,736</u>
Total.....		\$ 15,603,867

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

*19 - Consolidated Public Retirement Board*

(WV Code Chapter 5)

Fund 0195 FY 2023 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2023 Org 0209

Personal Services and Employee Benefits ....00100	\$	65,453
Unclassified.....09900		1,400
Current Expenses .....13000		53,563
GAAP Project (R) .....12500		632,332
BRIM Premium.....91300		<u>20,675</u>
Total.....	\$	773,423

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the



fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2023 Org 0211

Personal Services and Employee Benefits ....00100	\$ 2,860,163
Unclassified.....09900	20,000
Current Expenses .....13000	1,148,349
Repairs and Alterations.....06400	500
Equipment.....07000	5,000
Fire Service Fee .....12600	14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds .....37100	68,000
Capital Outlay, Repairs and Equipment (R) ....58900	23,660,888
BRIM Premium.....91300	<u>129,983</u>
Total.....	\$ <u>27,906,883</u>

Any unexpended balance remaining in the appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

*22 - Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2023 Org 0213

Personal Services and Employee Benefits ....00100	\$	1,072,747
Unclassified.....09900		144
Current Expenses .....13000		1,285
Repairs and Alterations.....06400		200
BRIM Premium.....91300		<u>6,922</u>
Total.....	\$	1,081,298

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

*23 - Travel Management*

(WV Code Chapter 5A)

Fund 0615 FY 2023 Org 0215

Personal Services and Employee Benefits ....00100	\$	823,542
Unclassified.....09900		12,032
Current Expenses .....13000		440,247
Repairs and Alterations.....06400		1,000
Equipment.....07000		5,000
Buildings (R).....25800		100
Other Assets.....69000		<u>100</u>
Total.....	\$	1,282,021

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*24 - Commission on Uniform State Laws*

(WV Code Chapter 29)

Fund 0214 FY 2023 Org 0217

Current Expenses .....13000	\$	45,550
-----------------------------	----	--------

To pay expenses for members of the commission on uniform state laws.

*25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2023 Org 0219

Personal Services and Employee Benefits ....00100	\$	999,883
Unclassified.....09900		1,000
Current Expenses .....13000		145,295
Equipment.....07000		50
BRIM Premium.....91300		<u>8,740</u>
Total.....	\$	1,154,968

*26 - Ethics Commission*

(WV Code Chapter 6B)

Fund 0223 FY 2023 Org 0220

Personal Services and Employee Benefits ....00100	\$	624,669
Unclassified.....09900		2,200
Current Expenses .....13000		104,501
Repairs and Alterations.....06400		500
Other Assets.....69000		100
BRIM Premium.....91300		<u>5,574</u>
Total.....	\$	737,544

*27 - Public Defender Services*

(WV Code Chapter 29)

Fund 0226 FY 2023 Org 0221

Personal Services and Employee Benefits ....00100	\$	1,859,148
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		119,000
Unclassified.....09900		333,300
Current Expenses .....13000		12,740
Public Defender Corporations.....35200		22,155,232

Appointed Counsel Fees (R).....	78800	12,691,113
BRIM Premium.....	91300	<u>10,575</u>
Total.....		\$ 37,181,108

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

*28 - Committee for the Purchase of*

*Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2023 Org 0224

Personal Services and Employee Benefits ....	00100	\$	3,187
Current Expenses .....	13000		<u>868</u>
Total.....		\$	4,055

*29 - Public Employees Insurance Agency*

(WV Code Chapter 5)

Fund 0200 FY 2023 Org 0225

PEIA Subsidy.....	80100	\$	21,000,000
-------------------	-------	----	------------

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund

and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*30 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 0557 FY 2023 Org 0228

Forensic Medical Examinations (R) .....	68300	\$	143,697
Federal Funds/Grant Match (R) .....	74900		<u>109,007</u>
Total .....		\$	252,704

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*31 - Real Estate Division*

(WV Code Chapter 5A)

Fund 0610 FY 2023 Org 0233

Personal Services and Employee Benefits ....	00100	\$	704,366
Unclassified.....	09900		124
Current Expenses .....	13000		137,381
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
BRIM Premium.....	91300		<u>9,784</u>
Total.....		\$	854,255

**DEPARTMENT OF COMMERCE**

*32 - Division of Forestry*

## (WV Code Chapter 19)

Fund 0250 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$ 4,798,258
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	111,674
Unclassified.....09900	21,435
Current Expenses .....13000	558,024
Repairs and Alterations.....06400	80,000
BRIM Premium.....91300	<u>98,754</u>
Total.....	\$ 5,668,145

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

*33 - Geological and Economic Survey*

## (WV Code Chapter 29)

Fund 0253 FY 2023 Org 0306

Personal Services and Employee Benefits ....00100	\$ 1,645,283
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	112,753
Unclassified.....09900	27,678
Current Expenses .....13000	51,524
Repairs and Alterations.....06400	968
Mineral Mapping System (R) .....20700	1,117,464
BRIM Premium.....91300	<u>24,486</u>
Total.....	\$ 2,980,156

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the

close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

*34 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 0260 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$ 1,606,616
Current Expenses .....	13000 227,000
Repairs and Alterations.....06400	28,000
Equipment .....	07000 15,000
BRIM Premium.....91300	8,500
Total.....	\$ 1,885,116

*35 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$ 17,724,945
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201 113,188
Unclassified.....09900	184,711
Current Expenses .....	13000 196,302
Repairs and Alterations.....06400	100
Equipment .....	07000 100
Buildings (R).....25800	100
Capital Outlay – Parks (R).....28800	3,000,000
Litter Control Conservation Officers .....	56400 151,662
Upper Mud River Flood Control.....65400	166,304
Other Assets .....	69000 100
Land (R).....73000	100
Law Enforcement.....80600	2,628,555

BRIM Premium.....	91300	<u>45,141</u>
Total.....		\$ 24,211,308

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

*36 - Division of Miners' Health, Safety and Training*

(WV Code Chapter 22)

Fund 0277 FY 2023 Org 0314

Personal Services and Employee Benefits ....	00100	\$ 9,662,673
Unclassified.....	09900	111,016
Current Expenses .....	13000	1,396,141
Coal Dust and Rock Dust Sampling .....	27000	493,803
BRIM Premium.....	91300	<u>80,668</u>
Total.....		\$ 11,744,301

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

*37 - Board of Coal Mine Health and Safety*

(WV Code Chapter 22)

Fund 0280 FY 2023 Org 0319

Personal Services and Employee Benefits ....	00100	\$ 240,032
Unclassified.....	09900	3,480



Current Expenses .....	13000	<u>118,138</u>
Total.....		\$ 361,650

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

*38 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 0572 FY 2023 Org 0323

Personal Services and Employee Benefits ....00100	\$	51,433
Unclassified.....09900		593
Current Expenses .....		<u>6,447</u>
Total.....	\$	58,473

*39 - Department of Commerce –*

*Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2023 Org 0327

Personal Services and Employee Benefits ....00100	\$	1,313,774
Salary and Benefits of Cabinet Secretary and Agency Heads .....		153,750
Unclassified.....09900		1,490
Current Expenses .....		<u>353,147</u>
Total.....	\$	1,822,161

*40 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$	11,913,813
Current Expenses .....		558,815

Independent Living Services.....	00900	429,418
Workshop Development .....	16300	1,817,427
Supported Employment Extended Services..	20600	77,960
Ron Yost Personal Assistance Fund .....	40700	333,828
Employment Attendant Care Program.....	59800	131,575
BRIM Premium.....	91300	<u>77,464</u>
Total.....		\$ 15,340,300

From the above appropriation for Workshop Development (fund 0310, appropriation 16300) shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the program, services, and individuals with disabilities currently in place at those organizations.

## **DEPARTMENT OF TOURISM**

### *41 - Department of Tourism –*

#### *Office of the Secretary*

#### (WV Code Chapter 5B)

#### Fund 0246 FY 2023 Org 0304

Tourism – Brand Promotion (R) .....	61803	\$ 3,000,000
Tourism – Public Relations (R) .....	61804	1,500,000
Tourism – Events and Sponsorships (R).....	61805	500,000
Tourism – Industry Development (R).....	61806	500,000
State Parks and Recreation Advertising (R) .	61900	<u>1,500,000</u>
Total.....		\$ 7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Development Opportunity Fund (fund 0245, appropriation 11601), Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the

fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Secretary of the Department of Tourism shall have the authority to transfer between the above items of appropriation.

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

### *42 - Department of Economic Development –*

#### *Office of the Secretary*

(WV Code Chapter 5B)

#### Fund 0256 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 4,712,222
Unclassified.....09900	108,055
Current Expenses .....13000	4,715,464
National Youth Science Camp.....13200	241,570
Local Economic Development	
Partnerships (R) .....13300	1,250,000
ARC Assessment .....13600	152,585
Guaranteed Work Force Grant (R).....24200	982,630
Mainstreet Program.....79400	170,493
BRIM Premium.....91300	3,157
Hatfield McCoy Recreational Trail.....96000	<u>198,415</u>
Total.....	\$ 12,534,591

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Global Economic Development Partnership (fund 0256, appropriation 20201), and Guaranteed Work Force Grant (fund 0256, appropriation 24200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$50,000 shall be used for the Western Potomac Economic Partnership \$100,000 shall be used for

Advantage Valley, \$548,915 is for West Virginia University, and \$298,915 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The Department of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$30,000 per county served by an economic development or redevelopment corporation or authority.

**DEPARTMENT OF EDUCATION**

*43 - State Board of Education –*

*School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	360,144
Current Expenses .....13000		<u>2,118,865</u>
Total.....	\$	2,479,009

*44 - State Board of Education –*

*State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	4,719,032
Unclassified (R) .....09900		420,000
Current Expenses (R) .....13000		4,580,000
Teachers' Retirement Savings Realized .....09500		56,337,000

Center for Professional Development (R).....	11500	150,000
Increased Enrollment .....	14000	3,260,000
Safe Schools.....	14300	4,530,281
Attendance Incentive Bonus (R).....	15001	2,056,717
National Teacher Certification (R) .....	16100	300,000
Jobs & Hope –		
Childhood Drug Prevention Education...21901		5,000,000
Technology Repair and Modernization.....29800		951,003
HVAC Technicians .....	35500	529,650
Early Retirement Notification Incentive .....	36600	300,000
MATH Program .....	36800	336,532
Assessment Programs (R).....	39600	3,909,374
Benedum Professional		
Development Collaborative (R).....	42700	429,775
Governor's Honors Academy (R).....	47800	1,059,270
21st Century Fellows .....	50700	274,899
English as a Second Language.....	52800	96,000
Teacher Reimbursement .....	57300	297,188
Hospitality Training .....	60000	275,498
Youth in Government .....	61600	100,000
High Acuity Special Needs (R).....	63400	1,500,000
Foreign Student Education.....	63600	100,899
State Board of Education		
Administrative Costs .....	68400	280,429
IT Academy (R) .....	72100	500,000
Early Literacy Program.....	75600	5,711,675
School Based Truancy Prevention (R).....	78101	2,047,366
Communities in Schools (R).....	78103	4,903,026
Mastery Based Education .....	78104	125,000
Mountain State Digital Literacy Program.....	86401	415,500
21st Century Learners (R).....	88600	1,790,508
BRIM Premium.....	91300	342,859
21st Century Assessment		
and Professional Development .....	93100	2,009,701
21st Century Technology Infrastructure		
Network Tools and Support (R) .....	93300	9,764,417
Special Olympic Games.....	96600	25,000
Educational Program Allowance .....	99600	<u>516,250</u>
Total.....		\$119,944,849

The above appropriations include funding for the state board of education and their executive office.

From the above appropriation for Current Expenses (fund 0313, appropriation 13000), \$2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional Child Hunger Solutions.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Teachers' Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

From the above appropriation for Unclassified (fund 0313, appropriation 09900), \$120,000 shall be for assisting low income students with AP and CLEP exam fees.

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools.

Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for the Morgan County Board of Education for Paw Paw Schools; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge and \$66,250 is for Project Based Learning in STEM fields.

*45 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2023 Org 0402

Special Education – Counties .....	15900	\$ 7,271,757
Special Education – Institutions.....	16000	4,078,883
Education of Juveniles Held in		
Predispositional Juvenile		
Detention Centers .....	30200	683,479
Education of Institutionalized		
Juveniles and Adults (R).....	47200	<u>21,195,471</u>
Total.....		\$ <u>33,229,590</u>

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

*46 - State Board of Education –*

*State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2023 Org 0402

Other Current Expenses .....	02200	\$ 159,503,818
Advanced Placement.....	05300	594,563
Professional Educators.....	15100	904,942,470
Service Personnel.....	15200	303,757,447
Fixed Charges .....	15300	105,298,651
Transportation.....	15400	65,257,311
Improved Instructional Programs.....	15600	51,974,496
Professional Student Support Services .....	65500	61,488,888
21st Century Strategic Technology		
Learning Growth.....	93600	26,443,757
Teacher and Leader Induction.....	93601	<u>5,478,876</u>
Basic Foundation Allowances.....		1,684,740,277
Less Local Share .....		(473,697,218)
Adjustments .....		<u>(2,397,711)</u>
Total Basic State Aid .....		1,208,645,348
Public Employees' Insurance Matching .....	01200	214,702,113
Teachers' Retirement System.....	01900	73,032,069
School Building Authority (R).....	45300	24,000,000
Retirement Systems – Unfunded Liability....	77500	<u>301,401,000</u>
Total.....		\$1,821,780,530

Any unexpended balances remaining in the appropriations for School Building Authority (fund 0317, appropriation 45300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for School Building Authority (fund 0317, appropriation 45300) shall be transferred to the School Construction Fund (fund 3952).

*47 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2023 Org 0402

Personal Services and Employee Benefits....	00100	\$ 1,376,322
---	-------	--------------



Unclassified.....	09900	268,800
Current Expenses .....	13000	883,106
Wood Products –		
Forestry Vocational Program.....	14600	82,713
Albert Yanni Vocational Program .....	14700	132,123
Vocational Aid .....	14800	24,516,692
Adult Basic Education .....	14900	5,460,891
Jobs & Hope.....	14902	3,478,337
Program Modernization .....	30500	884,313
High School Equivalency		
Diploma Testing (R).....	72600	807,935
FFA Grant Awards.....	83900	11,496
Pre-Engineering Academy Program .....	84000	265,294
Total.....		<u>\$ 38,168,022</u>

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*48 - State Board of Education –*

*West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2023 Org 0403

Personal Services and Employee Benefits ....	00100	\$ 10,573,588
Unclassified (R) .....	09900	110,000
Current Expenses (R) .....	13000	2,250,696
Repairs and Alterations.....	06400	164,675
Equipment .....	07000	77,000
Buildings (R).....	25800	45,000
Capital Outlay and Maintenance (R) .....	75500	1,670,000
BRIM Premium.....	91300	<u>130,842</u>
Total.....		<u>\$ 15,021,801</u>

Any unexpended balances remaining in the appropriations for Unclassified (fund 0320, appropriation 09900), Current Expenses

(fund 0320, appropriation 13000), Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

## DEPARTMENT OF ARTS, CULTURE, AND HISTORY

### *49 - Division of Culture and History*

(WV Code Chapter 29)

Fund 0293 FY 2023 Org 0432

Personal Services and Employee Benefits ....00100	\$ 3,513,485
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	120,106
Unclassified (R) .....09900	28,483
Current Expenses .....13000	610,843
Repairs and Alterations.....06400	1,000
Equipment .....07000	1
WV Humanities Council.....16800	250,000
Buildings (R).....25800	1
Other Assets .....69000	1
Educational Enhancements .....69500	573,500
Land (R) .....73000	1
Culture and History Programming .....73200	231,573
Capital Outlay and Maintenance (R) .....75500	19,600
Historical Highway Marker Program.....84400	57,548
BRIM Premium.....91300	<u>39,337</u>
Total.....	\$ 5,445,479

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), WV Women's Suffragist Memorial (fund 0293, appropriation 22101), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500)

at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Current Expenses appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500), \$500,000 shall be used for Save the Children and \$73,500 shall be used for the Clay Center.

*50 - Library Commission*

(WV Code Chapter 10)

Fund 0296 FY 2023 Org 0433

Personal Services and Employee Benefits ....00100	\$	1,119,022
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 112,000
Current Expenses .....		13000 139,624
Repairs and Alterations.....		06400 6,500
Services to Blind & Handicapped.....		18100 161,717
BRIM Premium.....		91300 <u>18,205</u>
Total.....	\$	1,557,068

*51 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 0300 FY 2023 Org 0439

Personal Services and Employee Benefits ....00100	\$	3,274,206
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 120,106
Current Expenses .....		13000 113,844
Mountain Stage .....		24900 300,000
Capital Outlay and Maintenance (R) .....		75500 49,250

BRIM Premium.....	91300	<u>47,727</u>
Total.....		\$ 3,905,133

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### *52 - Environmental Quality Board*

(WV Code Chapter 20)

Fund 0270 FY 2023 Org 0311

Personal Services and Employee Benefits ....00100	\$	88,590
Current Expenses .....	13000	28,453
Repairs and Alterations.....	06400	800
Equipment.....	07000	500
Other Assets.....	69000	400
BRIM Premium.....	91300	<u>791</u>
Total.....	\$	119,534

### *53 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 0273 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	4,144,818
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	168,000
Current Expenses .....	13000	85,816
Water Resources Protection and Management.....	06800	583,086
Dam Safety.....	60700	245,842
West Virginia Stream Partners Program.....	63700	77,396
Meth Lab Cleanup.....	65600	91,888
WV Contributions to River Commissions ....	77600	148,485

## Office of Water Resources

Non-Enforcement Activity .....	85500	<u>1,040,868</u>
Total.....		\$ 6,586,199

*54 - Air Quality Board*

(WV Code Chapter 16)

Fund 0550 FY 2023 Org 0325

Personal Services and Employee Benefits ....	00100	\$ 60,737
Current Expenses .....	13000	11,612
Repairs and Alterations .....	06400	800
Equipment .....	07000	400
Other Assets .....	69000	200
BRIM Premium.....	91300	<u>2,304</u>
Total.....		\$ 76,053

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES***55 - Department of Health and Human Resources –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2023 Org 0501

Personal Services and Employee Benefits ....	00100	\$ 387,664
Unclassified.....	09900	6,459
Current Expenses .....	13000	50,613
Commission for the Deaf and Hard of Hearing .....	70400	<u>228,560</u>
Total.....		\$ 673,296

*56 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 13,051,133
Unclassified.....09900	671,795
Current Expenses .....13000	5,388,459
Chief Medical Examiner (R).....04500	8,887,105
State Aid for Local and	
Basic Public Health Services .....18400	15,672,592
Safe Drinking Water Program (R) .....18700	1,915,528
Women, Infants and Children .....21000	38,621
Early Intervention .....22300	8,134,060
Cancer Registry.....22500	211,359
Office of Drug Control Policy (R) .....35401	554,230
Statewide EMS Program Support (R).....38300	1,711,912
Office of Medical Cannabis (R).....42001	1,487,219
Black Lung Clinics .....46700	170,885
Vaccine for Children.....55100	341,261
Tuberculosis Control.....55300	335,307
Maternal and Child Health Clinics,	
Clinicians Medical Contracts	
and Fees (R).....57500	5,905,414
Epidemiology Support .....62600	1,530,473
Primary Care Support .....62800	1,233,045
Sexual Assault Intervention and Prevention .72300	800,000
Health Right Free Clinics.....72700	4,250,000
Capital Outlay and Maintenance (R) .....75500	70,000
Healthy Lifestyles .....77800	898,169
Maternal Mortality Review .....83400	50,841
Diabetes Education and Prevention .....87300	97,125
BRIM Premium.....91300	169,791
State Trauma and Emergency Care System..91800	1,936,450
WVU Charleston Poison Control Hotline.....94400	<u>712,942</u>
Total.....	\$ 76,225,716

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis Surplus (fund 0407,

appropriation 42099), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$1,000,000 shall be used for the administration of the Telestroke program.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

*57 - Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2023 Org 0506

Personal Services and Employee Benefits....00100 \$ 1,693,100

Current Expenses .....	13000	14,113
Behavioral Health Program (R) .....	21900	70,186,648
Institutional Facilities Operations (R).....	33500	150,992,263
Substance Abuse Continuum of Care (R).....	35400	1,840,000
Capital Outlay and Maintenance (R) .....	75500	950,000
BRIM Premium.....	91300	<u>1,296,098</u>
Total.....		\$226,972,222

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Healing Place of Huntington.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.



Additional funds have been appropriated in fund 5156, fiscal year 2023, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

*58 - Division of Health –*

*West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2023 Org 0506

West Virginia Drinking Water Treatment

Revolving Fund-Transfer.....	68900	\$	647,500
------------------------------	-------	----	---------

The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

*59 - Human Rights Commission*

(WV Code Chapter 5)

Fund 0416 FY 2023 Org 0510

Personal Services and Employee Benefits ....	00100	\$	1,003,911
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201		112,000
Unclassified.....	09900		4,024
Current Expenses .....	13000		331,304
BRIM Premium.....	91300		<u>10,764</u>
Total.....		\$	1,462,003

*60 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 56,055,526
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	45,531
Unclassified.....09900	5,688,944
Current Expenses ..... 13000	13,050,824
Child Care Development..... 14400	3,118,451
Medical Services ..... 18900	308,117,213
Social Services ..... 19500	226,056,151
Family Preservation Program ..... 19600	1,565,000
Family Resource Networks ..... 27400	1,762,464
Domestic Violence Legal Services Fund ..... 38400	400,000
James "Tiger" Morton Catastrophic Illness Fund ..... 45500	60,164
I/DD Waiver..... 46600	108,541,736
Child Protective Services Case Workers ..... 46800	32,251,148
Title XIX Waiver for Seniors..... 53300	13,593,620
WV Teaching Hospitals Tertiary/Safety Net ..... 54700	6,356,000
In-Home Family Education..... 68800	1,000,000
WV Works Separate State Program..... 69800	135,000
Child Support Enforcement ..... 70500	6,711,478
Temporary Assistance for Needy Families/ Maintenance of Effort..... 70700	25,819,096
Child Care – Maintenance of Effort Match .. 70800	5,693,743
Grants for Licensed Domestic Violence Programs and Statewide Prevention ..... 75000	2,500,000
Capital Outlay and Maintenance (R) ..... 75500	11,875
Community Based Services and Pilot Programs for Youth ..... 75900	1,000,000
Medical Services Administrative Costs ..... 78900	43,681,857
Traumatic Brain Injury Waiver..... 83500	800,000
Indigent Burials (R) ..... 85100	1,550,000
CHIP Administrative Costs..... 85601	701,815
CHIP Services..... 85602	6,390,665

BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds.....	94000	2,596,000
Children's Trust Fund – Transfer .....	95100	220,000
PATH .....	95400	<u>7,217,367</u>
Total.....		\$ 883,584,310

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

The secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

The above appropriation for James "Tiger" Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James "Tiger" Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the

WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the secretary of the Department of Health and Human Resources.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to the Children's Trust Fund (fund 5469, org 0511).

## **DEPARTMENT OF HOMELAND SECURITY**

### *61 - Department of Homeland Security –*

#### *Office of the Secretary*

(WV Code Chapter 5F)

#### Fund 0430 FY 2023 Org 0601

Personal Services and Employee Benefits ....00100	\$	780,510
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		168,000
Unclassified (R) .....09900		30,000
Current Expenses .....13000		91,636
Repairs and Alterations .....06400		500
Equipment .....07000		500

Fusion Center (R).....	46900	2,739,870
Other Assets.....	69000	500
Directed Transfer .....	70000	32,000
BRIM Premium.....	91300	22,563
WV Fire and EMS Survivor Benefit (R) .....	93900	<u>200,000</u>
Total.....		\$ 4,066,079

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (fund 6003).

*62 - Division of Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2023 Org 0606

Personal Services and Employee Benefits ....	00100	\$ 2,177,053
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	61,250
Unclassified.....	09900	21,022
Current Expenses .....	13000	51,065
Repairs and Alterations.....	06400	600
Radiological Emergency Preparedness.....	55400	17,052
SIRN .....	55401	600,000
Federal Funds/Grant Match (R) .....	74900	1,449,990
Mine and Industrial Accident Rapid Response Call Center.....	78100	489,577
Early Warning Flood System (R) .....	87700	1,290,499
BRIM Premium.....	91300	<u>96,529</u>
Total.....		\$ 6,254,637

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*63 - Division of Corrections and Rehabilitation –*

*West Virginia Parole Board*

(WV Code Chapter 62)

Fund 0440 FY 2023 Org 0608

Personal Services and Employee Benefits ....00100	\$	310,869
Unclassified.....09900		10,000
Current Expenses .....13000		334,440
Salaries of Members of West Virginia		
Parole Board .....22700		734,286
BRIM Premium.....91300		<u>6,149</u>
Total.....	\$	1,395,744

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code §5-5-1), and related employee benefits of board members.

*64 - Division of Corrections and Rehabilitation –*

*Central Office*

(WV Code Chapter 15A)

Fund 0446 FY 2023 Org 0608

Personal Services and Employee Benefits ....00100	\$	250,577
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....00201		126,000
Current Expenses .....13000		<u>2,400</u>
Total.....	\$	378,977

*65 - Division of Corrections and Rehabilitation –**Correctional Units*

(WV Code Chapter 15A)

Fund 0450 FY 2023 Org 0608

Employee Benefits .....	01000	\$ 1,258,136
Unclassified.....	09900	1,578,800
Current Expenses (R) .....	13000	57,690,483
Children's Protection Act (R).....	09000	838,437
Facilities Planning and Administration (R) ..	38600	1,274,200
Charleston Correctional Center .....	45600	3,530,502
Beckley Correctional Center.....	49000	2,633,846
Anthony Correctional Center.....	50400	6,281,339
Huttonsville Correctional Center .....	51400	19,975,709
Northern Correctional Center.....	53400	8,154,113
Inmate Medical Expenses (R) .....	53500	62,226,064
Pruntytown Correctional Center .....	54300	8,946,953
Corrections Academy.....	56900	1,983,466
Information Technology Services.....	59901	2,759,052
Martinsburg Correctional Center .....	66300	4,482,115
Parole Services.....	68600	6,023,661
Special Services .....	68700	5,894,456
Investigative Services .....	71600	3,502,991
Capital Outlay and Maintenance (R) .....	75500	2,000,000
Salem Correctional Center .....	77400	11,678,166
McDowell County Correctional Center .....	79000	2,542,590
Stevens Correctional Center.....	79100	7,863,195
Parkersburg Correctional Center.....	82800	6,418,300
St. Mary's Correctional Center.....	88100	15,081,470
Denmar Correctional Center .....	88200	5,367,552
Ohio County Correctional Center .....	88300	2,211,029
Mt. Olive Correctional Complex .....	88800	23,032,441
Lakin Correctional Center.....	89600	11,141,496
BRIM Premium.....	91300	<u>2,527,657</u>
Total.....		\$288,898,219

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections and Rehabilitation inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

*66 - Division of Corrections and Rehabilitation –*

*Bureau of Juvenile Services*

(WV Code Chapter 15A)

Fund 0570 FY 2023 Org 0608

Statewide Reporting Centers.....	26200	\$ 6,991,498
Robert L. Shell Juvenile Center .....	26700	2,649,168
Resident Medical Expenses (R) .....	53501	3,604,999
Central Office.....	70100	1,779,854
Capital Outlay and Maintenance (R) .....	75500	250,000
Gene Spadaro Juvenile Center .....	79300	2,789,569



BRIM Premium.....	91300	115,967
Kenneth Honey Rubenstein Juvenile Center (R) .....	98000	5,941,605
Vicki Douglas Juvenile Center .....	98100	2,471,185
Northern Regional Juvenile Center.....	98200	2,876,302
Lorrie Yeager Jr. Juvenile Center .....	98300	2,537,852
Sam Perdue Juvenile Center .....	98400	2,741,571
Tiger Morton Center .....	98500	2,754,083
Donald R. Kuhn Juvenile Center .....	98600	5,287,575
J.M. "Chick" Buckbee Juvenile Center.....	98700	<u>2,615,359</u>
Total.....		\$ 45,406,587

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above including statewide reporting centers and central office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

*67 - West Virginia State Police*

(WV Code Chapter 15)

Fund 0453 FY 2023 Org 0612

Personal Services and Employee Benefits ....	00100	\$ 73,886,203
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	139,300
Children's Protection Act .....	09000	1,040,805
Current Expenses .....	13000	10,384,394
Repairs and Alterations.....	06400	450,523
Trooper Class .....	52100	3,207,832

Barracks Lease Payments .....	55600	237,898
Communications and Other Equipment (R) ....	55800	1,070,968
Trooper Retirement Fund.....	60500	6,812,749
Handgun Administration Expense .....	74700	80,918
Capital Outlay and Maintenance (R) .....	75500	250,000
Retirement Systems – Unfunded Liability....	77500	35,000
Automated Fingerprint		
Identification System .....	89800	2,229,846
BRIM Premium.....	91300	<u>5,743,921</u>
Total.....		\$105,570,357

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

*68 - Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2023 Org 0619

Current Expenses .....	13000	\$	63,061
------------------------	-------	----	--------

*69 - Division of Protective Services*

(WV Code Chapter 5F)

Fund 0585 FY 2023 Org 0622

Personal Services and Employee Benefits ....	00100	\$	3,186,789
Unclassified (R) .....	09900		21,991
Current Expenses .....	13000		422,981
Repairs and Alterations.....	06400		8,500

Equipment (R).....	07000	64,171
BRIM Premium.....	91300	<u>32,602</u>
Total.....		\$ 3,737,034

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*70 - Division of Justice and Community Services*

(WV Code Chapter 15A)

Fund 0546 FY 2023 Org 0623

Personal Services and Employee Benefits ....	00100	\$ 591,795
Current Expenses (R).....	13000	233,360
Repairs and Alterations.....	06400	1,804
Child Advocacy Centers (R).....	45800	2,209,526
Community Corrections (R) .....	56100	4,599,155
Statistical Analysis Program .....	59700	50,122
Sexual Assault Forensic Examination Commission (R).....	71400	79,340
Qualitative Analysis and Training for Youth Services (R).....	76200	136,732
Law Enforcement Professional Standards ....	83800	170,172
Justice Reinvestment Initiative (R).....	89501	2,333,795
BRIM Premium.....	91300	<u>2,123</u>
Total.....		\$ 10,407,924

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0546, appropriation 13000), Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Justice Reinvestment Initiative (fund 0546, appropriation 89501) at the close of the fiscal

year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), \$100,000 shall be used for Court Appointed Special Advocates. ....

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

*71 - Division of Administrative Services*

(WV Code Chapter 15A)

Fund 0619 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$	5,155,206
Unclassified.....09900		5,000
Current Expenses .....13000		<u>600,000</u>
Total.....	\$	5,760,206

**DEPARTMENT OF REVENUE**

*72 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2023 Org 0701

Personal Services and Employee Benefits ....00100	\$	364,034
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		168,000
Unclassified.....09900		437
Current Expenses .....13000		81,594
Repairs and Alterations.....06400		1,262
Equipment .....07000		8,000
Other Assets .....69000		<u>500</u>
Total.....	\$	623,827

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*73 - Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2023 Org 0702

Personal Services		
and Employee Benefits (R).....	00100	\$ 19,043,378
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	147,000
Unclassified (R) .....	09900	174,578
Current Expenses (R) .....	13000	6,904,635
Repairs and Alterations.....	06400	10,150
Equipment .....	07000	54,850
Tax Technology Upgrade .....	09400	3,700,000
Multi State Tax Commission .....	65300	77,958
Other Assets .....	69000	10,000
BRIM Premium.....	91300	<u>15,579</u>
Total.....		\$ 30,138,128

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation 29200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*74 - State Budget Office*

(WV Code Chapter 11B)

Fund 0595 FY 2023 Org 0703

Personal Services and Employee Benefits ....	00100	\$ 819,147
Unclassified (R) .....	09900	9,200

Current Expenses (R).....	13000	119,449
Total.....		\$ 947,796

Any unexpended balances remaining in the appropriations for Unclassified (fund 0595, appropriation 09900) and Current Expenses (fund 0595, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*75 - West Virginia Office of Tax Appeals*

(WV Code Chapter 11)

Fund 0593 FY 2023 Org 0709

Personal Services and Employee Benefits ....	00100	\$ 935,715
Unclassified.....	09900	5,255
Current Expenses (R).....	13000	229,374
BRIM Premium.....	91300	<u>3,062</u>
Total.....		\$ 1,173,406

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*76 - Division of Professional and Occupational Licenses –*

*State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2023 Org 0933

Personal Services and Employee Benefits ....	00100	\$ 7,200
Current Expenses .....	13000	<u>29,611</u>
Total.....		\$ 36,811

**DEPARTMENT OF TRANSPORTATION**

*77 - State Rail Authority*

(WV Code Chapter 29)

Fund 0506 FY 2023 Org 0804

Personal Services and Employee Benefits ....00100	\$	370,704
Current Expenses .....	13000	287,707
Other Assets (R).....	69000	1,270,019
BRIM Premium.....	91300	201,541
Total.....	\$	2,129,971

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*78 - Division of Public Transit*

(WV Code Chapter 17)

Fund 0510 FY 2023 Org 0805

Equipment (R).....	07000	\$	100,000
Current Expenses (R).....	13000		2,012,989
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		50,000
Total.....		\$	2,262,989

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*79 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 0582 FY 2023 Org 0807

Personal Services and Employee Benefits ....00100	\$	229,791
Current Expenses (R).....	13000	591,839
Repairs and Alterations.....	06400	100
BRIM Premium.....	91300	4,438
Total.....	\$	826,168

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

## DEPARTMENT OF VETERANS' ASSISTANCE

### *80 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2023 Org 0613

Personal Services and Employee Benefits ....00100	\$ 2,212,090
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201 110,880
Unclassified.....	09900 20,000
Current Expenses .....	13000 245,335
Repairs and Alterations.....	06400 5,000
Veterans' Field Offices.....	22800 405,550
Veterans' Nursing Home (R).....	28600 7,103,125
Veterans' Toll Free Assistance Line .....	32800 2,015
Veterans' Reeducation Assistance (R) .....	32900 40,000
Veterans' Grant Program (R) .....	34200 560,000
Veterans' Grave Markers.....	47300 10,000
Veterans' Cemetery .....	80800 402,074
BRIM Premium.....	91300 <u>50,000</u>
Total.....	\$ 11,166,069

Any unexpended balances remaining in the appropriations for Buildings – Surplus (fund 0456, appropriation 25899), Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.



*81 - Department of Veterans' Assistance –**Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2023 Org 0618

Personal Services and Employee Benefits ....00100	\$	1,296,064
Current Expenses (R) .....	13000	46,759
Veterans Outreach Programs (R) .....	61700	<u>203,766</u>
Total .....	\$	1,546,589

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0460, appropriation 13000) and Veterans Outreach Programs (fund 0456, appropriation 61700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

**BUREAU OF SENIOR SERVICES***82 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 0420 FY 2023 Org 0508

Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....	53900	\$ 19,612,957
---	-------	---------------

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY  
AND TECHNICAL COLLEGE EDUCATION**

*83 - West Virginia Council for*

*Community and Technical College Education –*

*Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2023 Org 0420

West Virginia Council for Community and Technical Education (R) .....	39200	\$	744,232
Transit Training Partnership .....	78300		34,293
Community College Workforce Development (R) .....	87800		2,788,387
College Transition Program .....	88700		278,222
West Virginia Advance Workforce Development (R) .....	89300		3,121,387
Technical Program Development (R) .....	89400		1,800,735
WV Invests Grant Program (R) .....	89401		<u>7,037,672</u>
Total .....		\$	15,804,928

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596, appropriation 89401) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*84 - Mountwest Community and Technical College*

(WV Code Chapter 18B)

Fund 0599 FY 2023 Org 0444

Mountwest Community  
and Technical College .....48700 \$ 6,716,176

*85 - New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2023 Org 0445

New River Community  
and Technical College .....35800 \$ 6,088,539

*86 - Pierpont Community and Technical College*

(WV Code Chapter 18B)

Fund 0597 FY 2023 Org 0446

Pierpont Community  
and Technical College .....93000 \$ 8,119,152

*87 - Blue Ridge Community and Technical College*

(WV Code Chapter 18B)

Fund 0601 FY 2023 Org 0447

Blue Ridge Community  
and Technical College .....88500 \$ 8,139,835

*88 - West Virginia University at Parkersburg*

(WV Code Chapter 18B)

Fund 0351 FY 2023 Org 0464

West Virginia University – Parkersburg .....47100 \$ 10,799,686

*89 - Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2023 Org 0487

Southern West Virginia Community  
and Technical College .....44600 \$ 8,557,086

*90 - West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2023 Org 0489

West Virginia Northern Community  
and Technical College .....44700 \$ 7,580,697

*91 - Eastern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2023 Org 0492

Eastern West Virginia Community  
and Technical College .....41200 \$ 2,264,340

*92 - BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2023 Org 0493

BridgeValley Community  
and Technical College .....71700 \$ 8,364,587

**HIGHER EDUCATION POLICY COMMISSION**

*93 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2023 Org 0441

Personal Services and Employee Benefits ....00100 \$ 2,789,394  
Current Expenses .....13000 1,096,902

RHI Program and Site Support –		
RHEP Program Administration (R).....	03700	80,000
Mental Health Provider		
Loan Repayment (R).....	11301	330,000
Higher Education Grant Program .....	16400	40,619,864
Tuition Contract Program (R).....	16500	1,225,412
Underwood-Smith Scholarship		
Program-Student Awards.....	16700	628,349
Facilities Planning and Administration.....	38600	1,760,254
Higher Education System Initiatives.....	48801	1,635,847
PROMISE Scholarship – Transfer.....	80000	18,500,000
HEAPS Grant Program (R).....	86700	5,017,974
Health Professionals'		
Student Loan Program (R).....	86701	547,470
BRIM Premium.....	91300	<u>17,817</u>
Total.....		\$ 74,249,283

Any unexpended balances remaining in the appropriations for RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), Tuition Contract Program (fund 0589, appropriation 16500), Workforce Development Initiative (fund 0589, appropriation 52901), HEAPS Grant Program (fund 0589, appropriation 86700), and Health Professionals' Student Loan Program (fund 0589, appropriation 86701) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program Student Awards (fund 0589, appropriation 16700) shall

be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship-Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

*94 - West Virginia University –*

*School of Medicine*

*Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2023 Org 0463

WVU School of Health Science –

Eastern Division.....	05600	\$ 2,277,794
WVU – School of Health Sciences .....	17400	15,490,163
WVU – School of Health Sciences –		
Charleston Division .....	17500	2,351,833
Rural Health Outreach Programs (R).....	37700	165,979
West Virginia University School of		
Medicine BRIM Subsidy .....	46000	<u>1,203,087</u>
Total.....		\$ 21,488,856

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*95 - West Virginia University –*

*General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2023 Org 0463

West Virginia University .....	45900	\$ 85,166,182
Jackson's Mill (R) .....	46100	502,471
West Virginia University		
Institute of Technology .....	47900	8,320,240
State Priorities – Brownfield		
Professional Development (R) .....	53100	316,556
Energy Express (R) .....	86100	382,935
West Virginia University – Potomac State ...	99400	<u>4,709,664</u>
Total .....		\$ 99,398,048

Any unexpended balances remaining in the appropriations for Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), and Energy Express (fund 0344, appropriation 86100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*96 - Marshall University –*

*School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2023 Org 0471

Marshall Medical School .....	17300	\$ 12,772,947
Rural Health Outreach Programs (R) .....	37700	157,572
Forensic Lab (R) .....	37701	227,415
Center for Rural Health (R) .....	37702	161,043
Marshall University Medical School		
BRIM Subsidy .....	44900	<u>872,612</u>
Total .....		\$ 14,191,589

Any unexpended balances remaining in the appropriations for Rural Health Outreach Program (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*97 - Marshall University –**General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2023 Org 0471

Marshall University .....	44800	\$ 40,961,949
Luke Lee Listening Language and Learning Lab (R).....	44801	151,939
Vista E-Learning (R).....	51900	229,019
State Priorities – Brownfield Professional Development (R).....	53100	309,606
Marshall University Graduate College Writing Project (R) .....	80700	25,412
WV Autism Training Center (R) .....	93200	<u>1,869,776</u>
Total.....		\$ <u>43,547,701</u>

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*98 - West Virginia School of Osteopathic Medicine*

(WV Code Chapter 18B)

Fund 0336 FY 2023 Org 0476

West Virginia School of Osteopathic Medicine .....	17200	\$ 9,147,095
Rural Health Outreach Programs (R).....	37700	169,035
West Virginia School of Osteopathic Medicine BRIM Subsidy ....	40300	153,405
Rural Health Initiative – Medical Schools Support.....	58100	<u>403,439</u>
Total.....		\$ <u>9,872,974</u>



Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*99 - Bluefield State College*

(WV Code Chapter 18B)

Fund 0354 FY 2023 Org 0482

Bluefield State College .....40800 \$ 6,648,770

*100 - Concord University*

(WV Code Chapter 18B)

Fund 0357 FY 2023 Org 0483

Concord University .....41000 \$ 10,836,709

*101 - Fairmont State University*

(WV Code Chapter 18B)

Fund 0360 FY 2023 Org 0484

Fairmont State University .....41400 \$ 19,273,190

*102 - Glenville State College*

(WV Code Chapter 18B)

Fund 0363 FY 2023 Org 0485

Glenville State College .....42800 \$ 6,768,535

*103 - Shepherd University*

(WV Code Chapter 18B)

Fund 0366 FY 2023 Org 0486

Shepherd University .....43200 \$ 13,026,830

*104 - West Liberty University*

(WV Code Chapter 18B)

Fund 0370 FY 2023 Org 0488

West Liberty University.....43900 \$ 9,552,600

*105 - West Virginia State University*

(WV Code Chapter 18B)

Fund 0373 FY 2023 Org 0490

West Virginia State University .....44100 \$ 11,680,098

West Virginia State University

Land Grant Match.....95600 2,950,192

Total..... \$ 14,630,290

From the above appropriation for West Virginia State University (fund 0373, appropriation 44100), \$300,000 shall be for the Healthy Grandfamilies program.

*106 - Higher Education Policy Commission –**Administration -**West Virginia Network for Educational Telecomputing (WVNET)*

(WV Code Chapter 18B)

Fund 0551 FY 2023 Org 0495

WVNET .....16900 \$ 1,817,992

**MISCELLANEOUS BOARDS AND COMMISSIONS***107 - Adjutant General –**State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2023 Org 0603

Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	\$ 189,000
Unclassified (R) .....	09900	106,798
College Education Fund.....	23200	4,000,000
Civil Air Patrol.....	23400	249,664
Armory Board Transfer.....	70015	2,317,555
Mountaineer ChalleNGe Academy .....	70900	3,324,624
Military Authority (R).....	74800	6,251,727
Drug Enforcement and Support .....	74801	<u>1,532,374</u>
Total.....		\$ 17,971,742

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$3,324,624 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

*108 - Adjutant General –*

*Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2023 Org 0603

Personal Services and Employee Benefits ....	00100	\$ 100,000
Current Expenses .....	13000	<u>57,775</u>
Total.....		\$ 157,775

Total TITLE II, Section 1 – General Revenue

(Including claims against the state) ..... \$4,641,378,000

**Sec. 2. Appropriations from state road fund.** — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2023.

**DEPARTMENT OF TRANSPORTATION**

*109 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2023 Org 0802

	<b>Appropriation</b>	<b>State Road Fund</b>
Personal Services and Employee Benefits ....00100	\$ 36,894,264	
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	129,500	
Current Expenses .....13000	22,334,363	
Repairs and Alterations .....06400	144,000	
Equipment .....07000	1,080,000	
Buildings .....25800	10,000	
Other Assets .....69000	2,480,000	
BRIM Premium .....91300	<u>75,117</u>	
Total.....	\$ 63,147,244	

*110 - Division of Highways*

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2023 Org 0803

Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	\$ 200,000
Debt Service .....04000	135,500,000
Maintenance .....23700	551,081,528

Inventory Revolving .....	27500	4,000,000
Equipment Revolving .....	27600	19,400,841
General Operations .....	27700	156,842,168
Interstate Construction .....	27800	115,000,000
Other Federal Aid Programs .....	27900	345,000,000
Appalachian Programs .....	28000	100,000,000
Highway Litter Control.....	28200	<u>1,650,000</u>
Total.....		\$1,428,674,537

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

Total TITLE II, Section 2 – State Road Fund

(Including claims against the state) ..... \$1,492,255,013

**Sec. 3. Appropriations from other funds.** — From the funds designated there are hereby appropriated conditionally upon the

fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2023.

**LEGISLATIVE**

*111 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2023 Org 2300

	<b>Appropriation</b>	<b>Other Funds</b>
Personal Services and Employee Benefits ....00100	\$ 498,020	
Current Expenses .....13000	133,903	
Repairs and Alterations .....06400	1,000	
Economic Loss Claim Payment Fund .....33400	2,000,000	
Other Assets .....69000	<u>3,700</u>	
Total.....	\$ 2,636,623	

**JUDICIAL**

*112 - Supreme Court –*

*Court Advanced Technology Subscription Fund*

(WV Code Chapter 51)

Fund 1704 FY 2023 Org 2400

Current Expenses .....13000	\$ 100,000
-----------------------------	------------

*113 - Supreme Court –*

*Adult Drug Court Participation Fund*

(WV Code Chapter 62)

Fund 1705 FY 2023 Org 2400

Current Expenses .....13000	\$ 200,000
-----------------------------	------------

*114 - Supreme Court –**Family Court Fund*

(WV Code Chapter 51)

Fund 1763 FY 2023 Org 2400

Current Expenses .....	13000	\$	1,050,000
------------------------	-------	----	-----------

*115 - Supreme Court –**Court Facilities Maintenance Fund*

(WV Code Chapter 51)

Fund 1766 FY 2023 Org 2400

Current Expenses .....	13000	\$	250,000
Repairs and Alterations.....	06400		<u>250,000</u>
Total.....		\$	500,000

**EXECUTIVE***116 - Governor's Office –**Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2023 Org 0100

Personal Services and Employee Benefits ....	00100	\$	233,788
Current Expenses .....	13000		453,200
Martin Luther King, Jr. Holiday Celebration ....	03100		<u>8,926</u>
Total.....		\$	695,914

*117 - Auditor's Office –**Grant Recovery Fund*

(WV Code Chapter 12)

Fund 1205 FY 2023 Org 1200

Repairs and Alterations.....	06400	\$	2,000
Equipment.....	07000		7,000
Current Expenses .....	13000		<u>191,000</u>
Total.....		\$	200,000

*118 - Auditor's Office –*

*Land Operating Fund*

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2023 Org 1200

Personal Services and Employee Benefits ....	00100	\$	832,826
Unclassified.....	09900		15,139
Current Expenses .....	13000		715,291
Repairs and Alterations.....	06400		2,600
Equipment.....	07000		426,741
Cost of Delinquent Land Sales.....	76800		<u>1,841,168</u>
Total.....		\$	3,833,765

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*119 - Auditor's Office –*

*Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2023 Org 1200

Personal Services and Employee Benefits ....	00100	\$	639,881
Current Expenses .....	13000		282,030
Repairs and Alterations.....	06400		6,000



Equipment .....	07000	10,805
Other Assets .....	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total.....		\$ 4,488,716

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

*120 - Auditor's Office –*

*Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2023 Org 1200

Personal Services and Employee Benefits ....	00100	\$ 2,826,332
Unclassified.....	09900	31,866
Current Expenses .....	13000	1,463,830
Repairs and Alterations.....	06400	12,400
Equipment .....	07000	594,700
Other Assets.....	69000	<u>1,200,000</u>
Total.....		\$ 6,129,128

*121 - Auditor's Office –*

*Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2023 Org 1200

Current Expenses .....	13000	\$ 10,000
Other Assets.....	69000	<u>5,000</u>
Total.....		\$ 15,000

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and

Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

*122 - Auditor's Office –*

*Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$ 3,192,502
Current Expenses .....13000	2,303,622
Repairs and Alterations.....06400	5,500
Equipment.....07000	850,000
Other Assets.....69000	508,886
Statutory Revenue Distribution.....74100	<u>8,000,000</u>
Total.....	\$ 14,860,510

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Entrepreneurship and Innovation Investment Fund (fund 3014), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

*123 - Auditor's Office –*

*Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$ 3,682,850
Current Expenses .....13000	765,915
Equipment.....07000	<u>50,000</u>
Total.....	\$ 4,498,765

*124 - Auditor's Office –*

*Volunteer Fire Department Workers'  
Compensation Premium Subsidy Fund*  
(WV Code Chapters 12 and 33)

Fund 1239 FY 2023 Org 1200

## Volunteer Fire Department

Workers' Compensation Subsidy .....83200 \$ 2,500,000

*125 - Treasurer's Office –*

*College Prepaid Tuition and Savings Program*  
*Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2023 Org 1300

Personal Services and Employee Benefits ....00100	\$	830,643
Unclassified.....09900		14,000
Current Expenses .....13000		<u>1,397,559</u>
Total.....	\$	2,242,202

*126 - Treasurer's Office-**Jumpstart Savings Program Expense Fund*

(WV Code Chapter 18)

Fund 1303 FY 2023 Org 1300

Unclassified.....09900	\$	188,502
Current Expenses .....13000		<u>411,498</u>
Total.....	\$	600,000

*127 - Department of Agriculture –**Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	2,534,889
Unclassified.....09900		37,425
Current Expenses .....13000		1,856,184
Repairs and Alterations.....06400		158,500
Equipment.....07000		436,209
Other Assets.....69000		<u>10,000</u>
Total.....	\$	5,033,207

*128 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	80,974
Unclassified.....09900		10,476
Current Expenses .....13000		<u>2,200,000</u>
Total.....	\$	2,291,450

*129 - Department of Agriculture –**General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	76,415
Unclassified.....09900		2,100
Current Expenses .....13000		89,500
Repairs and Alterations.....06400		36,400
Equipment.....07000		<u>15,000</u>
Total.....	\$	219,415

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

*130 - Department of Agriculture –**Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	888,219
Unclassified.....09900		15,173
Current Expenses .....13000		1,367,464
Repairs and Alterations.....06400		388,722
Equipment.....07000		399,393
Other Assets.....69000		<u>20,000</u>
Total.....	\$	3,078,971

*131 - Department of Agriculture –**Capital Improvements Fund*

(WV Code Chapter 19)

Fund 1413 FY 2023 Org 1400

Unclassified.....09900		20,000
Current Expenses .....13000		510,000
Repairs and Alterations.....06400		250,000
Equipment.....07000		350,000
Building Improvements .....25800		670,000
Other Assets.....69000		<u>200,000</u>
Total.....	\$	2,000,000

*132 - Department of Agriculture –**Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	1,074,322
Unclassified.....09900		45,807

Current Expenses .....	13000	3,410,542
Repairs and Alterations .....	06400	128,500
Equipment .....	07000	10,000
Other Assets .....	69000	27,000
Land .....	73000	<u>250,000</u>
Total .....		\$ 4,946,171

*133 - Department of Agriculture –*

*Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2023 Org 1400

Current Expenses .....	13000	\$ 112,500
------------------------	-------	------------

*134 - Department of Agriculture –*

*West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2023 Org 1400

Current Expenses .....	13000	\$ 600,000
------------------------	-------	------------

*135 - Department of Agriculture –*

*Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)

Fund 1483 FY 2023 Org 1400

Current Expenses .....	13000	\$ 7,500
------------------------	-------	----------

*136 - Department of Agriculture –*

*State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	1,218,564
Unclassified.....09900		17,000
Current Expenses .....13000		1,143,306
Repairs and Alterations.....06400		82,500
Equipment.....07000		76,000
Buildings.....25800		1,000
Other Assets.....69000		10,000
Land.....73000		<u>1,000</u>
Total.....	\$	2,549,370

*137 - Attorney General –*

*Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2023 Org 1500

Personal Services and Employee Benefits ....00100	\$	363,466
Current Expenses .....13000		148,803
Repairs and Alterations.....06400		1,000
Equipment.....07000		<u>1,000</u>
Total.....	\$	514,269

*138 - Attorney General –*

*Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2023 Org 1500

Personal Services and Employee Benefits ....00100	\$	228,620
Current Expenses .....13000		54,615
Repairs and Alterations.....06400		1,000
Equipment.....07000		<u>1,000</u>
Total.....	\$	285,235

*139 - Attorney General –*

*Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2023 Org 1500

Current Expenses ..... 13000 \$ 901,135

*140 - Secretary of State –*

*Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2023 Org 1600

Personal Services and Employee Benefits ....00100	\$ 1,110,490
Unclassified.....09900	4,524
Current Expenses ..... 13000	<u>8,036</u>
Total.....	\$ 1,123,050

*141 - Secretary of State –*

*General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2023 Org 1600

Personal Services and Employee Benefits ....00100	\$ 3,041,423
Unclassified.....09900	25,529
Current Expenses ..... 13000	976,716
Technology Improvements .....59900	<u>870,000</u>
Total.....	\$ 4,913,668

**DEPARTMENT OF ADMINISTRATION**

*142 - Department of Administration –*

*Office of the Secretary –*

*Tobacco Settlement Fund*

(WV Code Chapter 4)



Fund 2041 FY 2023 Org 0201

## Tobacco Settlement Securitization

Trustee Pass Thru .....	65000	\$ 80,000,000
-------------------------	-------	---------------

*143 - Department of Administration –**Office of the Secretary –**Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2023 Org 0201

Current Expenses .....	13000	\$ 56,337,000
------------------------	-------	---------------

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers' Accumulation Fund (fund 2600).

*144 - Department of Administration –**Division of Finance –**Shared Services Section Fund*

(WV Code Chapter 5A)

Fund 2020 FY 2023 Org 0209

Personal Services and Employee Benefits ....00100		\$ 1,545,384
Current Expenses .....	13000	<u>500,000</u>
Total .....		\$ 2,045,384

*145 - Division of Information Services and Communications*

(WV Code Chapter 5A)

Fund 2220 FY 2023 Org 0210

Personal Services and Employee Benefits ....00100		\$ 23,052,937
---	--	---------------

Unclassified.....	09900	344,119
Current Expenses .....	13000	13,418,001
Equipment .....	07000	2,050,000
Other Assets .....	69000	<u>1,045,000</u>
Total.....		\$ 39,910,057

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

*146 - Division of Purchasing –*

*Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2023 Org 0213

Personal Services and Employee Benefits ....	00100	\$ 579,296
Current Expenses .....	13000	9,115
BRIM Premium.....	91300	<u>810</u>
Total.....		\$ 589,221

*147 - Division of Purchasing –*

*Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2023 Org 0213

Personal Services and Employee Benefits ....	00100	\$ 992,206
Unclassified.....	09900	5,562
Current Expenses .....	13000	492,066
Repairs and Alterations.....	06400	500
Equipment .....	07000	500

Other Assets.....	69000	500
BRIM Premium.....	91300	<u>850</u>
Total.....		\$ 1,492,184

*148 - Travel Management –*

*Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2023 Org 0215

Unclassified.....	09900	\$ 1,000
Current Expenses .....	13000	149,700
Repairs and Alterations.....	06400	1,275,237
Equipment.....	07000	1,000
Buildings.....	25800	100
Other Assets.....	69000	100
Land .....	73000	<u>100</u>
Total.....		\$ 1,427,237

*149 - Fleet Management Division Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2023 Org 0216

Personal Services and Employee Benefits ....	00100	\$ 784,375
Unclassified.....	09900	4,000
Current Expenses .....	13000	11,630,614
Repairs and Alterations.....	06400	12,000
Equipment.....	07000	800,000
Other Assets.....	69000	<u>2,000</u>
Total.....		\$ 13,232,989

*150 - Division of Personnel*

(WV Code Chapter 29)

Fund 2440 FY 2023 Org 0222

Personal Services and Employee Benefits ....	00100	\$ 4,781,898
--	-------	--------------

Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	122,500
Unclassified.....	09900	51,418
Current Expenses .....	13000	1,262,813
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	20,000
Other Assets.....	69000	60,000
Total.....		<u>\$ 6,303,629</u>

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

*151 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 2521 FY 2023 Org 0228

Personal Services and Employee Benefits ....	00100	\$ 136,097
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	119,000
Unclassified.....	09900	4,023
Current Expenses .....	13000	297,528
Repairs and Alterations.....	06400	600
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 558,248</u>

*152 - Office of Technology –*

*Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2023 Org 0231

Personal Services and Employee Benefits ....	00100	\$ 454,411
Unclassified.....	09900	6,949
Current Expenses .....	13000	196,504
Repairs and Alterations.....	06400	1,000

Equipment .....	07000	50,000
Other Assets .....	69000	<u>10,000</u>
Total .....		\$ 718,864

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

## DEPARTMENT OF COMMERCE

### *153 - Division of Forestry*

(WV Code Chapter 19)

Fund 3081 FY 2023 Org 0305

Personal Services and Employee Benefits ....	00100	\$ 382,137
Current Expenses .....	13000	282,202
Repairs and Alterations .....	06400	53,000
Equipment .....	07000	300,000
Total .....		\$ 1,017,339

### *154 - Division of Forestry –*

#### *Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2023 Org 0305

Personal Services and Employee Benefits ....	00100	\$ 248,321
Current Expenses .....	13000	87,036
Repairs and Alterations .....	06400	<u>11,250</u>
Total .....		\$ 346,607

### *155 - Division of Forestry –*

#### *Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$	559,626
Current Expenses .....13000		<u>117,466</u>
Total.....	\$	677,092

*156 - Geological and Economic Survey –*

*Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2023 Org 0306

Personal Services and Employee Benefits ....00100	\$	37,966
Unclassified.....09900		2,182
Current Expenses .....13000		141,631
Repairs and Alterations.....06400		50,000
Equipment.....07000		20,000
Other Assets.....69000		<u>10,000</u>
Total.....	\$	261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

*157 - Division of Labor –*

*West Virginia Jobs Act Fund*

(WV Code Chapter 21)

Fund 3176 FY 2023 Org 0308

Current Expenses .....13000		75,000
Equipment.....07000		<u>25,000</u>
Total.....	\$	100,000

*158 - Division of Labor –*

*HVAC Fund*

(WV Code Chapter 21)

Fund 3186 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	367,925
Unclassified.....09900		4,000
Current Expenses .....		82,000
Repairs and Alterations.....06400		4,500
Buildings.....25800		1,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	467,925

*159 - Division of Labor –*

*Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	304,756
Salary and Benefits of Cabinet Secretary and Agency Heads .....		104,180
Unclassified.....09900		2,261
Current Expenses .....		94,712
Repairs and Alterations.....06400		2,000
Buildings.....25800		1,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	517,409

*160 - Division of Labor –*

*Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	80,742
Unclassified.....09900		1,000
Current Expenses .....		20,000
Repairs and Alterations.....06400		2,000
Buildings.....25800		1,000
BRIM Premium.....91300		<u>1,000</u>
Total.....	\$	105,742

*161 - Division of Labor –**Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	196,226
Unclassified.....09900		1,380
Current Expenses .....13000		51,265
Repairs and Alterations.....06400		1,500
Buildings .....25800		1,000
BRIM Premium.....91300		7,000
Total.....	\$	258,371

*162 - Division of Labor –**Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	192,424
Unclassified.....09900		1,281
Current Expenses .....13000		44,520
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		8,500
Total.....	\$	249,725

*163 - Division of Labor –**State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	294,645
Unclassified.....09900		1,847



Current Expenses .....	13000	43,700
Repairs and Alterations .....	06400	1,000
Buildings .....	25800	1,000
BRIM Premium.....	91300	<u>3,404</u>
Total.....		\$ 345,596

*164 - Division of Labor –*

*Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2023 Org 0308

Unclassified.....	09900	\$ 1,200
Current Expenses .....	13000	93,000
Repairs and Alterations .....	06400	10,000
Equipment .....	07000	10,000
BRIM Premium.....	91300	<u>7,000</u>
Total.....		\$ 121,200

*165 - Division of Labor –*

*Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2023 Org 0308

Personal Services and Employee Benefits ....	00100	\$ 152,270
Unclassified.....	09900	2,000
Current Expenses .....	13000	145,400
Repairs and Alterations .....	06400	2,000
Buildings .....	25800	1,000
BRIM Premium.....	91300	<u>8,700</u>
Total.....		\$ 311,370

*166 - Division of Labor –*

*Psychophysiological Examiners Fund*

(WV Code Chapter 21)

Fund 3199 FY 2023 Org 0308

Current Expenses .....	13000	\$	4,000
------------------------	-------	----	-------

*167 - Division of Natural Resources –**License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2023 Org 0310

Wildlife Resources.....	02300	\$	9,759,535
Administration .....	15500		2,405,642
Capital Improvements and Land Purchase (R).....	24800		2,410,936
Law Enforcement.....	80600		<u>9,787,279</u>
Total.....		\$	24,363,392

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*168 - Division of Natural Resources –**Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2023 Org 0310

Current Expenses .....	13000	\$	125,000
------------------------	-------	----	---------

*169 - Division of Natural Resources –**Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$	694,154
Current Expenses .....13000		201,810
Equipment .....07000		<u>106,615</u>
Total .....	\$	1,002,579

*170 - Division of Natural Resources –*

*Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$	467,117
Current Expenses .....13000		1,056,876
Repairs and Alterations .....06400		15,016
Equipment .....07000		8,300
Buildings .....25800		8,300
Other Assets .....69000		1,900,000
Land .....73000		<u>31,700</u>
Total .....	\$	3,487,309

*171 - Division of Natural Resources –*

*State Parks and Recreation Endowment Fund*

(WV Code Chapter 20)

Fund 3211 FY 2023 Org 0310

Current Expenses .....13000	\$	6,000
Repairs and Alterations .....06400		3,000
Equipment .....07000		2,000
Buildings .....25800		3,000
Other Assets .....69000		4,000
Land .....73000		<u>2,000</u>
Total .....	\$	20,000

*172 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$	70,667
Current Expenses .....13000		64,778
Equipment .....07000		1,297
Buildings .....25800		<u>6,969</u>
Total.....	\$	143,711

*173 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2023 Org 0310

Unclassified.....09900	\$	200
Current Expenses .....13000		<u>19,800</u>
Total.....	\$	20,000

*174 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2023 Org 0314

Personal Services and Employee Benefits ....00100	\$	516,356
Unclassified.....09900		40,985
Current Expenses .....13000		1,954,557
WV Mining Extension Service .....02600		150,000
Buildings .....25800		2,481,358
Land .....73000		<u>1,000,000</u>
Total.....	\$	6,143,256

*175 - Department of Commerce –**Office of the Secretary –**Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2023 Org 0327

Personal Services and Employee Benefits ....00100	\$	2,148,018
Unclassified.....09900		30,000
Current Expenses .....13000		1,315,078
Equipment .....07000		<u>36,000</u>
Total.....	\$	3,529,096

*176 - Department of Commerce –**Office of the Secretary –**Broadband Enhancement Fund*

(WV Code Chapter 31G)

Fund 3013 FY 2023 Org 0327

Personal Services and Employee Benefits ....00100	\$	131,682
Current Expenses .....13000		<u>1,648,318</u>
Total.....	\$	1,780,000

*177 - State Board of Rehabilitation –**Division of Rehabilitation Services –**West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$	119,738
Current Expenses .....13000		1,180,122
Repairs and Alterations.....06400		85,500

Equipment .....	07000	220,000
Buildings .....	25800	150,000
Other Assets .....	69000	<u>150,000</u>
Total .....		\$ 1,905,360

**DEPARTMENT OF ECONOMIC DEVELOPMENT**

*178 - Department of Economic Development –*

*Office of Energy –*

*Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2023 Org 0307

Energy Assistance - Total .....	64700	\$ 7,211
---------------------------------	-------	----------

*179 - Department of Economic Development –*

*Office of the Secretary –*

*Entrepreneurship and Innovation Investment Fund*

(WV Code Chapter 5B)

Fund 3014 FY 2023 Org 0307

Entrepreneurship and Innovation Investment Fund .....	70301	\$ 1,500,000
--	-------	--------------

*180 - Department of Economic Development –*

*Office of the Secretary –*

*Broadband Development Fund*

(WV Code Chapter 31G)

Fund 3034 FY 2023 Org 0307

Personal Services and Employee Benefits ....	00100	\$ 647,075
Unclassified.....	09900	2,000,000

Current Expenses .....	13000	<u>235,302,925</u>
Total .....		\$ 237,950,000

*181 - Department of Economic Development –*

*Office of the Secretary –*

*Office of Coalfield Community Development*

(WV Code Chapter 5B)

Fund 3162 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	438,687
Unclassified.....09900		8,300
Current Expenses .....		<u>399,191</u>
Total .....	\$	846,178

**DEPARTMENT OF EDUCATION**

*182 - State Board of Education –*

*Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	35,000
Unclassified.....09900		26,000
Current Expenses .....		<u>2,539,000</u>
Total .....	\$	2,600,000

*183 - School Building Authority –*

*School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2023 Org 0404

SBA Construction Grants .....	24000	\$ 59,845,818
Directed Transfer .....	70000	<u>1,371,182</u>
Total .....		\$ 61,217,000

The above appropriation for Directed Transfer (fund 3952, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

*184 - School Building Authority*

(WV Code Chapter 18)

Fund 3959 FY 2023 Org 0404

Personal Services and Employee Benefits ....00100	\$	1,171,429
Current Expenses .....	13000	244,195
Repairs and Alterations.....	06400	13,150
Equipment.....	07000	<u>26,000</u>
Total.....	\$	1,454,774

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*185 - Division of Culture and History –*

*Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2023 Org 0432

Personal Services and Employee Benefits ....00100	\$	235,943
Current Expenses .....	13000	862,241
Equipment.....	07000	75,000
Buildings.....	25800	1,000
Other Assets.....	69000	52,328
Land .....	73000	<u>1,000</u>
Total.....	\$	1,227,512

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*186 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2023 Org 0312



Personal Services and Employee Benefits ....00100	\$	869,535
Current Expenses .....	13000	2,060,457
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Other Assets.....	69000	4,403
Total.....	\$	2,940,395

*187 - Division of Environmental Protection –*

*Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	805,575
Unclassified.....	09900	8,072
Current Expenses .....	13000	155,969
Repairs and Alterations.....	06400	500
Equipment.....	07000	1,505
Other Assets.....	69000	2,000
Total.....	\$	973,621

*188 - Division of Environmental Protection –*

*Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	806,186
Unclassified.....	09900	14,647
Current Expenses .....	13000	876,863
Repairs and Alterations.....	06400	13,000
Equipment.....	07000	53,105
Other Assets.....	69000	20,000
Total.....	\$	1,783,801

*189 - Division of Environmental Protection –*

*Special Reclamation Fund*

## (WV Code Chapter 22)

Fund 3321 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	1,678,252
Current Expenses .....	13000	16,185,006
Repairs and Alterations .....	06400	79,950
Equipment .....	07000	130,192
Other Assets .....	69000	<u>32,000</u>
Total .....		\$ 18,105,400

*190 - Division of Environmental Protection –**Oil and Gas Reclamation Fund*

## (WV Code Chapter 22)

Fund 3322 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	549,957
Current Expenses .....	13000	<u>1,956,094</u>
Total .....		\$ 2,506,051

*191 - Division of Environmental Protection –**Oil and Gas Operating Permit and Processing Fund*

## (WV Code Chapter 22)

Fund 3323 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	2,187,791
Unclassified.....	09900	15,700
Current Expenses .....	13000	932,300
Repairs and Alterations .....	06400	9,500
Equipment .....	07000	500
Other Assets .....	69000	<u>500</u>
Total .....		\$ 3,146,291

*192 - Division of Environmental Protection –**Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	3,635,868
Unclassified.....09900		920
Current Expenses .....13000		2,202,231
Repairs and Alterations.....06400		60,260
Equipment.....07000		83,000
Other Assets.....69000		<u>57,500</u>
Total.....	\$	6,039,779

*193 - Division of Environmental Protection –**Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	486,251
Unclassified.....09900		7,520
Current Expenses .....13000		318,420
Repairs and Alterations.....06400		5,350
Equipment.....07000		3,610
Other Assets.....69000		<u>3,500</u>
Total.....	\$	824,651

*194 - Division of Environmental Protection –**Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	614,039
Unclassified.....09900		10,616
Current Expenses .....13000		767,905
Repairs and Alterations.....06400		7,014

Equipment .....	07000	9,000
Other Assets .....	69000	<u>3,500</u>
Total .....		\$ 1,412,074

*195 - Division of Environmental Protection –*

*Solid Waste Reclamation and*

*Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2023 Org 0313

Personal Services and Employee Benefits ....	00100	\$ 849,562
Unclassified.....	09900	22,900
Current Expenses .....	13000	3,604,737
Repairs and Alterations .....	06400	25,000
Equipment .....	07000	31,500
Buildings .....	25800	500
Other Assets .....	69000	<u>1,000</u>
Total .....		\$ 4,535,199

*196 - Division of Environmental Protection –*

*Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2023 Org 0313

Personal Services and Employee Benefits ....	00100	\$ 3,362,824
Unclassified.....	09900	31,145
Current Expenses .....	13000	940,229
Repairs and Alterations .....	06400	30,930
Equipment .....	07000	23,356
Other Assets .....	69000	<u>25,554</u>
Total .....		\$ 4,414,038

*197 - Division of Environmental Protection –*

*Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	6,112,158
Unclassified.....09900		70,572
Current Expenses .....13000		1,469,467
Repairs and Alterations.....06400		84,045
Equipment.....07000		103,601
Other Assets.....69000		<u>52,951</u>
Total.....	\$	7,892,794

*198 - Division of Environmental Protection –**Environmental Laboratory**Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	364,936
Unclassified.....09900		1,120
Current Expenses .....13000		201,146
Repairs and Alterations.....06400		1,000
Other Assets.....69000		<u>163,000</u>
Total.....	\$	731,202

*199 - Division of Environmental Protection –**Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2023 Org 0313

Current Expenses .....13000	\$	5,182,076
-----------------------------	----	-----------

*200 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2023 Org 0313

Current Expenses .....	13000	\$	60,000
------------------------	-------	----	--------

*201 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100		\$	680,241
Unclassified.....09900			400
Current Expenses .....	13000		2,754,258
Repairs and Alterations.....06400			800
Equipment.....07000			500
Other Assets.....69000			<u>2,500</u>
Total.....		\$	<u>3,438,699</u>

*202 - Division of Environmental Protection –**Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100		\$	1,120,989
Unclassified.....09900			1,180
Current Expenses .....	13000		589,834
Repairs and Alterations.....06400			27,612
Equipment.....07000			23,500
Other Assets.....69000			<u>11,520</u>
Total.....		\$	<u>1,774,635</u>

*203 - Oil and Gas Conservation Commission –**Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2023 Org 0315

Personal Services and Employee Benefits ....00100	\$	165,187
Current Expenses .....		13000 161,225
Repairs and Alterations .....		06400 1,000
Equipment .....		07000 9,481
Other Assets .....		69000 1,500
Total .....	\$	338,393

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES***204 - Division of Health –**Ryan Brown Addiction Prevention and Recovery Fund*

(WV Code Chapter 19)

Fund 5111 FY 2023 Org 0506

Current Expenses .....	13000	\$ 10,667,392
------------------------	-------	---------------

*205 - Division of Health –**The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	1,097,919
Unclassified.....		09900 15,500
Current Expenses .....		13000 3,557,788
Total .....	\$	4,671,207

*206 - Division of Health –**Hospital Services Revenue Account**Special Fund**Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2023 Org 0506

Institutional Facilities Operations .....	33500	\$ 44,555,221
Medical Services Trust Fund – Transfer .....	51200	<u>27,800,000</u>
Total .....		\$ 72,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2023, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

*207 - Division of Health –*

*Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 985,121
Unclassified .....	09900	18,114
Current Expenses .....	13000	<u>2,209,105</u>
Total .....		\$ 3,212,340

*208 - Division of Health –*

*The Health Facility Licensing Account*



(WV Code Chapter 16)

Fund 5172 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	669,651
Unclassified.....09900		7,113
Current Expenses .....13000		<u>98,247</u>
Total.....	\$	775,011

*209 - Division of Health –*

*Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2023 Org 0506

Current Expenses .....13000	\$	9,740
-----------------------------	----	-------

*210 - Division of Health –*

*Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	19,100
Unclassified.....09900		373
Current Expenses .....13000		<u>17,875</u>
Total.....	\$	37,348

*211 - Division of Health –*

*West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	719,208
Unclassified.....09900		223,999
Current Expenses .....13000		<u>30,134,400</u>
Total.....	\$	31,077,607

*212 - Division of Health –**Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2023 Org 0506

Current Expenses .....	13000	\$	7,579
------------------------	-------	----	-------

*213 - Division of Health –**Medical Cannabis Program Fund*

(WV Code Chapter 16A)

Fund 5420 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100		\$	509,658
Current Expenses .....	13000		<u>2,046,040</u>
Total .....		\$	2,555,698

*214 - West Virginia Health Care Authority –**Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2023 Org 0507

Personal Services and Employee Benefits ....00100		\$	1,348,406
Unclassified.....09900			20,100
Current Expenses .....	13000		<u>785,445</u>
Total .....		\$	2,153,951

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

*215 - West Virginia Health Care Authority –**Certificate of Need Program Fund*

(WV Code Chapter 16)

Fund 5377 FY 2023 Org 0507

Personal Services and Employee Benefits ....00100	\$	844,926
Current Expenses .....		<u>474,967</u>
Total.....	\$	1,319,893

*216 - Division of Human Services –**Health Care Provider Tax –**Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2023 Org 0511

Medical Services.....	18900	\$393,594,315
Medical Services Administrative Costs .....	78900	<u>251,273</u>
Total.....		\$393,845,588

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*217 - Division of Human Services –**Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$	24,809,509
Unclassified.....		380,000
Current Expenses .....	13000	<u>12,810,491</u>
Total.....	\$	38,000,000

218 - Division of Human Services –

Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2023 Org 0511

Medical Services.....	18900	\$ 77,500,000
Medical Services Administrative Costs .....	78900	<u>646,750</u>
Total.....		\$ 78,146,750

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

219 - Division of Human Services –

James "Tiger" Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2023 Org 0511

Unclassified.....	09900	\$ 7,000
Current Expenses .....	13000	<u>393,000</u>
Total.....		\$ 400,000

220 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2023 Org 0511

Current Expenses .....	13000	\$ 900,000
------------------------	-------	------------

*221 - Division of Human Services –*

*West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2023 Org 0511

Current Expenses ..... 13000 \$ 500,000

*222 - Division of Human Services –*

*West Virginia Works Separate State Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2023 Org 0511

Current Expenses ..... 13000 \$ 1,500,000

*223 - Division of Human Services –*

*Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100 \$ 10,000

Current Expenses ..... 13000 25,000

Total ..... \$ 35,000

**DEPARTMENT OF HOMELAND SECURITY**

*224 - Department of Homeland Security –*

*Office of the Secretary –*

*Law-Enforcement, Safety and Emergency Worker*

*Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2023 Org 0601

Current Expenses .....	13000	\$	32,000
------------------------	-------	----	--------

*225 - Division of Emergency Management –  
Statewide Interoperable Radio Network Account  
(WV Code Chapter 15)*

Fund 6208 FY 2023 Org 0606

Current Expenses .....	13000	\$	80,000
------------------------	-------	----	--------

*226 - Division of Emergency Management –  
West Virginia Interoperable Radio Project  
(WV Code Chapter 24)*

Fund 6295 FY 2023 Org 0606

Unclassified.....	09900	\$	20,000
Current Expenses .....	13000		3,980,000
Repairs and Alterations.....	06400		250,000
Equipment.....	07000		<u>250,000</u>
Total.....		\$	4,500,000

*227 - Division of Corrections and Rehabilitation –*

*Parolee Supervision Fees*

*(WV Code Chapter 15A)*

Fund 6362 FY 2023 Org 0608

Personal Services and Employee Benefits ....	00100	\$	1,164,081
Unclassified.....	09900		9,804
Current Expenses .....	13000		758,480
Equipment.....	07000		30,000
Other Assets.....	69000		<u>40,129</u>
Total.....		\$	2,002,494

*228 - Division of Corrections and Rehabilitation –**Regional Jail and Correctional Facility Authority*

(WV Code Chapter 15A)

Fund 6675 FY 2023 Org 0608

Personal Services and Employee Benefits ....00100	\$ 1,974,532
Debt Service.....04000	9,000,000
Current Expenses .....13000	<u>245,472</u>
Total.....	\$ 11,220,004

*229 - West Virginia State Police –**Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2023 Org 0612

Personal Services and Employee Benefits ....00100	\$ 1,965,212
Current Expenses .....13000	1,488,211
Repairs and Alterations.....06400	204,500
Equipment.....07000	3,770,751
Buildings .....25800	534,000
Other Assets.....69000	5,000
BRIM Premium.....91300	<u>302,432</u>
Total.....	\$ 8,270,106

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

*230 - West Virginia State Police –**Forensic Laboratory Fund*

(WV Code Chapter 15)

Fund 6511 FY 2023 Org 0612

Personal Services and Employee Benefits ....00100	\$ 1,615,128
---	--------------

Current Expenses .....	13000	90,000
Repairs and Alterations .....	06400	5,000
Equipment .....	07000	<u>545,000</u>
Total .....		\$ 2,255,128

*231 - West Virginia State Police –*

*Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2023 Org 0612

Current Expenses .....	13000	\$ 1,327,000
Equipment .....	07000	3,491,895
BRIM Premium .....	91300	<u>154,452</u>
Total .....		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

*232 - West Virginia State Police –*

*Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2023 Org 0612

Buildings .....	25800	\$ 1,022,778
Land .....	73000	1,000
BRIM Premium .....	91300	<u>77,222</u>
Total .....		\$ 1,101,000

*233 - West Virginia State Police –*

*Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2023 Org 0612



Current Expenses .....	13000	\$	225,000
Repairs and Alterations .....	06400		20,000
Equipment .....	07000		250,000
Buildings .....	25800		40,000
Other Assets .....	69000		45,000
BRIM Premium.....	91300		<u>5,000</u>
Total.....		\$	585,000

*234 - West Virginia State Police –*

*Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2023 Org 0612

Personal Services and Employee Benefits ....	00100	\$	268,731
Current Expenses .....	13000		376,443
Repairs and Alterations.....	06400		500
Equipment .....	07000		300,500
Other Assets .....	69000		300,500
BRIM Premium.....	91300		<u>18,524</u>
Total.....		\$	1,265,198

*235 - West Virginia State Police –*

*Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2023 Org 0612

Current Expenses .....	13000	\$	8,300
------------------------	-------	----	-------

*236 - West Virginia State Police –*

*State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2023 Org 0612

Current Expenses .....	13000	\$	160,000
------------------------	-------	----	---------

Repairs and Alterations.....06400	40,000
Total.....	\$ 200,000

*237 - Fire Commission –*

*Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2023 Org 0619

Personal Services and Employee Benefits ....00100	\$ 3,616,684
Unclassified.....09900	3,800
Current Expenses .....13000	1,646,550
Repairs and Alterations.....06400	58,500
Equipment.....07000	140,800
BRIM Premium.....91300	65,000
Total.....	\$ 5,531,334

*238 - Division of Administrative Services –*

*WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$ 166,250
Unclassified.....09900	750
Current Expenses .....13000	1,846,250
Repairs and Alterations.....06400	1,000
Total.....	\$ 2,014,250

*239 - Division of Administrative Services –*

*Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$ 24,748
Current Expenses .....13000	1,478,135

Total..... \$ 1,502,883

*240 - Division of Administrative Services –*

*Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2023 Org 0623

Current Expenses .....13000 \$ 125,000

**DEPARTMENT OF REVENUE**

*241 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2023 Org 0303

Personal Services and Employee Benefits ....00100 \$ 2,653,645

Salary and Benefits of Cabinet Secretary

and Agency Heads .....00201 119,000

Current Expenses .....13000 650,475

Equipment .....07000 8,500

Total..... \$ 3,431,620

*242 - Office of the Secretary –*

*State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2023 Org 0701

Retirement Systems – Unfunded Liability....77500 \$ 20,000,000

The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

*243 - Home Rule Board Operations*

(WV Code Chapter 8)

Fund 7010 FY 2023 Org 0701

Personal Services and Employee Benefits ....00100	\$	25,000
Unclassified.....09900		680
Current Expenses .....13000		42,000
Repairs and Alterations.....06400		120
Equipment.....07000		<u>200</u>
Total.....	\$	68,000

*244 - Tax Division –**Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	27,441
Current Expenses .....13000		<u>7,717</u>
Total.....	\$	35,158

*245 - Tax Division –**Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	724,718
Unclassified.....09900		8,500
Current Expenses .....13000		273,297
Repairs and Alterations.....06400		7,000
Equipment.....07000		<u>5,000</u>
Total.....	\$	1,018,515

*246 - Tax Division –**Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	275,024
Current Expenses .....	13000	<u>5,406</u>
Total.....	\$	280,430

*247 - Tax Division –**Reduced Cigarette Ignition Propensity**Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2023 Org 0702

Current Expenses .....	13000	\$	35,000
Equipment .....	07000		<u>15,000</u>
Total.....		\$	50,000

*248 - Tax Division –**Local Sales Tax and Excise Tax**Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	1,567,732
Unclassified.....09900		10,000
Current Expenses .....	13000	784,563
Repairs and Alterations.....06400		1,000
Equipment .....	07000	<u>5,000</u>
Total.....	\$	2,368,295

*249 - State Budget Office –**Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2023 Org 0703

Public Employees Insurance Reserve

Fund – Transfer.....90300 \$ 6,800,000

The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*250 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100	\$	760,866
Current Expenses .....	13000	1,357,201
Repairs and Alterations.....	06400	3,000
Equipment.....	07000	81,374
Buildings.....	25800	8,289
Other Assets.....	69000	<u>11,426</u>
Total.....	\$	2,222,156

*251 - Insurance Commissioner –**Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100	\$	584,078
Current Expenses .....	13000	202,152
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	34,225
Buildings.....	25800	4,865
Other Assets.....	69000	<u>19,460</u>
Total.....	\$	849,780

*252 - Insurance Commissioner –**Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100	\$ 24,627,046
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	136,500
Current Expenses .....13000	8,797,758
Repairs and Alterations .....06400	68,614
Equipment .....07000	1,728,240
Buildings .....25800	25,000
Other Assets .....69000	<u>340,661</u>
Total.....	\$ 35,723,819

*253 - Insurance Commissioner –**Insurance Fraud Prevention Fund*

(WV Code Chapter 33)

Fund 7153 FY 2023 Org 0704

Current Expenses .....13000	\$ 15,000
-----------------------------	-----------

*254 - Insurance Commissioner –**Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2023 Org 0704

Employee Benefits .....01000	\$ 50,000
Current Expenses .....13000	<u>250,500,000</u>
Total.....	\$ 250,550,000

*255 - Insurance Commissioner –**Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2023 Org 0704

Current Expenses .....13000 \$ 15,000,000

*256 - Insurance Commissioner –*

*Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2023 Org 0704

Current Expenses .....13000 \$ 9,000,000

*257 - Insurance Commissioner –*

*Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2023 Org 0704

Current Expenses .....13000 \$ 14,000,000

*258 - Municipal Bond Commission*

(WV Code Chapter 13)

Fund 7253 FY 2023 Org 0706

Personal Services and Employee Benefits ....00100 \$ 321,604

Current Expenses .....13000 154,344

Equipment .....07000 100

Total..... \$ 476,048

*259 - Racing Commission –*

*Relief Fund*

(WV Code Chapter 19)



Fund 7300 FY 2023 Org 0707

Medical Expenses – Total.....24500 \$ 154,000

The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

*260 - Racing Commission –**Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2023 Org 0707

Personal Services and Employee Benefits ....00100	\$	272,430
Current Expenses .....	13000	85,433
Other Assets .....	69000	<u>5,000</u>
Total .....	\$	362,863

*261 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2023 Org 0707

Personal Services and Employee Benefits ....00100	\$	2,380,713
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	48,443
Current Expenses .....	13000	497,284
Repairs and Alterations.....	06400	5,000
Other Assets .....	69000	<u>40,000</u>
Total .....	\$	2,971,440

*262 - Racing Commission –*

*Administration, Promotion, Education, Capital Improvement*

*and Greyhound Adoption Programs*

*to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2023 Org 0707

Personal Services and Employee Benefits ....00100	\$	924,832
Current Expenses .....13000		160,099
Other Assets .....69000		<u>200,000</u>
Total.....	\$	1,284,931

*263 - Alcohol Beverage Control Administration –*

*Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2023 Org 0708

Personal Services and Employee Benefits ....00100	\$	147,213
Current Expenses .....13000		54,186
Repairs and Alterations .....06400		7,263
Equipment .....07000		10,000
Buildings .....25800		100,000
Transfer Liquor Profits and Taxes .....42500		30,750
Other Assets .....69000		<u>100</u>
Total.....	\$	349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

*264 - Alcohol Beverage Control Administration*

(WV Code Chapter 60)

Fund 7352 FY 2023 Org 0708

Personal Services and Employee Benefits ....00100	\$	5,849,609
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	122,500
Current Expenses .....	13000	2,890,577
Repairs and Alterations .....	06400	91,000
Equipment .....	07000	108,000
Buildings .....	25800	375,100
Purchase of Supplies for Resale .....	41900	76,500,000
Transfer Liquor Profits and Taxes .....	42500	21,200,000
Other Assets .....	69000	125,100
Land .....	73000	<u>100</u>
Total .....		\$107,261,986

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses, and equipment of administrative offices, warehouses, and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

*265 - State Athletic Commission Fund*

(WV Code Chapter 29)

Fund 7009 FY 2023 Org 0933

Personal Services and Employee Benefits ....00100	\$	12,000
Current Expenses .....	13000	<u>28,000</u>
Total .....	\$	40,000

**DEPARTMENT OF TRANSPORTATION**

*266 - Division of Motor Vehicles –*

*Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2023 Org 0802

Current Expenses ..... 13000 \$ 189,000

*267 - Division of Motor Vehicles –*

*Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2023 Org 0802

Personal Services and Employee Benefits ....00100	\$ 3,929,736
Current Expenses ..... 13000	4,372,596
Repairs and Alterations .....06400	16,000
Equipment .....07000	75,000
Other Assets .....69000	10,000
BRIM Premium .....91300	<u>75,116</u>
Total.....	\$ 8,478,448

*268 - Division of Highways –*

*A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2023 Org 0803

Current Expenses ..... 13000 \$ 2,500,000

*269 - State Rail Authority -*

*West Virginia Commuter Rail Access Fund*

(WV Code Chapter 29)

Fund 8402 FY 2023 Org 0804

Current Expenses .....	13000	\$	600,000
------------------------	-------	----	---------

**DEPARTMENT OF VETERANS' ASSISTANCE***270 - Veterans' Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2023 Org 0613

Current Expenses .....	13000	\$	1,654,234
Other Assets .....	69000		<u>10,000</u>
Total .....		\$	1,664,234

*271 - Department of Veterans' Assistance –**WV Veterans' Home –**Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2023 Org 0618

Current Expenses .....	13000	\$	289,400
Repairs and Alterations .....	06400		<u>10,600</u>
Total .....		\$	300,000

**BUREAU OF SENIOR SERVICES***272 - Bureau of Senior Services –**Community Based Service Fund*

(WV Code Chapter 29)

Fund 5409 FY 2023 Org 0508

Personal Services and Employee Benefits ....	00100	\$	140,202
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201		25,795

Current Expenses .....	13000	<u>10,348,710</u>
Total.....		\$ 10,514,707

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

### **HIGHER EDUCATION POLICY COMMISSION**

*273 - Higher Education Policy Commission –*

*System –*

*Tuition Fee Capital Improvement Fund*

*(Capital Improvement and Bond Retirement Fund)*

*Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2023 Org 0442

Debt Service.....	04000	\$ 27,402,035
General Capital Expenditures .....	30600	5,000,000
Facilities Planning and Administration.....	38600	<u>456,239</u>
Total.....		\$ 32,858,274

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

*274 - Tuition Fee Revenue Bond Construction Fund*

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2023 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

*275 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2023 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

*276 - West Virginia University –*

*West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2023 Org 0463

Personal Services and Employee Benefits ....00100 \$ 11,118,758

Current Expenses .....	13000	4,524,300
Repairs and Alterations .....	06400	425,000
Equipment .....	07000	512,000
Buildings .....	25800	150,000
Other Assets .....	69000	<u>50,000</u>
Total .....		\$ 16,780,058

### MISCELLANEOUS BOARDS AND COMMISSIONS

#### *277 - Board of Barbers and Cosmetologists –*

##### *Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2023 Org 0505

Personal Services and Employee Benefits ....	00100	\$ 568,198
Current Expenses .....	13000	234,969
Repairs and Alterations .....	06400	<u>5,000</u>
Total .....		\$ 808,167

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

#### *278 - Hospital Finance Authority –*

##### *Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2023 Org 0509

Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	\$ 93,339
Unclassified .....	09900	1,501
Current Expenses .....	13000	<u>55,268</u>
Total .....		\$ 150,108



The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

*279 - State Armory Board –*

*General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2023 Org 0603

Personal Services and Employee Benefits ....00100	\$	1,687,298
Current Expenses .....13000		650,000
Repairs and Alterations .....06400		385,652
Equipment .....07000		250,000
Buildings .....25800		520,820
Other Assets .....69000		350,000
Land .....73000		<u>200,000</u>
Total.....	\$	4,043,770

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

*280 - WV State Board of Examiners for Licensed Practical Nurses –*

*Licensed Practical Nurses*

(WV Code Chapter 30)

Fund 8517 FY 2023 Org 0906

Personal Services and Employee Benefits ....00100	\$	507,607
Current Expenses .....13000		<u>107,700</u>
Total.....	\$	615,307

## 281 - WV Board of Examiners for Registered Professional Nurses –

*Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2023 Org 0907

Personal Services and Employee Benefits ....00100	\$ 1,342,970
Current Expenses .....13000	312,655
Repairs and Alterations.....06400	3,000
Equipment.....07000	25,000
Other Assets.....69000	<u>4,500</u>
Total.....	\$ 1,688,125

## 282 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$ 12,543,164
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	318,640
Unclassified.....09900	147,643
Current Expenses .....13000	2,507,202
Repairs and Alterations.....06400	120,000
Equipment.....07000	160,000
Buildings.....25800	10
PSC Weight Enforcement.....34500	4,742,560
Debt Payment/Capital Outlay .....52000	350,000
Land .....73000	10
BRIM Premium.....91300	<u>172,216</u>
Total.....	\$ 21,061,445

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the

amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

*283 - Public Service Commission –*

*Gas Pipeline Division –*

*Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	288,700
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 11,949
Unclassified.....		09900 3,851
Current Expenses .....		13000 93,115
Repairs and Alterations.....		06400 4,000
Total.....	\$	401,615

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

*284 - Public Service Commission –*

*Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	2,367,199
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 67,711
Unclassified.....		09900 29,233
Current Expenses .....		13000 577,557
Repairs and Alterations.....		06400 23,000
Equipment.....		07000 50,000
Total.....	\$	3,114,700

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

*285 - Public Service Commission –*

*Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	889,096
Current Expenses .....13000		386,472
Equipment .....07000		9,872
BRIM Premium.....91300		<u>4,660</u>
Total.....	\$	1,290,100

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

*286 - Real Estate Commission –*

*Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2023 Org 0927

Personal Services and Employee Benefits ....00100	\$	628,277
Current Expenses .....13000		293,122
Repairs and Alterations .....06400		2,500
Equipment .....07000		<u>5,000</u>
Total.....	\$	928,899

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

*287 - WV Board of Examiners for Speech-Language**Pathology and Audiology –**Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2023 Org 0930

Personal Services and Employee Benefits ....00100	\$	97,564
Current Expenses .....		<u>63,499</u>
Total .....	\$	161,063

*288 - WV Board of Respiratory Care –**Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2023 Org 0935

Personal Services and Employee Benefits ....00100	\$	88,904
Current Expenses .....		<u>62,709</u>
Total .....	\$	151,613

*289 - WV Board of Licensed Dietitians –**Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2023 Org 0936

Personal Services and Employee Benefits ....00100	\$	20,219
Current Expenses .....		<u>20,250</u>
Total .....	\$	40,469

*290 - Massage Therapy Licensure Board –**Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2023 Org 0938

Personal Services and Employee Benefits ....00100	\$	112,641
Current Expenses .....13000		<u>42,388</u>
Total.....	\$	155,029

*291 - Board of Medicine –**Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2023 Org 0945

Personal Services and Employee Benefits ....00100	\$	1,577,216
Current Expenses .....13000		1,108,789
Repairs and Alterations.....06400		<u>8,000</u>
Total.....	\$	2,694,005

*292 - West Virginia Enterprise Resource Planning Board –**Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2023 Org 0947

Personal Services and Employee Benefits ....00100	\$	5,494,051
Unclassified.....09900		132,000
Current Expenses .....13000		17,214,993
Repairs and Alterations.....06400		300
Equipment.....07000		502,000
Buildings .....25800		2,000
Other Assets .....69000		<u>2,004,500</u>
Total.....	\$	25,349,844

*293 - Board of Treasury Investments –**Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2023 Org 0950

Personal Services and Employee Benefits ....00100	\$	857,714
Unclassified.....09900		14,850
Current Expenses .....	13000	580,889
BRIM Premium.....91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers.....93800		<u>3,500,000</u>
Total.....	\$	4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*294 - Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2023 Org 0951

Personal Services and Employee Benefits ....00100	\$	2,559,000
Repairs and Alterations.....06400		10,000
Unclassified.....09900		21,000
Current Expenses .....	13000	500,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	3,098,500

Total TITLE II, Section 3 – Other Funds

(Including claims against the state) ..... \$2,002,782,414

**Sec. 4. Appropriations from lottery net profits.** — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the

Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

*295 - Education, Arts, Sciences and Tourism –*

*Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2023 Org 0211

	<b>Appropriation</b>	<b>Lottery Funds</b>
Debt Service – Total .....	31000	\$ 10,000,000

*296 - Department of Tourism –*

*Office of the Secretary*

(WV Code Chapter 5B)

Fund 3067 FY 2023 Org 0304

Tourism – Telemarketing Center .....	46300	\$ 82,080
Tourism – Advertising (R).....	61800	2,422,407
Tourism – Operations (R).....	66200	<u>4,339,884</u>
Total.....		\$ 6,844,371

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800) and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.



*297 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 3267 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$	2,558,278
Current Expenses .....	13000	26,900
Pricketts Fort State Park.....	32400	106,560
Non-Game Wildlife (R) .....	52700	405,088
State Parks and Recreation Advertising (R)...	61900	<u>494,578</u>
Total.....	\$	3,591,404

Any unexpended balances remaining in the appropriations for Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*298 - State Board of Education*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2023 Org 0402

FBI Checks.....	37200	\$	119,574
Vocational Education			
Equipment Replacement.....	39300		800,000
Assessment Program (R).....	39600		490,439
Literacy Project.....	89900		350,000
21st Century Technology Infrastructure			
Network Tools and Support (R) .....	93300		<u>12,611,880</u>
Total.....		\$	14,371,893

Any unexpended balances remaining in the appropriations for Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*299 - State Department of Education –*

*School Building Authority –*

*Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2023 Org 0404

Debt Service – Total .....	31000	\$ 15,320,363
Directed Transfer .....	70000	<u>2,679,637</u>
Total.....		\$ 18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

*300 - Division of Culture and History –*

*Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2023 Org 0432

Huntington Symphony .....	02700	\$ 59,058
Preservation West Virginia (R).....	09200	491,921
Fairs and Festivals (R) .....	12200	1,346,814
Commission for National and Community Service (R) .....	19300	380,275
Archeological Curation/Capital Improvements (R).....	24600	38,546
Historic Preservation Grants (R).....	31100	417,933
West Virginia Public Theater.....	31200	120,019
Greenbrier Valley Theater .....	42300	115,000

Theater Arts of West Virginia.....	46400	90,000
Marshall Artists Series .....	51800	36,005
Grants for Competitive Arts Program (R).....	62400	811,500
West Virginia State Fair.....	65700	31,241
Save the Music .....	68000	40,000
Contemporary American Theater Festival ....	81100	57,281
Independence Hall .....	81200	27,277
Mountain State Forest Festival .....	86400	38,187
WV Symphony.....	90700	59,058
Wheeling Symphony.....	90800	59,058
Appalachian Children's Chorus.....	91600	<u>54,554</u>
Total.....		\$ 4,273,727

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$9,029, Hardy County Tour and Crafts Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company

(Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum (Raleigh) \$3,393, Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Back Home Festival (Wetzel) \$5,000, Barbour County Fair (Barbour) \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$3,340, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville

Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair (Berkeley) \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blacksville VFD Memorial Day Celebration (Monongalia) \$1,000, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Blue Ridge Arts and Crafts Festival (Jefferson) \$5,000, Boone County Fair (Boone) \$5,940, Boone County Labor Day Celebration (Boone) \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Bramwell Labor Day (Mercer) \$5,000, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair (Braxton) \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) \$1,485, Brooke County Fair (Brooke) \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Auxiliary (Mineral) \$13,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burlington Volunteer Fire and Rescue Carnival (Mineral) \$4,000, Burnsville Freedom Festival (Braxton) \$1,407, Cabell County Fair (Cabell) \$5,940, Calhoun County Wood Festival (Calhoun) \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Cacapon River Fest (Hampshire) \$2,500, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, Christmas on Main Street (Hancock) \$11,881, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of New Martinsville Festival of Memories (Wetzel)

\$6,534, Clay County Golden Delicious Apple Festival (Clay) \$4,158, Clay District Fair (Monongalia) \$3,341, Clendenin Homecoming Festival (Kanawha) \$1,000, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Covered Bridge Festival (Marion) \$3,000, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair (Doddridge) \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flemington Days Fair and Festival (Taylor) \$2,379, Fly in Festival (Cabell) \$5,000, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$10,709, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show (Gilmer) \$2,376, Grant County Arts Council (Grant) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration (Hampshire) \$11,881, Hampshire County Fair (Hampshire) \$5,002, Hampshire Highlands Art & Music Festival (Hampshire) \$4,252, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival

(Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Huntersville Traditions Day (Pocahontas) \$4,000, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair (Jackson) \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association (Jefferson) \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, Knights of Columbus Irish Road Bowling (Marshall County) \$3,000, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival (Lincoln) \$4,752, Lincoln County Winterfest (Lincoln) \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Malden Salt Fest (Kanawha) \$2,000, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest (Marion) \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show (Marshall) \$1,485, Marshall County

Fair (Marshall) \$5,000, Mason County Fair (Mason) \$2,970, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County (McDowell) \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer County Fair (Mercer) \$1,188, Mercer County Heritage Festival (Mercer) \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Fair (Mineral) \$1,040, Mineral County Veterans Day Parade (Mineral) \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Monongalia County Fair (Monongalia) \$7,250, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon (Morgan) \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New Martinsville Regatta (Wetzel) \$9,000, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair (Nicholas) \$2,970, Nicholas County Potato Festival (Nicholas) \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$4,000, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair (Ohio) \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Brick Playhouse (Randolph) \$7,000, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Osage Street Fair (Monongalia) \$1,000, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H



Weekend (Pendleton) \$1,188, Pendleton County Committee for Arts (Pendleton) \$8,910, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$1,500, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair (Pleasants) \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days (Pocahontas) \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair (Putnam) \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council (Randolph) \$1,782, Randolph County Fair (Randolph) \$4,158, Randolph County Ramps and Rails (Randolph) \$2,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition (Ritchie) \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival (Wayne) \$684, Spirit of Grafton Celebration (Taylor) \$6,240, Spring Mountain Festival (Grant) \$2,500, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River

Festival (Boone) \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair (Taylor) \$3,567, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming (Putnam) \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$16,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration (Tucker) \$10,692, Tucker County Fair (Tucker) \$2,821, Tucker County Health Fair (Tucker) \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair (Tyler) \$3,088, Tyler County Fireworks Celebration (Tyler) \$2,000, Union Community Irish Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair (Wayne) \$2,970, Wayne County Fall Festival (Wayne) \$2,970, Webster County Fair (Webster) \$3,600, Webster County Wood Chopping Festival (Webster) \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County (Brooke) \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Freedom Festival (Logan) \$4,456, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival

(Cabell) \$5,940, West Virginia Rivers and Rails Festival (Pleasants) \$1,099, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest (Wetzel) \$3,267, Wetzel County Town and Country Days (Wetzel) \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event (Harrison) \$2,970, Winfield Watersports Weekend (Putnam) \$3,240, Wirt County Fair (Wirt) \$1,485, Wirt County Pioneer Days (Wirt) \$1,188, Wyoming County Civil War Days (Wyoming) \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Commission for National and Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), and Grants for Competitive Arts Program (fund 3534, appropriation 62400) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and Cultural Grant Program allocations.

*301 - Library Commission –*

*Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2023 Org 0433

Books and Films .....	17900	\$	360,784
Services to Libraries .....	18000		550,000
Grants to Public Libraries .....	18200		9,439,571

Digital Resources .....	30900	219,992
Infomine Network.....	88400	<u>943,353</u>
Total.....		\$ 11,513,700

*302 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 3587 FY 2023 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*303 - Higher Education Policy Commission –*

*Lottery Education –*

*Higher Education Policy Commission –*

*Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2023 Org 0441

RHI Program and Site Support (R).....	03600	\$ 1,915,854
RHI Program and Site Support –		
RHEP Program Administration .....	03700	146,653
RHI Program and Site Support – Grad		
Med Ed and Fiscal Oversight (R) .....	03800	89,586
Minority Doctoral Fellowship (R) .....	16600	129,604
Health Sciences Scholarship (R).....	17600	225,908
Vice Chancellor for Health Sciences –		
Rural Health Residency Program (R) .....	60100	62,725
WV Engineering, Science, and		
Technology Scholarship Program.....	86800	<u>452,831</u>
Total.....		\$ 3,023,161

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600),

RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation 86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

*304 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2023 Org 0442

Debt Service – Total .....31000 \$ 5,000,000

Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*305 - Higher Education Policy Commission –*

*Lottery Education –*

*West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2023 Org 0463

WVU Health Sciences –

RHI Program and Site Support (R).....03500 \$ 1,208,106

MA Public Health Program and Health Science Technology (R).....	62300	52,445
Health Sciences Career Opportunities Program (R).....	86900	336,987
HSTA Program (R).....	87000	1,802,118
Center for Excellence in Disabilities (R) .....	96700	<u>318,711</u>
Total.....		\$ 3,718,367

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*306 - Higher Education Policy Commission –*

*Lottery Education –*

*Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2023 Org 0471

Marshall Medical School –

RHI Program and Site Support (R).....	03300	\$ 434,910
Vice Chancellor for Health Sciences – Rural Health Residency Program (R) .....	60100	<u>174,109</u>
Total.....		\$ 609,019

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*307 - Bureau of Senior Services –**Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2023 Org 0508

Personal Services and Employee Benefits ....00100	\$	142,503
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 70,720
Current Expenses .....		13000 332,284
Repairs and Alterations .....		06400 1,000
Local Programs Service Delivery Costs .....		20000 2,435,250
Silver Haired Legislature .....		20200 18,500
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....		53900 14,203,501
Roger Tompkins Alzheimer's Respite Care ...		64300 2,304,286
WV Alzheimer's Hotline.....		72400 45,000
Regional Aged and Disabled Resource Center.....		76700 425,000
Senior Services Medicaid Transfer .....		87100 16,400,070
Legislative Initiatives for the Elderly.....		90400 9,671,239
Long Term Care Ombudsman.....		90500 297,226
BRIM Premium.....		91300 7,718
In-Home Services and Nutrition for Senior Citizens .....		91700 <u>6,845,941</u>
Total.....	\$	53,200,238

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens

(appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

Total TITLE II, Section 4 – Lottery Revenue..... \$ 134,145,880

**Sec. 5. Appropriations from state excess lottery revenue fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

*308 - Governor's Office*

(WV Code Chapter 5)

Fund 1046 FY 2023 Org 0100

	<b>Excess</b>
<b>Appropriation</b>	<b>Lottery</b>
	<b>Funds</b>

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.



*309 - Office of Technology*

(WV Code Chapter 5A)

Fund 2532 FY 2023 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*310 - Department of Economic Development –**Office of the Secretary –**West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2023 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*311 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2023 Org 0310

Current Expenses (R).....	13000	\$	23,300
Repairs and Alterations (R) .....	06400		161,200
Equipment (R).....	07000		200,000
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		<u>1,020,500</u>
Total.....		\$	1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*312 - West Virginia Infrastructure Council –*

*West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2023 Org 0316

Directed Transfer .....	70000	\$ 46,000,000
-------------------------	-------	---------------

The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

*313 - Department of Education –*

*School Building Authority*

Fund 3514 FY 2023 Org 0404

Debt Service - Total .....	31000	\$ 18,999,900
Directed Transfer .....	70000	<u>100</u>
Total .....		\$ 19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.

The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund (fund 3952, organization 0404) to be used for school construction and maintenance projects.

*314 - Higher Education Policy Commission –**Education Improvement Fund*Fund 4295 FY 2023 Org 0441

PROMISE Scholarship – Transfer .....80000 \$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

*315 - Higher Education Policy Commission –**Higher Education Improvement Fund*Fund 4297 FY 2023 Org 0441

Directed Transfer .....70000 \$ 15,000,000

The above appropriation for Directed Transfer shall be transferred to Higher Education Policy Commission – System – Tuition Fee Capital Improvement Fund (fund 4903, org 0442) as authorized by Senate Concurrent Resolution No. 41.

*316 - Higher Education Policy Commission –**Administration –**Control Account*Fund 4932 FY 2023 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*317 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services..... 18900 \$ 26,697,960

*318 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapter 15A)

Fund 6283 FY 2023 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*319 - Lottery Commission –*

*General Purpose Account*

Fund 7206 FY 2023 Org 0705

General Revenue Fund – Transfer ..... 70011 \$ 65,000,000

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

*320 - Lottery Commission –*

*Refundable Credit*

Fund 7207 FY 2023 Org 0705

Directed Transfer ..... 70000 \$ 10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit

allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner's request.

*321 - Lottery Commission –*

*Distributions to Statutory Funds and Purposes*

Fund 7213 FY 2023 Org 0705

Parking Garage Fund – Transfer.....	70001	\$	500,000
2004 Capitol Complex Parking Garage			
Fund – Transfer.....	70002		216,478
Capitol Dome and Improvements Fund –			
Transfer.....	70003		1,796,256
Capitol Renovation and Improvement			
Fund – Transfer.....	70004		2,381,252
Development Office Promotion Fund –			
Transfer.....	70005		1,298,864
Research Challenge Fund – Transfer .....	70006		1,731,820
Tourism Promotion Fund – Transfer .....	70007		4,808,142
Cultural Facilities and Capitol Resources			
Matching Grant Program Fund –			
Transfer.....	70008		1,250,535
State Debt Reduction Fund – Transfer.....	70010		20,000,000
General Revenue Fund – Transfer .....	70011		1,167,799
West Virginia Racing Commission			
Racetrack Video Lottery Account .....	70012		3,463,637
Historic Resort Hotel Fund .....	70013		24,010
Licensed Racetrack Regular Purse Fund .....	70014		<u>22,383,247</u>
Total.....		\$	61,022,040

*322 - Racing Commission*

Fund 7308 FY 2023 Org 0707

Special Breeders Compensation			
(WVC §29-22-18a, subsection (I)) .....	21800	\$	2,000,000

*323 - Economic Development Authority –*

*Economic Development Project Fund*

Fund 9065 FY 2023 Org 0944

Debt Service – Total .....31000 \$ 19,000,000

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

*324 - Economic Development Authority –*

*Cacapon and Beech Fork State Parks –*

*Lottery Revenue Debt Service*

Fund 9067 FY 2023 Org 0944

Debt Service.....04000 \$ 2,032,000

*325 - Economic Development Authority –*

*State Parks Lottery Revenue Debt Service Fund*

Fund 9068 FY 2023 Org 0944

Debt Service.....04000 \$ 4,395,000

Total TITLE II, Section 5 – Excess Lottery Funds. \$ 300,652,000

**Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2023.

**LEGISLATIVE***326 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 8738 FY 2023 Org 2300

	<b>Appropriation</b>	<b>Federal Funds</b>
Economic Loss Claim Payment Fund.....	33400	\$ 1,100,000

**JUDICIAL***327 - Supreme Court*Fund 8867 FY 2023 Org 2400

Personal Services and Employee Benefits ....	00100	\$ 1,813,000
Current Expenses .....	13000	1,557,000
Repairs and Alterations.....	06400	100,000
Equipment.....	07000	250,000
Other Assets.....	69000	<u>280,000</u>
Total.....		\$ 4,000,000

**EXECUTIVE***328 - Governor's Office –**Coronavirus State Fiscal Recovery Fund*

(WV Code Chapter 4)

Fund 8823 FY 2023 Org 0100

Personal Services and Employee Benefits ....	00100	\$ 941,932,089
Unclassified.....	09900	13,554,899
Current Expenses .....	13000	400,000,000
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1,000
Other Assets.....	69000	<u>1,000</u>
Total.....		\$1,355,489,988

*329 - Department of Agriculture*

(WV Code Chapter 19)

Fund 8736 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	2,708,867
Unclassified.....09900		50,534
Current Expenses .....13000		6,828,661
Repairs and Alterations .....06400		650,000
Equipment .....07000		910,500
Buildings .....25800		1,000,000
Other Assets .....69000		550,000
Land .....73000		<u>500,000</u>
Total.....	\$	13,198,562

*330 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	685,045
Unclassified.....09900		8,755
Current Expenses .....13000		136,012
Repairs and Alterations .....06400		5,500
Equipment .....07000		<u>114,478</u>
Total.....	\$	949,790

*331 - Department of Agriculture –**State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	97,250
Current Expenses .....13000		<u>15,599,974</u>
Total.....	\$	15,697,224



*332 - Department of Agriculture –  
Land Protection Authority*

Fund 8896 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	46,526
Unclassified.....09900		5,004
Current Expenses .....13000		<u>448,920</u>
Total.....	\$	500,450

*333 - Attorney General –*

*Medicaid Fraud Unit*

Fund 8882 FY 2023 Org 1500

Personal Services and Employee Benefits ....00100	\$	1,434,886
Unclassified.....09900		15,336
Current Expenses .....13000		599,513
Repairs and Alterations .....06400		4,313
Equipment .....07000		7,500
Other Assets .....69000		<u>11,336</u>
Total.....	\$	2,072,884

*334 - Secretary of State –*

*State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2023 Org 1600

Personal Services and Employee Benefits ....00100	\$	210,240
Unclassified.....09900		7,484
Current Expenses .....13000		415,727
Repairs and Alterations .....06400		15,000
Other Assets .....69000		<u>100,000</u>
Total.....	\$	748,451

**DEPARTMENT OF COMMERCE***335 - Division of Forestry*

(WV Code Chapter 19)

Fund 8703 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$	610,888
Unclassified.....09900		51,050
Current Expenses .....13000		5,232,560
Repairs and Alterations.....06400		155,795
Equipment.....07000		100,000
Other Assets.....69000		<u>1,808,300</u>
Total.....	\$	<u>7,958,593</u>

*336 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 8704 FY 2023 Org 0306

Personal Services and Employee Benefits ....00100	\$	54,432
Unclassified.....09900		2,803
Current Expenses .....13000		195,639
Repairs and Alterations.....06400		5,000
Equipment.....07000		7,500
Other Assets.....69000		<u>15,000</u>
Total.....	\$	<u>280,374</u>

*337 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 8706 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	427,254
Unclassified.....09900		5,572
Current Expenses .....13000		167,098
Repairs and Alterations.....06400		<u>500</u>
Total.....	\$	<u>600,424</u>

*338 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 8707 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$ 10,318,396
Unclassified.....09900	107,693
Current Expenses .....13000	7,887,660
Repairs and Alterations .....06400	566,250
Equipment .....07000	2,126,141
Administration .....15500	50,325
Buildings .....25800	951,000
Other Assets .....69000	4,768,670
Land .....73000	<u>2,893,920</u>
Total.....	\$ 29,670,055

*339 - Division of Miners' Health,**Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2023 Org 0314

Personal Services and Employee Benefits ....00100	\$ 670,029
Current Expenses .....13000	<u>150,000</u>
Total.....	\$ 820,029

*340 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 8835 FY 2023 Org 0323

Unclassified.....09900	\$ 5,127
Current Expenses .....13000	507,530
Reed Act 2002 –	
Unemployment Compensation .....62200	4,446,737
Reed Act 2002 – Employment Services .....63000	<u>3,246,737</u>
Total.....	\$ 8,206,131

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

*341 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$ 12,042,929
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	138,000
Current Expenses .....13000	34,440,940
Repairs and Alterations .....06400	350,400
Equipment .....07000	<u>1,275,870</u>
Total.....	\$ 48,248,139

*342 - State Board of Rehabilitation –*

*Division of Rehabilitation Services –*

*Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$ 12,945,086
Current Expenses .....13000	13,383,206
Repairs and Alterations .....06400	1,100
Equipment .....07000	<u>83,350</u>
Total.....	\$ 26,412,742

**DEPARTMENT OF ECONOMIC DEVELOPMENT***343 - Department of Economic Development –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 8705 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 1,521,231
Unclassified.....09900	50,000
Current Expenses .....13000	<u>21,304,019</u>
Total.....	\$ 22,875,250

*344 - Department of Economic Development –**Office of Energy*

(WV Code Chapter 5B)

Fund 8892 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 985,462
Unclassified.....09900	7,350
Current Expenses .....13000	<u>8,266,076</u>
Total.....	\$ 9,258,888

*345 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8901 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 854,189
Repairs and Alterations.....06400	250
Equipment .....07000	6,000
Unclassified.....09900	106,795
Current Expenses .....13000	<u>20,303,081</u>
Total.....	\$ 21,270,315

**DEPARTMENT OF EDUCATION***346 - State Board of Education –**State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	5,890,196
Unclassified.....09900		2,000,000
Current Expenses .....13000		1,434,146,008
Repairs and Alterations.....06400		10,000
Equipment.....07000		10,000
Other Assets.....69000		10,000
Federal Coronavirus Pandemic .....89101		<u>4,990,123</u>
Total.....	\$	<u>1,447,056,327</u>

*347 - State Board of Education –**School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	1,924,124
Unclassified.....09900		1,150,500
Current Expenses .....13000		258,781,265
Repairs and Alterations.....06400		20,000
Equipment.....07000		100,000
Other Assets.....69000		<u>25,000</u>
Total.....	\$	<u>262,000,889</u>

*348 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	1,938,607
Unclassified.....09900		155,000
Current Expenses .....13000		17,820,081
Repairs and Alterations.....06400		10,000
Equipment.....07000		10,000
Other Assets.....69000		10,000
Total.....	\$	19,943,688

*349 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	3,540,241
Unclassified.....09900		1,000,000
Current Expenses .....13000		133,346,390
Repairs and Alterations.....06400		10,000
Equipment.....07000		10,000
Other Assets.....69000		10,000
Federal Coronavirus Pandemic .....89101		17,336,635
Total.....	\$	155,253,266

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*350 - Division of Culture and History*

(WV Code Chapter 29)

Fund 8718 FY 2023 Org 0432

Personal Services and Employee Benefits ....00100	\$	851,130
Current Expenses .....13000		1,947,372
Repairs and Alterations.....06400		1,000
Equipment.....07000		1,000
Buildings.....25800		1,000
Other Assets.....69000		1,000
Land.....73000		360
Total.....	\$	2,802,862

*351 - Commission for National and Community Service*

(WV Code Chapter 5F)

Fund 8841 FY 2023 Org 0432

Personal Services and Employee Benefits ....00100	\$	446,874
Current Expenses .....13000		5,587,325
Repairs and Alterations.....06400		<u>1,000</u>
Total.....	\$	6,035,199

*352 - Library Commission*

(WV Code Chapter 10)

Fund 8720 FY 2023 Org 0433

Personal Services and Employee Benefits ....00100	\$	368,524
Current Expenses .....13000		1,076,162
Equipment.....07000		<u>543,406</u>
Total.....	\$	1,988,092

*353 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 8721 FY 2023 Org 0439

Equipment.....07000	\$	1,000
---------------------	----	-------

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***354 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	32,273,598
Unclassified.....09900		1,923,580
Current Expenses .....13000		153,850,118
Repairs and Alterations.....06400		739,783
Equipment.....07000		1,712,238



Other Assets .....	69000	2,177,261
Land .....	73000	<u>80,000</u>
Total .....		\$ 192,756,578

## DEPARTMENT OF HEALTH AND HUMAN RESOURCES

### *355 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100		\$ 1,660,962
Unclassified.....09900		73,307
Current Expenses .....	13000	92,583,302
Federal Coronavirus Pandemic .....	89101	<u>4,886,344</u>
Total .....		\$ 99,203,915

### *356 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100		\$ 16,607,893
Unclassified.....09900		856,614
Current Expenses .....	13000	102,758,622
Equipment .....	07000	456,972
Buildings .....	25800	155,000
Other Assets .....	69000	380,000
Federal Coronavirus Pandemic .....	89101	<u>248,935,941</u>
Total .....		\$ 370,151,042

### *357 - Division of Health –*

*West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2023 Org 0506

## West Virginia Drinking Water Treatment

Revolving Fund – Transfer .....	68900	\$ 16,000,000
---------------------------------	-------	---------------

*358 - Human Rights Commission*

(WV Code Chapter 5)

Fund 8725 FY 2023 Org 0510

Personal Services and Employee Benefits ....	00100	\$ 455,925
Unclassified.....	09900	5,050
Current Expenses .....	13000	<u>64,950</u>
Total.....		\$ 525,925

*359 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2023 Org 0511

Personal Services and Employee Benefits ....	00100	\$ 80,538,993
Unclassified.....	09900	22,855,833
Current Expenses .....	13000	112,181,984
Medical Services.....	18900	3,935,000,000
Medical Services Administrative Costs .....	78900	132,380,661
CHIP Administrative Costs.....	85601	4,549,783
CHIP Services.....	85602	49,752,412
Federal Economic Stimulus .....	89100	5,002,723
Federal Coronavirus Pandemic .....	89101	<u>151,642,105</u>
Total.....		\$4,493,904,494

**DEPARTMENT OF HOMELAND SECURITY***360 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2023 Org 0601

Unclassified.....	09900	\$ 5,000
Current Expenses .....	13000	<u>495,000</u>
Total.....		\$ 500,000

*361 - Division of Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2023 Org 0606

Personal Services and Employee Benefits ....00100	\$	1,418,043
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		61,250
Current Expenses .....13000		20,429,281
Repairs and Alterations.....06400		5,000
Equipment .....07000		<u>100,000</u>
Total.....	\$	22,013,574

*362 - Division of Corrections and Rehabilitation*

(WV Code Chapters 15A)

Fund 8836 FY 2023 Org 0608

Unclassified.....09900	\$	1,100
Current Expenses .....13000		<u>108,900</u>
Total.....	\$	110,000

*363 - West Virginia State Police*

(WV Code Chapter 15)

Fund 8741 FY 2023 Org 0612

Personal Services and Employee Benefits ....00100	\$	2,502,056
Current Expenses .....13000		2,125,971
Repairs and Alterations.....06400		42,000
Equipment .....07000		2,502,285
Buildings .....25800		750,500
Other Assets .....69000		144,500
Land .....73000		<u>500</u>
Total.....	\$	8,067,812

*364 - Fire Commission*

(WV Code Chapter 29)

Fund 8819 FY 2023 Org 0619

Current Expenses .....	13000	\$	80,000
------------------------	-------	----	--------

*365 - Division of Administrative Services*

(WV Code Chapter 15)

Fund 8803 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100		\$	1,270,062
Unclassified.....09900			25,185
Current Expenses .....	13000		75,381,973
Repairs and Alterations.....06400			<u>1,750</u>
Total.....		\$	76,678,970

**DEPARTMENT OF REVENUE***366 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100		\$	145,000
Current Expenses .....	13000		2,825,000
Equipment.....07000			<u>30,000</u>
Total.....		\$	3,000,000

**DEPARTMENT OF TRANSPORTATION***367 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2023 Org 0802

Personal Services and Employee Benefits ....00100		\$	551,394
Current Expenses .....	13000		5,448,106
Repairs and Alterations.....06400			<u>500</u>
Total.....		\$	6,000,000

*368 - Division of Public Transit*

(WV Code Chapter 17)

Fund 8745 FY 2023 Org 0805

Personal Services and Employee Benefits ....00100	\$	1,040,576
Current Expenses .....	13000	18,863,149
Repairs and Alterations.....	06400	2,500
Equipment.....	07000	3,501,714
Buildings .....	25800	2,450,000
Other Assets.....	69000	250,000
Total.....		\$ 26,107,939

*369 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 8831 FY 2023 Org 0807

Current Expenses .....	13000	\$	400,000
Other Assets.....	69000		100
Total.....		\$	400,100

**DEPARTMENT OF VETERANS' ASSISTANCE***370 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2023 Org 0613

Personal Services and Employee Benefits ....00100	\$	3,016,683
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	57,120
Current Expenses .....	13000	2,840,300
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	25,000
Buildings .....	25800	250,000
Land .....	73000	500
Veterans' Cemetery .....	80800	175,000
Federal Coronavirus Pandemic .....	89101	1,900,000
Total.....		\$ 8,284,603

*371 - Department of Veterans' Assistance –  
Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2023 Org 0618

Personal Services and Employee Benefits ....00100	\$	951,931
Current Expenses .....	13000	595,700
Repairs and Alterations.....	06400	60,500
Equipment.....	07000	10,500
Buildings.....	25800	500
Other Assets.....	69000	6,500
Land .....	73000	100
Federal Coronavirus Pandemic .....	89101	<u>1,600,000</u>
Total.....	\$	3,225,731

**BUREAU OF SENIOR SERVICES**

*372 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2023 Org 0508

Personal Services and Employee Benefits ....00100	\$	783,001
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	8,840
Current Expenses .....	13000	13,811,853
Repairs and Alterations.....	06400	<u>3,000</u>
Total.....	\$	14,606,694

**MISCELLANEOUS BOARDS AND COMMISSIONS**

*373 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2023 Org 0603

Unclassified.....	09900	\$	982,705
Mountaineer ChalleNGe Academy .....	70900		11,573,992
Martinsburg Starbase .....	74200		547,801
Charleston Starbase.....	74300		516,838
Military Authority .....	74800		<u>88,132,332</u>
Total.....		\$	101,753,668

The Adjutant General shall have the authority to transfer between appropriations.

*374 - Adjutant General –*

*West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2023 Org 0603

Personal Services and Employee Benefits ....	00100	\$	1,350,000
Current Expenses .....	13000		150,000
Repairs and Alterations.....	06400		50,000
Equipment.....	07000		200,000
Buildings.....	25800		100,000
Other Assets.....	69000		100,000
Land .....	73000		<u>50,000</u>
Total.....		\$	2,000,000

*375 - Public Service Commission –*

*Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2023 Org 0926

Personal Services and Employee Benefits ....	00100	\$	1,410,819
Current Expenses .....	13000		368,953
Repairs and Alterations.....	06400		39,000
Equipment.....	07000		<u>1,000</u>
Total.....		\$	1,819,772

*376 - Public Service Commission –**Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	639,344
Unclassified.....09900		4,072
Current Expenses .....13000		124,628
Equipment.....07000		<u>3,000</u>
Total.....	\$	771,044

*377 - National Coal Heritage Area Authority*

(WV Code Chapter 29)

Fund 8869 FY 2023 Org 0941

Personal Services and Employee Benefits ....00100	\$	193,043
Current Expenses .....13000		328,008
Repairs and Alterations.....06400		5,000
Equipment.....07000		3,000
Other Assets.....69000		<u>2,000</u>
Total.....	\$	531,051
Total TITLE II, Section 6 - Federal Funds .....		<u>\$8,912,932,524</u>

**Sec. 7. Appropriations from federal block grants.** — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2023.

*378 - Department of Economic Development –**Office of the Secretary –**Community Development*Fund 8746 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	10,662,609
Unclassified.....09900		2,375,000



Current Expenses .....	13000	<u>224,476,883</u>
Total.....		\$237,514,492

*379 - Department of Economic Development –*

*Office of the Secretary –*

*Office of Economic Opportunity –*

*Community Services*

Fund 8902 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	771,289
Unclassified.....09900		125,000
Current Expenses .....	13000	17,781,811
Repairs and Alterations.....06400		1,500
Equipment.....07000		<u>9,000</u>
Total.....	\$	18,688,600

*380 - WorkForce West Virginia –*

*Workforce Investment Act*

Fund 8749 FY 2023 Org 0323

Personal Services and Employee Benefits ....00100	\$	2,941,437
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	124,018
Unclassified.....09900		23,023
Current Expenses .....	13000	63,381,511
Repairs and Alterations.....06400		1,600
Equipment.....07000		500
Buildings.....25800		<u>1,100</u>
Total.....	\$	66,473,189

*381 - Division of Health –*

*Maternal and Child Health*

Fund 8750 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 2,343,848
Unclassified.....09900	81,439
Current Expenses .....13000	<u>5,794,267</u>
Total.....	\$ 8,219,554

*382 - Division of Health –*

*Preventive Health*

Fund 8753 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 274,388
Unclassified.....09900	22,457
Current Expenses .....13000	1,895,366
Equipment.....07000	<u>165,642</u>
Total.....	\$ 2,357,853

*383 - Division of Health –*

*Substance Abuse Prevention and Treatment*

Fund 8793 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 683,799
Unclassified.....09900	115,924
Current Expenses .....13000	10,853,740
Federal Coronavirus Pandemic .....89101	<u>14,965,070</u>
Total.....	\$ 26,618,533

*384 - Division of Health –*

*Community Mental Health Services*

Fund 8794 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 571,034
Unclassified.....09900	33,533
Current Expenses .....13000	4,883,307
Federal Coronavirus Pandemic .....89101	<u>12,480,519</u>
Total.....	\$ 17,968,393

*385 - Division of Human Services –**Energy Assistance*Fund 8755 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 1,959,926
Unclassified.....09900	350,000
Current Expenses .....13000	38,182,151
Federal Coronavirus Pandemic .....89101	<u>48,296,777</u>
Total.....	\$ 88,788,854

*386 - Division of Human Services –**Social Services*Fund 8757 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 9,106,066
Unclassified.....09900	171,982
Current Expenses .....13000	<u>8,870,508</u>
Total.....	\$ 18,148,556

*387 - Division of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 21,331,693
Unclassified.....09900	1,250,000
Current Expenses .....13000	105,871,588
Federal Coronavirus Pandemic .....89101	<u>4,617,546</u>
Total.....	\$ 133,070,827

*388 - Division of Human Services –**Child Care and Development*Fund 8817 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 2,867,623
Unclassified.....09900	350,000

Current Expenses .....	13000	47,000,307
Federal Coronavirus Pandemic .....	89101	<u>330,722,313</u>
Total.....		\$ 380,940,243
Total TITLE II, Section 7 – Federal Block Grants.....		<u>\$998,789,094</u>

**Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal year 2023, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$17,924, special revenue funds in the amount of \$63,003, and state road funds in the amount of \$433,232 for payment of claims against the state.

**Sec. 9. Appropriations from general revenue fund surplus accrued.** — The following items are hereby appropriated from the state fund, general revenue, and are to be available for expenditure during the fiscal year 2023 out of surplus funds only, accrued from the fiscal year ending June 30, 2022, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriations be payable only from surplus as of July 31, 2022 from the fiscal year ending June 30, 2022, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2022, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

*389 - West Virginia University –*

*General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2023 Org 0463

West Virginia University – Surplus .....##### \$ 14,100,000

*390 - Marshall University –*

*General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2023 Org 0471

Marshall University – Surplus .....##### \$ 8,100,000

*391 - Department of Tourism –*

*Office of the Secretary*

(WV Code Chapter 5B)

Fund 0246 FY 2023 Org 0304

Tourism – Brand Promotion – Surplus .....##### \$ 7,000,000

*392 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2023 Org 0402

Jobs & Hope – Surplus .....##### \$ 2,771,363

*393 - Department of Revenue*

(WV Code Chapter 11)

Fund ##### FY 2023 Org #####

Directed Transfer – Surplus .....##### \$ 96,000,000

The above appropriation for Directed Transfer – Surplus (fund #####, appropriation #####) shall be credited to Fiscal Year 2023 collections.

394 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2023 Org 0327

Directed Transfer – Surplus ..... 70099 \$ 1,000,000

The above appropriation for Directed Transfer – Surplus (fund 0606, appropriation 70099) shall be transferred to the Marketing and Communications Operating Fund (fund 3002).

395 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2023 Org 1400

Personal Services and Employee Benefits –

Surplus ..... 24301 \$ 550,000

396 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2023 Org 0613

Personal Services and Employee Benefits –

Surplus ..... 24301 \$ 293,474

Veterans' Nursing Home – Surplus ..... 29100 652,530

Total ..... \$ 946,004

397 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 0460 FY 2023 Org 0618

## Personal Services and Employee Benefits –

Surplus .....	24301	\$	69,783
Current Expenses – Surplus .....	13099		<u>80,000</u>
Total .....		\$	149,783

*398 - Division of Administrative Services*

(WV Code Chapter 15)

Fund 0546 FY 2023 Org 0623

Current Expenses – Surplus .....	13099	\$	11,400,000
Justice Reinvestment Initiative – Surplus .....	89599		<u>750,000</u>
Total .....		\$	12,150,000

From the above appropriation for Current Expenses – Surplus (fund 0546, appropriation 13099) \$11,400,000 shall be used for the Victims of Crime Act (VOCA).

*399 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2023 Org 0211

## Capital Outlay, Repairs and Equipment –

Surplus .....	67700	\$	4,000,000
---------------	-------	----	-----------

*400 - Department of Economic Development –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 0256 FY 2023 Org 0307

Directed Transfer – Surplus .....	70099	\$	500,000
Global Economic Development – Surplus .....	20299		<u>150,000</u>
Total .....		\$	650,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Broadband Enhancement Fund (fund 3013).

*401 - Division of Personnel*

(WV Code Chapter 29)

Fund 0206 FY 2023 Org 0222

Directed Transfer – Surplus .....70099 \$ 1,500,000

The above appropriation for Directed Transfer – Surplus (fund 0206, appropriation 70099) shall be transferred to the Department of Administration, Division of Personnel (fund 2440).

*402 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2023 Org 0603

Armory Board Transfer – Surplus .....70199 \$ 1,525,000

*403 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 0300 FY 2023 Org 0439

Mountain Stage – Surplus .....24999 \$ 150,000

*404 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapter 15A)

Fund 0450 FY 2023 Org 0608

Current Expenses – Surplus .....13099 \$ 4,200,000

*405 - Department of Revenue*

(WV Code Chapter 11)



Fund ##### FY 2023 Org #####

Directed Transfer – Surplus .....##### \$265,000,000

The above appropriation for Directed Transfer – Surplus (fund #####, appropriation #####) shall be transferred to the Stabilization and Future Economic Reform Fund (fund #####, appropriation #####), created in House Bill 4007 during the 2022 Regular Session.

Total TITLE II, Section 9 –

General Revenue Surplus Accrued..... \$419,792,150

**Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2023 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2022, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2022.

In the event that surplus revenues available from the fiscal year ending June 30, 2022, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*406 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

*(WV Code Chapter 29)*

Fund 5405 FY 2023 Org 0508

Senior Services Medicaid Transfer –

Lottery Surplus .....68199 \$ 14,000,000

In-Home Services and Nutrition

for Senior Citizens – Surplus.....76699 2,000,000

Total TITLE II, Section 10 – Surplus Accrued..... \$ 16,000,000

**Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2023 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2022, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2022.

In the event that surplus revenues available from the fiscal year ending June 30, 2022, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*407 - Racing Commission –*

*General Administration*

(WV Code Chapter 19)

Fund 7308 FY 2023 Org 0707

Directed Transfer .....70000 \$ 800,000

From the above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

*408 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services – Lottery Surplus .....68100 \$ 16,200,000  
 Total TITLE II, Section 11 – Surplus Accrued..... \$ 17,000,000

**Sec. 12. Special revenue appropriations.** — There are hereby appropriated for expenditure during the fiscal year 2023 special

revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2 and are not expressly appropriated under this act: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2-1 et seq., W.Va. Code §12-3-1 et seq., and W.Va. Code §11B-2-1 et seq., unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended: *Provided, however*, That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.Va. Code §4-11-1, *et seq.* *Provided further*, That federal funds that become available to a spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W. Va. Code §4-11-5(d): *And provided further*, That no provision of this Act may be construed to authorize the expenditure of federal funds except as provided in this section.

**Sec. 13. State improvement fund appropriations.** — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2023, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2023 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers

or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

**Sec. 14. Specific funds and collection accounts.** — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

**Sec. 15. Appropriations for refunding erroneous payment.** — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

**Sec. 16. Sinking fund deficiencies.** — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the

Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

**Sec. 17. Appropriations for local governments.** — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

**Sec. 18. Total appropriations.** — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

**Sec. 19. General school fund.** — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

### TITLE III – ADMINISTRATION

**Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

**Sec. 2. Constitutionality.** — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

On motion of Senator Tarr, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 250) was reported by the Clerk:

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

#### TITLE I – GENERAL PROVISIONS.

**Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2023.

**Sec. 2. Definitions.** — For the purpose of this bill:

"Governor" shall mean the Governor of the State of West Virginia.

"Code" shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

"Spending unit" shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The "fiscal year 2023" shall mean the period from July 1, 2022, through June 30, 2023.

"General revenue fund" shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

"Special revenue funds" shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

"From collections" shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated "from collections," the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

**Sec. 3. Classification of appropriations.** — An appropriation for:

"Personal services" shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. "Personal services" shall include "annual increment" for "eligible employees" and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for "personal services" shall include salaries of heads of spending units.

"Employee benefits" shall mean social security matching, workers' compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its "unclassified" appropriation, or its "current expenses" appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

"BRIM Premiums" shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for "BRIM Premium" be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its "unclassified" appropriation, its "current expenses" appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for "BRIM Premium" such costs shall be paid by each spending unit from its "current expenses" appropriation, "unclassified" appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

"Current expenses" shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.



"Equipment" shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

"Repairs and alterations" shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

"Buildings" shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

"Lands" shall mean the purchase of real property or interest in real property.

"Capital outlay" shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a "personal services and employee benefits" appropriation unless the source funds are also wholly from a "personal services and employee benefits" line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds

are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to "personal services and employee benefits," "current expenses," "repairs and alterations," "equipment," "other assets," "land," and "buildings" to other appropriations within the same account and no funds from other appropriations shall be transferred to the "personal services and employee benefits" or the "unclassified" appropriation except that during Fiscal Year 2023, and upon approval from the State Budget Office, agencies with the appropriation "Salary and Benefits of Cabinet Secretary and Agency Heads" may transfer between this appropriation and the appropriation "Personal Services and Employee Benefits" an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2023, as provided by W.V. Code §6-7-2a: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

**Sec. 4. Method of expenditure.** — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

**Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

## TITLE II – APPROPRIATIONS.

### ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue fund surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.

- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

**Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2023.

**LEGISLATIVE**

*1 - Senate*

Fund 0165 FY 2023 Org 2100

	<b>Appropriation</b>	<b>General Revenue Fund</b>
Compensation of Members (R).....00300	\$	1,010,000
Compensation and Per Diem of Officers and Employees (R) .....00500		4,011,332
Current Expenses and Contingent Fund (R).... 02100		321,392
Repairs and Alterations (R) .....06400		35,000
Technology Repair and Modernization (R)....29800		80,000
Expenses of Members (R).....39900		450,000

BRIM Premium (R) .....	91300	<u>44,482</u>
Total.....		\$ 5,952,206

The appropriations for the Senate for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

*2 - House of Delegates*

Fund 0170 FY 2023 Org 2200

Compensation of Members (R).....00300	\$ 3,000,000
Compensation and Per Diem of Officers and Employees (R) .....	00500 575,000
Current Expenses and Contingent Fund (R)....	02100 4,399,031
Expenses of Members (R).....	39900 1,350,000
Capitol Outlay, Repairs and Equipment (R)....	58900 500,000
BRIM Premium (R) .....	91300 <u>80,000</u>
Total.....	\$ 9,904,031

The appropriations for the House of Delegates for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies

incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

### *3 - Joint Expenses*

(WV Code Chapter 4)

#### Fund 0175 FY 2023 Org 2300

Joint Committee on Government and Finance (R).....	10400	\$ 7,725,138
Legislative Printing (R).....	10500	260,000
Legislative Rule-Making Review Committee (R).....	10600	147,250

Legislative Computer System (R).....	10700	1,447,500
Legislative Dues and Fees (R) .....	10701	600,000
BRIM Premium (R) .....	91300	<u>60,569</u>
Total.....		\$ 10,240,457

The appropriations for the Joint Expenses for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

## JUDICIAL

### 4 - *Supreme Court –*

#### *General Judicial*

#### Fund 0180 FY 2023 Org 2400

Personal Services		
and Employee Benefits (R).....	00100	\$ 124,201,587
Current Expenses (R) .....	13000	21,063,451
Repairs and Alterations (R) .....	06400	40,000
Equipment (R).....	07000	2,482,300
Military Service Members Court (R) .....	09002	300,000
Judges' Retirement System (R) .....	11000	797,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	200,000
BRIM Premium (R) .....	91300	<u>834,000</u>
Total.....		\$ 149,928,338

The appropriations to the Supreme Court of Appeals for the fiscal years 2020, 2021 and 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any



balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions therefrom as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

### **EXECUTIVE**

#### *5 - Governor's Office*

(WV Code Chapter 5)

#### Fund 0101 FY 2023 Org 0100

Personal Services and Employee Benefits ....00100	\$ 3,332,448
Current Expenses (R).....13000	799,000
Repairs and Alterations.....06400	25,000
Equipment.....07000	1,000
National Governors Association .....12300	60,700
Herbert Henderson	
Office of Minority Affairs .....13400	396,726
Community Food Program .....18500	1,000,000
Office of Resiliency (R).....18600	605,234
BRIM Premium.....91300	<u>183,645</u>
Total.....	\$ 6,403,753

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and Office of Resiliency (fund 0101, appropriation 18600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - *Governor's Office* –

*Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2023 Org 0100

Personal Services and Employee Benefits ....00100	\$	396,421
Current Expenses (R).....13000		182,158
Repairs and Alterations.....06400		5,000
Equipment.....07000		<u>1,000</u>
Total.....	\$	584,579

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

7 - *Governor's Office* –

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2023 Org 0100

Milton Flood Wall (R) .....75701	\$	3,500,000
Court Improvement.....xxxxx		<u>5,000,000</u>
Total.....	\$	8,500,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund

0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Local Economic Development Assistance – Surplus (fund 0105, appropriation 26600), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 0105, appropriation 75799), Natural Disasters – Surplus (fund 0105, appropriation 76400), and Local Economic Development Assistance (fund 0105, appropriation 81900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.

*8 - Auditor's Office –*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2023 Org 1200

Personal Services and Employee Benefits....00100	\$	2,461,609
Current Expenses (R).....13000		13,429
BRIM Premium.....91300		<u>12,077</u>
Total.....	\$	2,487,115

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of

the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

*9 - Treasurer's Office*

(WV Code Chapter 12)

Fund 0126 FY 2023 Org 1300

Personal Services and Employee Benefits ....00100	\$	2,649,270
Unclassified.....09900		31,463
Current Expenses (R).....13000		572,684
Abandoned Property Program.....11800		41,794
Other Assets.....69000		10,000
ABLE Program.....69201		150,000
BRIM Premium.....91300		<u>59,169</u>
Total.....	\$	3,514,380

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

*10 - Department of Agriculture*

(WV Code Chapter 19)

Fund 0131 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	6,559,737
Current Expenses (R).....13000		848,115
Animal Identification Program.....03900		134,060
State Farm Museum.....05500		87,759
Gypsy Moth Program (R).....11900		1,051,759

WV Farmers Market .....	12801	150,467
Black Fly Control.....	13700	456,724
HEMP Program.....	13701	363,162
Donated Foods Program .....	36300	45,000
Veterans to Agriculture Program (R).....	36301	262,432
Predator Control (R) .....	47000	176,400
Bee Research.....	69100	72,752
Microbiology Program.....	78500	102,854
Moorefield Agriculture Center .....	78600	1,017,582
Chesapeake Bay Watershed .....	83000	115,453
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA Camp and Conference Center .....	94101	756,707
Threat Preparedness .....	94200	75,618
WV Food Banks.....	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program.....	97000	<u>55,835</u>
Total.....		\$ 12,906,141

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

*11 - West Virginia Conservation Agency*

(WV Code Chapter 19)

Fund 0132 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	836,549
Unclassified.....09900		77,059
Current Expenses (R).....13000		317,848
Soil Conservation Projects (R).....12000		9,962,895
BRIM Premium.....91300		<u>34,428</u>
Total.....	\$	11,228,779

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*12 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	995,260
Unclassified.....09900		7,090
Current Expenses .....13000		<u>82,605</u>
Total.....	\$	1,084,955

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –*

*Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2023 Org 1400

Programs and Awards for 4-H Clubs and FFA/FHA .....	57700	\$	15,000
Commissioner's Awards and Programs .....	73700		<u>39,250</u>
Total .....		\$	54,250

*14 - Department of Agriculture –*

*West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2023 Org 1400

Personal Services and Employee Benefits ....	00100	\$	102,573
Unclassified.....	09900		<u>950</u>
Total.....		\$	103,523

*15 - Attorney General*

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2023 Org 1500

Personal Services and Employee Benefits (R).....	00100	\$	3,114,386
Unclassified (R) .....	09900		24,428
Current Expenses (R) .....	13000		687,795
Repairs and Alterations .....	06400		1,000
Equipment .....	07000		1,000

Criminal Convictions

and Habeas Corpus Appeals (R).....	26000	970,283
Better Government Bureau .....	74000	283,648
BRIM Premium.....	91300	<u>120,654</u>
Total.....		\$ 5,203,194

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

16 - *Secretary of State*

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2023 Org 1600

Personal Services and Employee Benefits ....	00100	\$ 118,794
Unclassified (R) .....	09900	8,352
Current Expenses (R).....	13000	781,584



BRIM Premium.....	91300	<u>34,500</u>
Total.....	\$	943,230

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

*17 - State Election Commission*

(WV Code Chapter 3)

Fund 0160 FY 2023 Org 1601

Personal Services and Employee Benefits ....00100	\$	2,477
Unclassified.....09900		75
Current Expenses .....13000		<u>4,956</u>
Total.....	\$	7,508

**DEPARTMENT OF ADMINISTRATION**

*18 - Department of Administration –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2023 Org 0201

Personal Services and Employee Benefits ....00100	\$	452,199
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		168,000
Unclassified.....09900		9,177
Current Expenses .....13000		85,009
Repairs and Alterations.....06400		100
Equipment.....07000		1,000
Financial Advisor (R) .....30400		27,546

Lease Rental Payments .....	51600	14,850,000
Design-Build Board .....	54000	4,000
Other Assets .....	69000	100
BRIM Premium.....	91300	<u>6,736</u>
Total.....		\$ 15,603,867

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

*19 - Consolidated Public Retirement Board*

(WV Code Chapter 5)

Fund 0195 FY 2023 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2023 Org 0209

Personal Services and Employee Benefits ....	00100	\$	65,453
Unclassified.....	09900		1,400
Current Expenses .....	13000		53,563
GAAP Project (R) .....	12500		632,332
BRIM Premium.....	91300		<u>20,675</u>
Total.....		\$	773,423

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2023 Org 0211

Personal Services and Employee Benefits ....00100	\$ 2,860,163
Unclassified.....09900	20,000
Current Expenses .....13000	1,148,349
Repairs and Alterations.....06400	500
Equipment.....07000	5,000
Fire Service Fee .....12600	14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds .....37100	68,000
Capital Outlay, Repairs and Equipment (R) ....58900	23,660,888
BRIM Premium.....91300	<u>129,983</u>
Total.....	\$ 27,906,883

Any unexpended balance remaining in the appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

*22 - Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2023 Org 0213

Personal Services and Employee Benefits ....00100	\$	1,072,747
Unclassified.....09900		144
Current Expenses .....13000		1,285
Repairs and Alterations .....06400		200
BRIM Premium.....91300		<u>6,922</u>
Total.....	\$	1,081,298

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

*23 - Travel Management*

(WV Code Chapter 5A)

Fund 0615 FY 2023 Org 0215

Personal Services and Employee Benefits ....00100	\$	823,542
Unclassified.....09900		12,032
Current Expenses .....13000		440,247
Repairs and Alterations .....06400		1,000
Equipment .....07000		5,000
Buildings (R).....25800		100
Other Assets .....69000		<u>100</u>
Total.....	\$	1,282,021

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*24 - Commission on Uniform State Laws*

(WV Code Chapter 29)

Fund 0214 FY 2023 Org 0217

Current Expenses .....13000 \$ 45,550

To pay expenses for members of the commission on uniform state laws.

*25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2023 Org 0219

Personal Services and Employee Benefits ....00100	\$	999,883
Unclassified.....09900		1,000
Current Expenses .....13000		145,295
Equipment.....07000		50
BRIM Premium.....91300		<u>8,740</u>
Total.....	\$	1,154,968

*26 - Ethics Commission*

(WV Code Chapter 6B)

Fund 0223 FY 2023 Org 0220

Personal Services and Employee Benefits ....00100	\$	624,669
Unclassified.....09900		2,200
Current Expenses .....13000		104,501
Repairs and Alterations.....06400		500
Other Assets.....69000		100
BRIM Premium.....91300		<u>5,574</u>
Total.....	\$	737,544

*27 - Public Defender Services*

(WV Code Chapter 29)

Fund 0226 FY 2023 Org 0221

Personal Services and Employee Benefits ....00100	\$	1,859,148
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		119,000
Unclassified.....09900		333,300

Current Expenses .....	13000	12,740
Public Defender Corporations.....	35200	22,155,232
Appointed Counsel Fees (R).....	78800	12,691,113
BRIM Premium.....	91300	<u>10,575</u>
Total.....		\$ 37,181,108

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

*28 - Committee for the Purchase of*

*Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2023 Org 0224

Personal Services and Employee Benefits ....	00100	\$ 3,187
Current Expenses .....	13000	<u>868</u>
Total.....		\$ 4,055

*29 - Public Employees Insurance Agency*

(WV Code Chapter 5)

Fund 0200 FY 2023 Org 0225

PEIA Subsidy.....	80100	\$ 21,000,000
-------------------	-------	---------------

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*30 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 0557 FY 2023 Org 0228

Forensic Medical Examinations (R) .....	68300	\$	143,697
Federal Funds/Grant Match (R) .....	74900		<u>109,007</u>
Total .....		\$	252,704

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*31 - Real Estate Division*

(WV Code Chapter 5A)

Fund 0610 FY 2023 Org 0233

Personal Services and Employee Benefits ....	00100	\$	704,366
Unclassified.....	09900		124
Current Expenses .....	13000		137,381
Repairs and Alterations .....	06400		100
Equipment .....	07000		2,500
BRIM Premium.....	91300		<u>9,784</u>
Total .....		\$	854,255

**DEPARTMENT OF COMMERCE***32 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$ 4,798,258
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201 111,674
Unclassified.....	09900 21,435
Current Expenses .....	13000 558,024
Repairs and Alterations.....	06400 80,000
BRIM Premium.....	91300 98,754
Total.....	\$ 5,668,145

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

*33 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2023 Org 0306

Personal Services and Employee Benefits ....00100	\$ 1,645,283
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201 112,753
Unclassified.....	09900 27,678
Current Expenses .....	13000 51,524
Repairs and Alterations.....	06400 968
Mineral Mapping System (R) .....	20700 1,117,464
BRIM Premium.....	91300 24,486
Total.....	\$ 2,980,156



Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

*34 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 0260 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$ 1,606,616
Current Expenses .....	13000 227,000
Repairs and Alterations.....06400	28,000
Equipment.....07000	15,000
BRIM Premium.....91300	<u>8,500</u>
Total.....	\$ 1,885,116

*35 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$ 17,909,107
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201 113,188
Unclassified.....09900	184,711
Current Expenses .....	13000 196,302
Repairs and Alterations.....06400	100
Equipment.....07000	100
Buildings (R).....25800	100
Capital Outlay – Parks (R).....28800	3,000,000
Litter Control Conservation Officers .....	56400 151,662
Upper Mud River Flood Control.....65400	166,304
Other Assets.....69000	100

Land (R).....	73000	100
Law Enforcement.....	80600	2,628,555
BRIM Premium.....	91300	<u>45,141</u>
Total.....		\$ 24,395,470

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

*36 - Division of Miners' Health, Safety and Training*

(WV Code Chapter 22)

Fund 0277 FY 2023 Org 0314

Personal Services and Employee Benefits.....	00100	\$ 9,662,673
Unclassified.....	09900	111,016
Current Expenses .....	13000	1,396,141
Coal Dust and Rock Dust Sampling .....	27000	493,803
BRIM Premium.....	91300	<u>80,668</u>
Total.....		\$ 11,744,301

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

*37 - Board of Coal Mine Health and Safety*

(WV Code Chapter 22)

Fund 0280 FY 2023 Org 0319

Personal Services and Employee Benefits ....00100	\$	240,032
Unclassified.....09900		3,480
Current Expenses .....13000		<u>118,138</u>
Total.....	\$	361,650

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

*38 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 0572 FY 2023 Org 0323

Personal Services and Employee Benefits ....00100	\$	51,433
Unclassified.....09900		593
Current Expenses .....13000		<u>6,447</u>
Total.....	\$	58,473

*39 - Department of Commerce –*

*Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2023 Org 0327

Personal Services and Employee Benefits ....00100	\$	1,374,092
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		153,750
Unclassified.....09900		1,490
Current Expenses .....13000		<u>353,147</u>
Total.....	\$	1,882,479

*40 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$ 11,913,813
Current Expenses .....13000	558,815
Independent Living Services.....00900	429,418
Workshop Development .....16300	1,817,427
Supported Employment Extended Services..20600	77,960
Ron Yost Personal Assistance Fund .....40700	333,828
Employment Attendant Care Program.....59800	131,575
BRIM Premium.....91300	<u>77,464</u>
Total.....	\$ 15,340,300

The above appropriation for Workshop Development (fund 0310, appropriation 16300) shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the program, services, and individuals with disabilities currently in place at those organizations.

## DEPARTMENT OF TOURISM

*41 - Department of Tourism –*

*Office of the Secretary*

(WV Code Chapter 5B)

Fund 0246 FY 2023 Org 0304

Tourism – Brand Promotion (R) .....61803	\$ 3,000,000
Tourism – Public Relations (R) .....61804	1,500,000
Tourism – Events and Sponsorships (R).....61805	500,000
Tourism – Industry Development (R).....61806	500,000
State Parks and Recreation Advertising (R) ....61900	<u>1,500,000</u>
Total.....	\$ 7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Development Opportunity Fund (fund 0245, appropriation 11601), Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development

(fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Secretary of the Department of Tourism shall have the authority to transfer between the above items of appropriation.

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

### *42 - Department of Economic Development –*

#### *Office of the Secretary*

(WV Code Chapter 5B)

#### Fund 0256 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 4,151,904
Unclassified.....09900	108,055
Current Expenses .....13000	4,738,464
National Youth Science Camp.....13200	241,570
Local Economic Development	
Partnerships (R) .....13300	1,250,000
ARC Assessment .....13600	152,585
Global Economic Development	
Partnerships (R) .....20201	150,000
Guaranteed Work Force Grant (R).....24200	982,630
Mainstreet Program.....79400	170,493
BRIM Premium.....91300	3,157
Hatfield McCoy Recreational Trail.....96000	<u>198,415</u>
Total.....	\$ 12,147,273

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Global Economic Development Partnership (fund 0256, appropriation 20201), and Guaranteed Work Force Grant (fund 0256, appropriation 24200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$50,000 shall be used for the Western Potomac Economic Partnership, \$100,000 shall be used for Advantage Valley, \$750,000 shall be used for the Robert C. Byrd Institute, \$548,915 shall be used for West Virginia University, \$298,915 shall be used for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The Department of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$30,000 per county served by an economic development or redevelopment corporation or authority.

**DEPARTMENT OF EDUCATION**

*43 - State Board of Education –*

*School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	360,144
Current Expenses .....		<u>13000</u>
		2,118,865
Total.....	\$	<u>2,479,009</u>

*44 - State Board of Education –*

*State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	4,719,032
Unclassified (R) .....09900		420,000
Current Expenses (R) .....13000		4,580,000
Teachers' Retirement Savings Realized .....09500		40,523,000
Center for Professional Development (R).....11500		150,000
Increased Enrollment .....14000		3,260,000
Safe Schools.....14300		4,530,281
Attendance Incentive Bonus (R) .....15001		2,056,717
National Teacher Certification (R) .....16100		300,000
Jobs & Hope –		
Childhood Drug Prevention Education...21901		5,000,000
Technology Repair and Modernization.....29800		951,003
Hope Scholarship Program .....30401		23,350,520
HVAC Technicians .....35500		529,650
Early Retirement Notification Incentive .....36600		300,000
MATH Program .....36800		336,532
Assessment Programs (R) .....39600		3,909,374
Benedum Professional Development		
Collaborative (R) .....42700		429,775
Governor's Honors Academy (R).....47800		1,059,270
21st Century Fellows .....50700		274,899
English as a Second Language.....52800		96,000
Teacher Reimbursement .....57300		297,188
Hospitality Training .....60000		275,498
Youth in Government .....61600		100,000
High Acuity Special Needs (R).....63400		1,500,000
Foreign Student Education.....63600		100,899
State Board of Education		
Administrative Costs .....68400		280,429
IT Academy (R) .....72100		500,000
Early Literacy Program.....75600		5,711,675
School Based Truancy Prevention (R).....78101		2,047,366
Communities in Schools (R).....78103		4,903,026
Mastery Based Education .....78104		125,000
Mountain State Digital Literacy Program.....86401		415,500
21st Century Learners (R).....88600		1,790,508
BRIM Premium.....91300		342,859
21st Century Assessment and Professional Development .....93100		2,009,701

## 21st Century Technology Infrastructure

Network Tools and Support (R) .....	93300	9,764,417
Special Olympic Games.....	96600	25,000
Educational Program Allowance .....	99600	<u>516,250</u>
Total.....		\$127,481,369

The above appropriations include funding for the state board of education and their executive office.

From the above appropriation for Current Expenses (fund 0313, appropriation 13000), \$2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional Child Hunger Solutions.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Teachers' Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

From the above appropriation for Unclassified (fund 0313, appropriation 09900), \$120,000 shall be for assisting low income students with AP and CLEP exam fees.



The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for the Morgan County Board of Education for Paw Paw Schools; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge and \$66,250 is for Project Based Learning in STEM fields.

*45 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2023 Org 0402

Special Education – Counties .....	15900	\$ 7,271,757
Special Education – Institutions.....	16000	4,078,883
Education of Juveniles Held in Predispositional Juvenile Detention Centers .....	30200	683,479
Education of Institutionalized Juveniles and Adults (R).....	47200	<u>21,195,471</u>
Total.....		\$ 33,229,590

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

*46 - State Board of Education –**State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2023 Org 0402

Other Current Expenses .....	02200	\$ 159,483,873
Advanced Placement.....	05300	594,563
Professional Educators.....	15100	904,942,470
Service Personnel.....	15200	303,757,447
Fixed Charges .....	15300	105,298,651
Transportation .....	15400	65,257,311
Improved Instructional Programs.....	15600	51,974,496
Professional Student Support Services .....	65500	61,488,888
21st Century Strategic Technology		
Learning Growth.....	93600	26,443,757
Teacher and Leader Induction.....	93601	<u>5,478,876</u>
Basic Foundation Allowances.....		1,684,720,332
Less Local Share .....		(474,379,513)
Adjustments .....		<u>(2,495,004)</u>
Total Basic State Aid .....		1,207,845,815
Public Employees' Insurance Matching .....	01200	214,702,113
Teachers' Retirement System.....	01900	68,915,309
School Building Authority (R).....	45300	24,000,000
Retirement Systems – Unfunded Liability....	77500	<u>276,328,760</u>
Total.....		\$1,791,791,997

Any unexpended balances remaining in the appropriations for School Building Authority (fund 0317, appropriation 45300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for School Building Authority (fund 0317, appropriation 45300) shall be transferred to the School Construction Fund (fund 3952).

*47 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	1,376,322
Unclassified.....09900		268,800
Current Expenses .....13000		883,106
Wood Products – Forestry		
Vocational Program .....14600		82,713
Albert Yanni Vocational Program .....14700		132,123
Vocational Aid .....14800		24,516,692
Adult Basic Education .....14900		5,460,891
Jobs & Hope.....14902		6,250,000
Program Modernization .....30500		884,313
High School Equivalency		
Diploma Testing (R).....72600		807,935
FFA Grant Awards.....83900		11,496
Pre-Engineering Academy Program .....84000		265,294
Total.....	\$	40,939,685

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*48 - State Board of Education –**West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2023 Org 0403

Personal Services and Employee Benefits ....00100	\$	10,573,588
Unclassified (R) .....09900		110,000
Current Expenses (R) .....13000		2,250,696
Repairs and Alterations .....06400		164,675
Equipment .....07000		77,000
Buildings (R).....25800		45,000
Capital Outlay and Maintenance (R) .....75500		1,670,000

BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 15,021,801

Any unexpended balances remaining in the appropriations for Unclassified (fund 0320, appropriation 09900), Current Expenses (fund 0320, appropriation 13000), Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

## **DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

### *49 - Division of Culture and History*

(WV Code Chapter 29)

Fund 0293 FY 2023 Org 0432

Personal Services and Employee Benefits ....	00100	\$ 3,513,485
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	120,106
Unclassified (R) .....	09900	28,483
Current Expenses .....	13000	610,843
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1
WV Humanities Council.....	16800	250,000
Buildings (R).....	25800	1
Other Assets.....	69000	1
Educational Enhancements .....	69500	73,500
Land (R).....	73000	1
Culture and History Programming.....	73200	231,573
Capital Outlay and Maintenance (R) .....	75500	19,600
Historical Highway Marker Program.....	84400	57,548
BRIM Premium.....	91300	<u>39,337</u>
Total.....		\$ 4,945,479

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), WV Women's Suffragist Memorial (fund 0293, appropriation 22101), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital

Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500) \$73,500 shall be used for the Clay Center.

The Current Expenses appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

*50 - Library Commission*

(WV Code Chapter 10)

Fund 0296 FY 2023 Org 0433

Personal Services and Employee Benefits ....00100	\$	1,119,022
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 112,000
Current Expenses .....		13000 139,624
Repairs and Alterations.....		06400 6,500
Services to Blind & Handicapped.....		18100 161,717
BRIM Premium.....		91300 <u>18,205</u>
Total.....	\$	<u>1,557,068</u>

*51 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 0300 FY 2023 Org 0439

Personal Services and Employee Benefits ....00100	\$	3,274,206
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 120,106
Current Expenses .....		13000 113,844

Mountain Stage .....	24900	450,000
Capital Outlay and Maintenance (R) .....	75500	49,250
BRIM Premium.....	91300	<u>47,727</u>
Total.....		\$ 4,055,133

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### *52 - Environmental Quality Board*

(WV Code Chapter 20)

#### Fund 0270 FY 2023 Org 0311

Personal Services and Employee Benefits ....00100	\$	88,590
Current Expenses .....	13000	28,453
Repairs and Alterations.....	06400	800
Equipment.....	07000	500
Other Assets.....	69000	400
BRIM Premium.....	91300	<u>791</u>
Total.....	\$	119,534

### *53 - Division of Environmental Protection*

(WV Code Chapter 22)

#### Fund 0273 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	4,144,818
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	168,000
Current Expenses .....	13000	85,816
Water Resources Protection and Management.....	06800	583,086
Dam Safety.....	60700	245,842
West Virginia Stream Partners Program.....	63700	77,396
Meth Lab Cleanup.....	65600	91,888

WV Contributions to River Commissions ....77600	148,485
Office of Water Resources	
Non-Enforcement Activity .....85500	<u>1,040,868</u>
Total.....	\$ 6,586,199

*54 - Air Quality Board*

(WV Code Chapter 16)

Fund 0550 FY 2023 Org 0325

Personal Services and Employee Benefits ....00100	\$ 60,737
Current Expenses .....13000	11,612
Repairs and Alterations.....06400	800
Equipment.....07000	400
Other Assets.....69000	200
BRIM Premium.....91300	<u>2,304</u>
Total.....	\$ 76,053

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*55 - Department of Health and Human Resources –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2023 Org 0501

Personal Services and Employee Benefits ....00100	\$ 387,664
Unclassified.....09900	6,459
Current Expenses .....13000	50,613
Commission for the Deaf and Hard of Hearing .....70400	<u>228,560</u>
Total.....	\$ 673,296

*56 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 13,051,133
Unclassified.....09900	671,795
Current Expenses .....13000	5,388,459
Chief Medical Examiner (R).....04500	8,887,105
State Aid for Local and Basic Public Health Services .....18400	15,672,592
Safe Drinking Water Program (R) .....18700	1,915,528
Women, Infants and Children .....21000	38,621
Early Intervention .....22300	8,134,060
Cancer Registry.....22500	211,359
Office of Drug Control Policy (R) .....35401	554,230
Statewide EMS Program Support (R) .....38300	1,711,912
Office of Medical Cannabis (R).....42001	1,487,219
Black Lung Clinics .....46700	170,885
Vaccine for Children.....55100	341,261
Tuberculosis Control.....55300	335,307
Maternal and Child Health Clinics, Clinicians Medical Contracts and Fees (R) .....57500	5,905,414
Epidemiology Support .....62600	1,530,473
Primary Care Support .....62800	1,233,045
Sexual Assault Intervention and Prevention .....72300	2,000,000
Health Right Free Clinics.....72700	4,250,000
Capital Outlay and Maintenance (R) .....75500	70,000
Healthy Lifestyles .....77800	898,169
Maternal Mortality Review .....83400	50,841
Diabetes Education and Prevention .....87300	97,125
BRIM Premium.....91300	169,791
State Trauma and Emergency Care System ...91800	1,936,450
WVU Charleston Poison Control Hotline.....94400	<u>712,942</u>
Total.....	\$ 77,425,716

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation



35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis Surplus (fund 0407, appropriation 42099), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$1,000,000 shall be used for the administration of the Telestroke program.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

*57 - Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	1,693,100
Current Expenses .....		13000 14,113
Behavioral Health Program (R) .....		21900 70,186,648
Institutional Facilities Operations (R).....		33500 150,992,263
Substance Abuse Continuum of Care (R).....		35400 1,840,000
Capital Outlay and Maintenance (R) .....		75500 950,000
BRIM Premium.....		91300 <u>1,296,098</u>
Total.....		\$ <u>226,972,222</u>

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), Institutional Facilities Operations – Surplus (fund 0525, appropriation 63200), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Healing Place of Huntington.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2023, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

*58 - Division of Health –*

*West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2023 Org 0506

West Virginia Drinking Water Treatment

Revolving Fund-Transfer.....	68900	\$	647,500
------------------------------	-------	----	---------

The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

*59 - Human Rights Commission*

(WV Code Chapter 5)

Fund 0416 FY 2023 Org 0510

Personal Services and Employee Benefits ....00100	\$	1,003,911
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	112,000
Unclassified.....	09900	4,024
Current Expenses .....	13000	331,304

BRIM Premium.....	91300	<u>10,764</u>
Total.....		\$ 1,462,003

*60 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2023 Org 0511

Personal Services and Employee Benefits ....	00100	\$ 53,717,120
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	45,531
Unclassified.....	09900	5,688,944
Current Expenses .....	13000	12,072,050
Child Care Development.....	14400	3,118,451
Medical Services.....	18900	294,317,213
Social Services .....	19500	226,056,151
Family Preservation Program .....	19600	1,565,000
Family Resource Networks.....	27400	1,762,464
Domestic Violence Legal Services Fund .....	38400	400,000
James "Tiger" Morton Catastrophic Illness Fund .....	45500	60,164
I/DD Waiver.....	46600	108,541,736
Child Protective Services Case Workers .....	46800	28,889,529
Title XIX Waiver for Seniors.....	53300	13,593,620
WV Teaching Hospitals Tertiary/Safety Net .....	54700	6,356,000
In-Home Family Education.....	68800	1,000,000
WV Works Separate State Program.....	69800	135,000
Child Support Enforcement .....	70500	6,711,478
Temporary Assistance for Needy Families/ Maintenance of Effort.....	70700	25,819,096
Child Care – Maintenance of Effort Match ..	70800	5,693,743
Grants for Licensed Domestic Violence Programs and Statewide Prevention .....	75000	2,500,000
Capital Outlay and Maintenance (R) .....	75500	11,875
Community Based Services and Pilot Programs for Youth .....	75900	1,000,000
Medical Services Administrative Costs .....	78900	43,681,857
Traumatic Brain Injury Waiver.....	83500	800,000

Indigent Burials (R) .....	85100	1,550,000
CHIP Administrative Costs.....	85601	701,815
CHIP Services.....	85602	6,390,665
BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds.....	94000	2,596,000
Children's Trust Fund – Transfer .....	95100	220,000
PATH .....	95400	<u>7,217,367</u>
Total.....		\$863,105,511

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

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

The secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

The above appropriation for James "Tiger" Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James "Tiger" Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the secretary of the Department of Health and Human Resources.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to the Children's Trust Fund (fund 5469, org 0511).

## **DEPARTMENT OF HOMELAND SECURITY**

*61 - Department of Homeland Security –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2023 Org 0601

Personal Services and Employee Benefits ....00100	\$	780,510
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 168,000
Unclassified (R) .....		09900 30,000
Current Expenses .....		13000 91,636
Repairs and Alterations.....		06400 500
Equipment.....		07000 500
Fusion Center (R).....		46900 2,739,870
Other Assets.....		69000 500
Directed Transfer .....		70000 32,000
BRIM Premium.....		91300 22,563
WV Fire and EMS Survivor Benefit (R) .....		93900 200,000
Total.....	\$	4,066,079

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (fund 6003).

*62 - Division of Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2023 Org 0606

Personal Services and Employee Benefits ....00100	\$	2,177,053
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 61,250
Unclassified.....		09900 21,022
Current Expenses .....		13000 51,065
Repairs and Alterations.....		06400 600

Radiological Emergency Preparedness.....	55400	17,052
SIRN .....	55401	600,000
Federal Funds/Grant Match (R) .....	74900	1,449,990
Mine and Industrial Accident Rapid Response Call Center.....	78100	489,577
Early Warning Flood System (R) .....	87700	1,290,499
BRIM Premium.....	91300	<u>96,529</u>
Total.....		\$ 6,254,637

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*63 - Division of Corrections and Rehabilitation –*

*West Virginia Parole Board*

(WV Code Chapter 62)

Fund 0440 FY 2023 Org 0608

Personal Services and Employee Benefits ....	00100	\$ 310,869
Unclassified.....	09900	10,000
Current Expenses .....	13000	334,440
Salaries of Members of West Virginia Parole Board .....	22700	734,286
BRIM Premium.....	91300	<u>6,149</u>
Total.....		\$ 1,395,744

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code §5-5-1), and related employee benefits of board members.

*64 - Division of Corrections and Rehabilitation –*

*Central Office*



## (WV Code Chapter 15A)

Fund 0446 FY 2023 Org 0608

Personal Services and Employee Benefits ....00100	\$	250,577
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		126,000
Current Expenses .....13000		<u>2,400</u>
Total.....	\$	378,977

*65 - Division of Corrections and Rehabilitation –**Correctional Units*

## (WV Code Chapter 15A)

Fund 0450 FY 2023 Org 0608

Employee Benefits .....01000	\$	1,258,136
Unclassified.....09900		1,578,800
Current Expenses (R) .....13000		57,690,483
Children's Protection Act (R).....09000		838,437
Facilities Planning and Administration (R) ..38600		1,274,200
Charleston Correctional Center .....45600		3,530,502
Beckley Correctional Center .....49000		2,633,846
Anthony Correctional Center .....50400		6,281,339
Huttonsville Correctional Center .....51400		19,975,709
Northern Correctional Center.....53400		8,154,113
Inmate Medical Expenses (R) .....53500		62,226,064
Pruntytown Correctional Center .....54300		8,946,953
Corrections Academy.....56900		1,983,466
Information Technology Services.....59901		2,759,052
Martinsburg Correctional Center .....66300		4,482,115
Parole Services.....68600		6,023,661
Special Services .....68700		5,894,456
Investigative Services .....71600		3,502,991
Capital Outlay and Maintenance (R) .....75500		2,000,000
Salem Correctional Center .....77400		11,678,166
McDowell County Correctional Center .....79000		2,542,590
Stevens Correctional Center.....79100		7,863,195
Parkersburg Correctional Center.....82800		6,418,300

St. Mary's Correctional Center.....	88100	15,081,470
Denmar Correctional Center .....	88200	5,367,552
Ohio County Correctional Center .....	88300	2,211,029
Mt. Olive Correctional Complex .....	88800	23,032,441
Lakin Correctional Center.....	89600	11,141,496
BRIM Premium.....	91300	<u>2,527,657</u>
Total.....		\$288,898,219

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections and Rehabilitation inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

*66 - Division of Corrections and Rehabilitation –*

*Bureau of Juvenile Services*

(WV Code Chapter 15A)

Fund 0570 FY 2023 Org 0608

Statewide Reporting Centers.....	26200	\$ 6,991,498
Robert L. Shell Juvenile Center .....	26700	2,649,168
Resident Medical Expenses (R) .....	53501	3,604,999
Central Office.....	70100	1,779,854
Capital Outlay and Maintenance (R) .....	75500	250,000
Gene Spadaro Juvenile Center .....	79300	2,789,569
BRIM Premium.....	91300	115,967
Kenneth Honey Rubenstein Juvenile Center (R) .....	98000	5,941,605
Vicki Douglas Juvenile Center .....	98100	2,471,185
Northern Regional Juvenile Center.....	98200	2,876,302
Lorrie Yeager Jr. Juvenile Center .....	98300	2,537,852
Sam Perdue Juvenile Center .....	98400	2,741,571
Tiger Morton Center .....	98500	2,754,083
Donald R. Kuhn Juvenile Center .....	98600	5,287,575
J.M. "Chick" Buckbee Juvenile Center.....	98700	<u>2,615,359</u>
Total.....		\$ 45,406,587

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above including statewide reporting centers and central office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

*67 - West Virginia State Police*

(WV Code Chapter 15)

Fund 0453 FY 2023 Org 0612

Personal Services and Employee Benefits ....00100	\$ 73,886,203
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201 139,300
Children's Protection Act .....	09000 1,040,805
Current Expenses .....	13000 10,384,394
Repairs and Alterations.....	06400 450,523
Trooper Class .....	52100 3,207,832
Barracks Lease Payments .....	55600 237,898
Communications and Other Equipment (R) ....	55800 1,070,968
Trooper Retirement Fund.....	60500 13,324,749
Handgun Administration Expense .....	74700 80,918
Capital Outlay and Maintenance (R) .....	75500 250,000
Retirement Systems – Unfunded Liability....	77500 35,000
Automated Fingerprint Identification System .....	89800 2,229,846
BRIM Premium.....	91300 <u>5,743,921</u>
Total.....	\$112,082,357

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2022 are hereby appropriated for expenditure during the fiscal year 2023.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

*68 - Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2023 Org 0619

Current Expenses .....	13000	\$	63,061
------------------------	-------	----	--------

*69 - Division of Protective Services*

(WV Code Chapter 5F)

Fund 0585 FY 2023 Org 0622

Personal Services and Employee Benefits ....00100	\$	3,186,789
Unclassified (R) .....09900		21,991
Current Expenses .....13000		422,981
Repairs and Alterations.....06400		8,500
Equipment (R).....07000		64,171
BRIM Premium.....91300		<u>32,602</u>
Total.....	\$	3,737,034

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*70 - Division of Administrative Services*

(WV Code Chapter 15A)

Fund 0546 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$	591,795
Current Expenses (R) .....13000		233,360
Repairs and Alterations.....06400		1,804
Child Advocacy Centers (R) .....45800		2,209,526
Community Corrections (R) .....56100		4,599,155
Statistical Analysis Program .....59700		50,122
Sexual Assault Forensic Examination Commission (R).....71400		79,340
Qualitative Analysis and Training for Youth Services (R).....76200		136,732
Law Enforcement Professional Standards ....83800		170,172
Justice Reinvestment Initiative (R) .....89501		2,333,795
BRIM Premium.....91300		<u>2,123</u>
Total.....	\$	10,407,924

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0546, appropriation 13000), Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault

Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Justice Reinvestment Initiative (fund 0546, appropriation 89501) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), \$100,000 shall be used for Court Appointed Special Advocates.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

*71 - Division of Administrative Services*

(WV Code Chapter 15A)

Fund 0619 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$ 5,155,206
Unclassified.....09900	5,000
Current Expenses .....13000	<u>600,000</u>
Total.....	\$ 5,760,206

**DEPARTMENT OF REVENUE**

*72 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2023 Org 0701

Personal Services and Employee Benefits ....00100	\$ 364,034
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	168,000
Unclassified.....09900	437
Current Expenses .....13000	81,594
Repairs and Alterations .....06400	1,262
Equipment .....07000	8,000

Other Assets.....	69000	<u>500</u>
Total.....	\$	623,827

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*73 - Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2023 Org 0702

Personal Services

and Employee Benefits (R).....	00100	\$ 19,015,878
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	147,000
Unclassified (R) .....	09900	174,578
Current Expenses (R) .....	13000	6,823,635
Repairs and Alterations.....	06400	10,150
Equipment.....	07000	54,850
Tax Technology Upgrade .....	09400	3,700,000
Multi State Tax Commission .....	65300	77,958
Other Assets.....	69000	10,000
BRIM Premium.....	91300	<u>15,579</u>
Total.....		\$ 30,029,628

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation 29200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*74 - State Budget Office*

(WV Code Chapter 11B)

Fund 0595 FY 2023 Org 0703

Personal Services and Employee Benefits ....00100	\$	819,147
Unclassified (R) .....09900		9,200
Current Expenses (R) .....13000		<u>119,449</u>
Total.....	\$	947,796

Any unexpended balances remaining in the appropriations for Unclassified (fund 0595, appropriation 09900) and Current Expenses (fund 0595, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*75 - West Virginia Office of Tax Appeals*

(WV Code Chapter 11)

Fund 0593 FY 2023 Org 0709

Personal Services and Employee Benefits ....00100	\$	935,715
Unclassified.....09900		5,255
Current Expenses (R) .....13000		229,374
BRIM Premium.....91300		<u>3,062</u>
Total.....	\$	1,173,406

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*76 - Division of Professional and Occupational Licenses –*

*State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2023 Org 0933

Personal Services and Employee Benefits ....00100	\$	7,200
Current Expenses .....13000		<u>29,611</u>
Total.....	\$	36,811



**DEPARTMENT OF TRANSPORTATION***77 - State Rail Authority*

(WV Code Chapter 29)

Fund 0506 FY 2023 Org 0804

Personal Services and Employee Benefits ....00100	\$	370,704
Current Expenses .....	13000	287,707
Other Assets (R).....	69000	1,270,019
BRIM Premium.....	91300	<u>201,541</u>
Total.....	\$	2,129,971

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*78 - Division of Public Transit*

(WV Code Chapter 17)

Fund 0510 FY 2023 Org 0805

Equipment (R).....	07000	\$	100,000
Current Expenses (R).....	13000		2,042,989
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		<u>50,000</u>
Total.....		\$	2,292,989

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0510, appropriation 13000), \$30,000 shall be used to support the Sistersville Ferry.

*79 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 0582 FY 2023 Org 0807

Personal Services and Employee Benefits ....00100	\$	229,791
Current Expenses (R).....13000		591,839
Repairs and Alterations.....06400		100
BRIM Premium.....91300		<u>4,438</u>
Total.....	\$	826,168

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

**DEPARTMENT OF VETERANS' ASSISTANCE***80 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2023 Org 0613

Personal Services and Employee Benefits ....00100	\$	2,036,851
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		110,880
Unclassified.....09900		20,000
Current Expenses .....13000		161,450
Repairs and Alterations.....06400		5,000
Veterans' Field Offices.....22800		405,550
Buildings .....25800		8,181,000
Veterans' Nursing Home (R).....28600		7,103,125
Veterans' Toll Free Assistance Line .....32800		2,015
Veterans' Reeducation Assistance (R) .....32900		40,000
Veterans' Grant Program (R) .....34200		560,000
Veterans' Grave Markers.....47300		10,000
Veterans' Cemetery .....80800		402,074
BRIM Premium.....91300		<u>50,000</u>
Total.....	\$	19,087,945

Any unexpended balances remaining in the appropriations for Buildings – Surplus (fund 0456, appropriation 25899), Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*81 - Department of Veterans' Assistance –*

*Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2023 Org 0618

Personal Services and Employee Benefits ....00100	\$ 1,296,064
Current Expenses (R) .....	13000 46,759
Veterans Outreach Programs (R) .....	61700 <u>203,766</u>
Total .....	\$ 1,546,589

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0460, appropriation 13000) and Veterans Outreach Programs (fund 0456, appropriation 61700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

**BUREAU OF SENIOR SERVICES**

*82 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 0420 FY 2023 Org 0508

Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....	53900 \$ 19,612,957
---	---------------------

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION**

*83 - West Virginia Council for*

*Community and Technical College Education –*

*Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2023 Org 0420

West Virginia Council for Community and Technical Education (R) .....	39200	\$	744,232
Transit Training Partnership .....	78300		34,293
Community College			
Workforce Development (R) .....	87800		2,788,387
College Transition Program .....	88700		278,222
West Virginia Advance			
Workforce Development (R) .....	89300		3,121,387
Technical Program Development (R) .....	89400		1,800,735
WV Invests Grant Program (R) .....	89401		<u>7,037,672</u>
Total .....		\$	15,804,928

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596,

appropriation 89401) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*84 - Mountwest Community and Technical College*

(WV Code Chapter 18B)

Fund 0599 FY 2023 Org 0444

Mountwest Community  
and Technical College .....48700 \$ 6,716,176

*85 - New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2023 Org 0445

New River Community  
and Technical College .....35800 \$ 6,088,539

*86 - Pierpont Community and Technical College*

(WV Code Chapter 18B)

Fund 0597 FY 2023 Org 0446

Pierpont Community  
and Technical College .....93000 \$ 8,119,152

*87 - Blue Ridge Community and Technical College*

(WV Code Chapter 18B)

Fund 0601 FY 2023 Org 0447

Blue Ridge Community  
and Technical College .....88500 \$ 8,139,835

*88 - West Virginia University at Parkersburg*

(WV Code Chapter 18B)

Fund 0351 FY 2023 Org 0464

West Virginia University – Parkersburg .....47100 \$ 10,799,686

89 - *Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2023 Org 0487

Southern West Virginia Community  
and Technical College .....44600 \$ 8,557,086

90 - *West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2023 Org 0489

West Virginia Northern Community  
and Technical College .....44700 \$ 7,580,697

91 - *Eastern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2023 Org 0492

Eastern West Virginia Community  
and Technical College .....41200 \$ 2,264,340

92 - *BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2023 Org 0493

BridgeValley Community  
and Technical College .....71700 \$ 8,364,587

**HIGHER EDUCATION POLICY COMMISSION**

93 - *Higher Education Policy Commission –*

*Administration –*

*Control Account*

## (WV Code Chapter 18B)

Fund 0589 FY 2023 Org 0441

Personal Services and Employee Benefits ....00100	\$	2,789,394
Current Expenses .....13000		1,096,902
RHI Program and Site Support –		
RHEP Program Administration (R).....03700		80,000
Mental Health Provider		
Loan Repayment (R).....11301		330,000
Higher Education Grant Program .....16400		40,619,864
Tuition Contract Program (R) .....16500		1,225,412
Underwood-Smith Scholarship		
Program-Student Awards.....16700		628,349
Facilities Planning and Administration.....38600		1,760,254
Higher Education System Initiatives.....48801		1,635,847
PROMISE Scholarship – Transfer.....80000		18,500,000
HEAPS Grant Program (R).....86700		5,017,974
Health Professionals'		
Student Loan Program (R).....86701		547,470
BRIM Premium.....91300		<u>17,817</u>
Total.....	\$	<u>74,249,283</u>

Any unexpended balances remaining in the appropriations for RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), Tuition Contract Program (fund 0589, appropriation 16500), Workforce Development Initiative (fund 0589, appropriation 52901), HEAPS Grant Program (fund 0589, appropriation 86700), and Health Professionals' Student Loan Program (fund 0589, appropriation 86701) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship-Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

*94 - West Virginia University –*

*School of Medicine*

*Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2023 Org 0463

WVU School of Health Science –

Eastern Division.....	05600	\$ 2,277,794
WVU – School of Health Sciences .....	17400	15,490,163
WVU – School of Health Sciences –		
Charleston Division .....	17500	2,351,833
Rural Health Outreach Programs (R).....	37700	165,979
West Virginia University School of		
Medicine BRIM Subsidy .....	46000	<u>1,203,087</u>
Total.....		\$ 21,488,856

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.



*95 - West Virginia University –**General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2023 Org 0463

West Virginia University .....	45900	\$ 99,166,182
Jackson's Mill (R) .....	46100	502,471
West Virginia University		
Institute of Technology .....	47900	8,320,240
State Priorities – Brownfield		
Professional Development (R) .....	53100	316,556
Energy Express (R) .....	86100	382,935
West Virginia University – Potomac State ...	99400	<u>4,709,664</u>
Total .....		\$ 113,398,048

Any unexpended balances remaining in the appropriations for Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), and Energy Express (fund 0344, appropriation 86100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*96 - Marshall University –**School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2023 Org 0471

Marshall Medical School .....	17300	\$ 7,272,947
Rural Health Outreach Programs (R) .....	37700	157,572
Forensic Lab (R) .....	37701	227,415
Center for Rural Health (R) .....	37702	161,043
Marshall University Medical School		
BRIM Subsidy .....	44900	<u>872,612</u>
Total .....		\$ 8,691,589

Any unexpended balances remaining in the appropriations for Rural Health Outreach Program (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*97 - Marshall University –*

*General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2023 Org 0471

Marshall University .....	44800	\$ 48,961,949
Luke Lee Listening Language and Learning Lab (R).....	44801	151,939
Vista E-Learning (R).....	51900	229,019
State Priorities – Brownfield Professional Development (R).....	53100	309,606
Marshall University Graduate College Writing Project (R) .....	80700	25,412
WV Autism Training Center (R) .....	93200	<u>1,869,776</u>
Total.....		\$ 51,547,701

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*98 - West Virginia School of Osteopathic Medicine*

(WV Code Chapter 18B)

Fund 0336 FY 2023 Org 0476

West Virginia School of Osteopathic Medicine .....	17200	\$ 5,247,095
Rural Health Outreach Programs (R).....	37700	169,035
West Virginia School of Osteopathic Medicine BRIM Subsidy .....	40300	153,405
Rural Health Initiative – Medical Schools Support.....	58100	<u>403,439</u>
Total.....		\$ 5,972,974

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*99 - Bluefield State College*

(WV Code Chapter 18B)

Fund 0354 FY 2023 Org 0482

Bluefield State College .....40800 \$ 6,648,770

*100 - Concord University*

(WV Code Chapter 18B)

Fund 0357 FY 2023 Org 0483

Concord University .....41000 \$ 10,836,709

*101 - Fairmont State University*

(WV Code Chapter 18B)

Fund 0360 FY 2023 Org 0484

Fairmont State University .....41400 \$ 19,273,190

*102 - Glenville State University*

(WV Code Chapter 18B)

Fund 0363 FY 2023 Org 0485

2566 JOURNAL OF THE SENATE [March 10

Glenville State University.....xxxxx \$ 6,768,535

*103 - Shepherd University*

(WV Code Chapter 18B)

Fund 0366 FY 2023 Org 0486

Shepherd University.....43200 \$ 13,026,830

*104 - West Liberty University*

(WV Code Chapter 18B)

Fund 0370 FY 2023 Org 0488

West Liberty University.....43900 \$ 9,552,600

*105 - West Virginia State University*

(WV Code Chapter 18B)

Fund 0373 FY 2023 Org 0490

West Virginia State University .....44100 \$ 11,380,098

Healthy Grandfamilies (R).....xxxxx 800,000

West Virginia State University

Land Grant Match.....95600 3,950,192

Total..... \$ 16,130,290

*106 - Higher Education Policy Commission –*

*Administration -*

*West Virginia Network for Educational Telecomputing (WVNET)*

(WV Code Chapter 18B)

Fund 0551 FY 2023 Org 0495

WVNET .....16900 \$ 1,817,992

**MISCELLANEOUS BOARDS AND COMMISSIONS***107 - Adjutant General –**State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2023 Org 0603

Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	\$ 189,000
Unclassified (R) .....	09900	106,798
College Education Fund.....	23200	4,000,000
Civil Air Patrol.....	23400	249,664
Armory Board Transfer.....	70015	2,317,555
Mountaineer ChalleNGe Academy .....	70900	3,324,624
Military Authority (R).....	74800	6,251,727
Drug Enforcement and Support .....	74801	<u>1,532,374</u>
Total.....		\$ 17,971,742

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$3,324,624 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

*108 - Adjutant General –*

*Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2023 Org 0603

Personal Services and Employee Benefits ....00100	\$	100,000
Current Expenses .....	13000	<u>57,775</u>
Total .....	\$	157,775
Total TITLE II, Section 1 – General Revenue		
(Including claims against the state) .....		<u>\$4,635,701,389</u>

**Sec. 2. Appropriations from state road fund.** — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2023.

**DEPARTMENT OF TRANSPORTATION**

*109 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2023 Org 0802

	<b>Appropriation</b>	<b>State Road Fund</b>
Personal Services and Employee Benefits ....00100	\$	36,894,264
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	129,500
Current Expenses .....	13000	22,334,363
Repairs and Alterations .....	06400	144,000
Equipment .....	07000	1,080,000
Buildings .....	25800	10,000
Other Assets .....	69000	2,480,000
BRIM Premium .....	91300	<u>75,117</u>
Total .....		\$ 63,147,244

*110 - Division of Highways*

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2023 Org 0803

## Salary and Benefits of Cabinet Secretary

and Agency Heads .....	00201	\$ 200,000
Debt Service.....	04000	135,500,000
Maintenance.....	23700	529,881,528
Inventory Revolving .....	27500	4,000,000
Equipment Revolving .....	27600	19,400,841
General Operations .....	27700	178,042,168
Interstate Construction.....	27800	115,000,000
Other Federal Aid Programs .....	27900	345,000,000
Appalachian Programs .....	28000	100,000,000
Highway Litter Control.....	28200	<u>1,650,000</u>
Total.....		\$1,428,674,537

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner

and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

Total TITLE II, Section 2 – State Road Fund

(Including claims against the state) ..... \$1,492,255,013

**Sec. 3. Appropriations from other funds.** — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2023.

**LEGISLATIVE**

*111 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2023 Org 2300

	<b>Appropriation</b>	<b>Other Funds</b>
Personal Services and Employee Benefits ....00100	\$ 498,020	
Current Expenses .....13000		133,903
Repairs and Alterations .....06400		1,000
Economic Loss Claim Payment Fund .....33400		2,000,000
Other Assets .....69000		<u>3,700</u>
Total.....	\$	<u>2,636,623</u>

**JUDICIAL**

*112 - Supreme Court –*

*Court Advanced Technology Subscription Fund*

(WV Code Chapter 51)

Fund 1704 FY 2023 Org 2400



Current Expenses .....13000 \$ 100,000

*113 - Supreme Court –*

*Adult Drug Court Participation Fund*

(WV Code Chapter 62)

Fund 1705 FY 2023 Org 2400

Current Expenses .....13000 \$ 200,000

*114 - Supreme Court –*

*Family Court Fund*

(WV Code Chapter 51)

Fund 1763 FY 2023 Org 2400

Current Expenses .....13000 \$ 1,050,000

*115 - Supreme Court –*

*Court Facilities Maintenance Fund*

(WV Code Chapter 51)

Fund 1766 FY 2023 Org 2400

Current Expenses .....13000 \$ 250,000

Repairs and Alterations.....06400 250,000

Total..... \$ 500,000

**EXECUTIVE**

*116 - Governor's Office –*

*Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2023 Org 0100

Personal Services and Employee Benefits ....00100	\$	233,788
Current Expenses .....13000		453,200
Martin Luther King, Jr.		
Holiday Celebration.....03100		<u>8,926</u>
Total.....	\$	695,914

*117 - Auditor's Office –*

*Grant Recovery Fund*

(WV Code Chapter 12)

Fund 1205 FY 2023 Org 1200

Repairs and Alterations.....06400	\$	2,000
Equipment.....07000		7,000
Current Expenses .....13000		<u>191,000</u>
Total.....	\$	200,000

*118 - Auditor's Office –*

*Land Operating Fund*

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$	832,826
Unclassified.....09900		15,139
Current Expenses .....13000		715,291
Repairs and Alterations.....06400		2,600
Equipment.....07000		426,741
Cost of Delinquent Land Sales.....76800		<u>1,841,168</u>
Total.....	\$	3,833,765

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*119 - Auditor's Office –*

*Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$	639,881
Current Expenses .....13000		282,030
Repairs and Alterations.....06400		6,000
Equipment.....07000		10,805
Other Assets.....69000		50,000
Statutory Revenue Distribution.....74100		<u>3,500,000</u>
Total.....	\$	4,488,716

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

*120 - Auditor's Office –*

*Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$	2,826,332
Unclassified.....09900		31,866
Current Expenses .....13000		1,463,830
Repairs and Alterations.....06400		12,400
Equipment.....07000		594,700
Other Assets.....69000		<u>1,200,000</u>
Total.....	\$	6,129,128

*121 - Auditor's Office –**Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2023 Org 1200

Current Expenses .....	13000	\$	10,000
Other Assets .....	69000		<u>5,000</u>
Total .....		\$	15,000

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

*122 - Auditor's Office –**Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2023 Org 1200

Personal Services and Employee Benefits ....	00100	\$	3,192,502
Current Expenses .....	13000		2,303,622
Repairs and Alterations.....	06400		5,500
Equipment.....	07000		850,000
Other Assets.....	69000		508,886
Statutory Revenue Distribution.....	74100		<u>8,000,000</u>
Total.....		\$	14,860,510

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Entrepreneurship and Innovation Investment Fund (fund 3014), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

*123 - Auditor's Office –**Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2023 Org 1200

Personal Services and Employee Benefits ....00100	\$	3,682,850
Current Expenses .....13000		765,915
Equipment .....07000		<u>50,000</u>
Total .....	\$	4,498,765

*124 - Auditor's Office –**Volunteer Fire Department Workers'**Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2023 Org 1200

## Volunteer Fire Department

Workers' Compensation Subsidy .....83200	\$	2,500,000
--	----	-----------

*125 - Treasurer's Office –**College Prepaid Tuition and Savings Program**Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2023 Org 1300

Personal Services and Employee Benefits ....00100	\$	830,643
Unclassified.....09900		14,000
Current Expenses .....13000		<u>1,397,559</u>
Total .....	\$	2,242,202

*126 - Treasurer's Office-**Jumpstart Savings Program Expense Fund*

## (WV Code Chapter 18)

Fund 1303 FY 2023 Org 1300

Unclassified.....09900	\$	188,502
Current Expenses .....13000		<u>411,498</u>
Total.....	\$	600,000

*127 - Department of Agriculture –**Agriculture Fees Fund*

## (WV Code Chapter 19)

Fund 1401 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	2,534,889
Unclassified.....09900		37,425
Current Expenses .....13000		1,856,184
Repairs and Alterations.....06400		158,500
Equipment.....07000		436,209
Other Assets.....69000		<u>10,000</u>
Total.....	\$	5,033,207

*128 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

## (WV Code Chapter 19)

Fund 1408 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	80,974
Unclassified.....09900		10,476
Current Expenses .....13000		<u>2,200,000</u>
Total.....	\$	2,291,450

*129 - Department of Agriculture –**General John McCausland Memorial Farm Fund*

## (WV Code Chapter 19)

Fund 1409 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	76,415
Unclassified.....09900		2,100
Current Expenses .....13000		89,500
Repairs and Alterations.....06400		36,400
Equipment.....07000		15,000
Total.....	\$	219,415

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

*130 - Department of Agriculture –**Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	888,219
Unclassified.....09900		15,173
Current Expenses .....13000		1,367,464
Repairs and Alterations.....06400		388,722
Equipment.....07000		399,393
Other Assets.....69000		20,000
Total.....	\$	3,078,971

*131 - Department of Agriculture –**Capital Improvements Fund*

(WV Code Chapter 19)

Fund 1413 FY 2023 Org 1400

Unclassified.....09900		20,000
Current Expenses .....13000		510,000
Repairs and Alterations.....06400		250,000
Equipment.....07000		350,000
Building Improvements .....25800		670,000
Other Assets.....69000		200,000
Total.....	\$	2,000,000

132 - Department of Agriculture –

*Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	1,074,322
Unclassified.....09900		45,807
Current Expenses .....13000		3,410,542
Repairs and Alterations.....06400		128,500
Equipment.....07000		10,000
Other Assets.....69000		27,000
Land .....73000		<u>250,000</u>
Total.....	\$	4,946,171

133 - Department of Agriculture –

*Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2023 Org 1400

Current Expenses .....13000	\$	112,500
-----------------------------	----	---------

134 - Department of Agriculture –

*West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2023 Org 1400

Current Expenses .....13000	\$	600,000
-----------------------------	----	---------

135 - Department of Agriculture –

*Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)



Fund 1483 FY 2023 Org 1400

Current Expenses .....	13000	\$	7,500
------------------------	-------	----	-------

*136 - Department of Agriculture –**State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100		\$	1,218,564
Unclassified.....09900			17,000
Current Expenses .....	13000		1,143,306
Repairs and Alterations.....06400			82,500
Equipment.....07000			76,000
Buildings.....25800			1,000
Other Assets.....69000			10,000
Land.....73000			<u>1,000</u>
Total.....		\$	2,549,370

*137 - Attorney General –**Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2023 Org 1500

Personal Services and Employee Benefits ....00100		\$	363,466
Current Expenses .....	13000		148,803
Repairs and Alterations.....06400			1,000
Equipment.....07000			<u>1,000</u>
Total.....		\$	514,269

*138 - Attorney General –**Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2023 Org 1500

Personal Services and Employee Benefits ....00100	\$	228,620
Current Expenses .....13000		54,615
Repairs and Alterations.....06400		1,000
Equipment.....07000		<u>1,000</u>
Total.....	\$	285,235

*139 - Attorney General –*

*Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2023 Org 1500

Current Expenses .....13000	\$	901,135
-----------------------------	----	---------

*140 - Secretary of State –*

*Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2023 Org 1600

Personal Services and Employee Benefits ....00100	\$	1,110,490
Unclassified.....09900		4,524
Current Expenses .....13000		<u>8,036</u>
Total.....	\$	1,123,050

*141 - Secretary of State –*

*General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2023 Org 1600

Personal Services and Employee Benefits ....00100	\$	3,041,423
Unclassified.....09900		25,529
Current Expenses .....13000		976,716
Technology Improvements .....59900		<u>870,000</u>
Total.....	\$	4,913,668

**DEPARTMENT OF ADMINISTRATION**

*142 - Department of Administration –*

*Office of the Secretary –*

*Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2023 Org 0201

Tobacco Settlement Securitization

Trustee Pass Thru .....	65000	\$ 80,000,000
-------------------------	-------	---------------

*143 - Department of Administration –*

*Office of the Secretary –*

*Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2023 Org 0201

Current Expenses .....	13000	\$ 40,523,000
------------------------	-------	---------------

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers' Accumulation Fund (fund 2600).

*144 - Department of Administration –*

*Division of Finance –*

*Shared Services Section Fund*

(WV Code Chapter 5A)

Fund 2020 FY 2023 Org 0209

Personal Services and Employee Benefits ....	00100	\$ 1,545,384
Current Expenses .....	13000	<u>500,000</u>
Total.....		\$ 2,045,384

*145 - Division of Information Services and Communications*

(WV Code Chapter 5A)

Fund 2220 FY 2023 Org 0210

Personal Services and Employee Benefits ....00100	\$ 23,052,937
Unclassified.....09900	344,119
Current Expenses .....13000	13,418,001
Equipment.....07000	2,050,000
Other Assets.....69000	<u>1,045,000</u>
Total.....	\$ 39,910,057

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

*146 - Division of Purchasing –**Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2023 Org 0213

Personal Services and Employee Benefits ....00100	\$ 579,296
Current Expenses .....13000	9,115
BRIM Premium.....91300	<u>810</u>
Total.....	\$ 589,221

*147 - Division of Purchasing –**Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2023 Org 0213

Personal Services and Employee Benefits ....00100	\$	992,206
Unclassified.....09900		5,562
Current Expenses .....13000		492,066
Repairs and Alterations.....06400		500
Equipment.....07000		500
Other Assets.....69000		500
BRIM Premium.....91300		<u>850</u>
Total.....	\$	1,492,184

*148 - Travel Management –**Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2023 Org 0215

Unclassified.....09900	\$	1,000
Current Expenses .....13000		149,700
Repairs and Alterations.....06400		1,275,237
Equipment.....07000		1,000
Buildings.....25800		100
Other Assets.....69000		100
Land.....73000		<u>100</u>
Total.....	\$	1,427,237

*149 - Fleet Management Division Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2023 Org 0216

Personal Services and Employee Benefits ....00100	\$	784,375
Unclassified.....09900		4,000
Current Expenses .....13000		11,630,614
Repairs and Alterations.....06400		12,000
Equipment.....07000		800,000
Other Assets.....69000		<u>2,000</u>
Total.....	\$	13,232,989

*150 - Division of Personnel*

(WV Code Chapter 29)

Fund 2440 FY 2023 Org 0222

Personal Services and Employee Benefits ....00100	\$	4,781,898
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	122,500
Unclassified.....	09900	51,418
Current Expenses .....	13000	1,262,813
Repairs and Alterations.....	06400	5,000
Equipment .....	07000	20,000
Other Assets .....	69000	<u>60,000</u>
Total.....	\$	<u>6,303,629</u>

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

*151 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 2521 FY 2023 Org 0228

Personal Services and Employee Benefits ....00100	\$	136,097
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	119,000
Unclassified.....	09900	4,023
Current Expenses .....	13000	297,528
Repairs and Alterations.....	06400	600
Equipment .....	07000	500
Other Assets .....	69000	<u>500</u>
Total.....	\$	<u>558,248</u>

*152 - Office of Technology –**Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2023 Org 0231

Personal Services and Employee Benefits ....00100	\$	454,411
Unclassified.....09900		6,949
Current Expenses .....13000		196,504
Repairs and Alterations.....06400		1,000
Equipment.....07000		50,000
Other Assets.....69000		<u>10,000</u>
Total.....	\$	718,864

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

**DEPARTMENT OF COMMERCE***153 - Division of Forestry*

(WV Code Chapter 19)

Fund 3081 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$	382,137
Current Expenses .....13000		282,202
Repairs and Alterations.....06400		53,000
Equipment.....07000		<u>300,000</u>
Total.....	\$	1,017,339

*154 - Division of Forestry –**Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$	248,321
Current Expenses .....13000		87,036
Repairs and Alterations.....06400		<u>11,250</u>
Total.....	\$	346,607

*155 - Division of Forestry –**Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$	559,626
Current Expenses .....	13000	<u>117,466</u>
Total .....	\$	677,092

*156 - Geological and Economic Survey –**Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2023 Org 0306

Personal Services and Employee Benefits ....00100	\$	37,966
Unclassified.....	09900	2,182
Current Expenses .....	13000	141,631
Repairs and Alterations.....	06400	50,000
Equipment.....	07000	20,000
Other Assets.....	69000	<u>10,000</u>
Total.....	\$	261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

*157 - Division of Labor –**West Virginia Jobs Act Fund*

(WV Code Chapter 21)

Fund 3176 FY 2023 Org 0308

Current Expenses .....	13000	75,000
Equipment.....	07000	<u>25,000</u>
Total.....	\$	100,000



*158 - Division of Labor –**HVAC Fund*

(WV Code Chapter 21)

Fund 3186 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	367,925
Unclassified.....09900		4,000
Current Expenses .....13000		82,000
Repairs and Alterations.....06400		4,500
Buildings .....25800		1,000
BRIM Premium.....91300		8,500
Total.....	\$	467,925

*159 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	304,756
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		104,180
Unclassified.....09900		2,261
Current Expenses .....13000		94,712
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		8,500
Total.....	\$	517,409

*160 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	80,742
Unclassified.....09900		1,000
Current Expenses .....13000		20,000
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		<u>1,000</u>
Total.....	\$	105,742

*161 - Division of Labor –*

*Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	196,226
Unclassified.....09900		1,380
Current Expenses .....13000		51,265
Repairs and Alterations.....06400		1,500
Buildings .....25800		1,000
BRIM Premium.....91300		<u>7,000</u>
Total.....	\$	258,371

*162 - Division of Labor –*

*Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	192,424
Unclassified.....09900		1,281
Current Expenses .....13000		44,520
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	249,725

*163 - Division of Labor –**State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	294,645
Unclassified.....09900		1,847
Current Expenses .....13000		43,700
Repairs and Alterations.....06400		1,000
Buildings .....25800		1,000
BRIM Premium.....91300		3,404
Total.....	\$	345,596

*164 - Division of Labor –**Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2023 Org 0308

Unclassified.....09900	\$	1,200
Current Expenses .....13000		93,000
Repairs and Alterations.....06400		10,000
Equipment .....07000		10,000
BRIM Premium.....91300		7,000
Total.....	\$	121,200

*165 - Division of Labor –**Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	152,270
Unclassified.....09900		2,000
Current Expenses .....13000		145,400

Repairs and Alterations.....	06400	2,000
Buildings.....	25800	1,000
BRIM Premium.....	91300	<u>8,700</u>
Total.....		\$ 311,370

*166 - Division of Labor –*

*Psychophysiological Examiners Fund*

(WV Code Chapter 21)

Fund 3199 FY 2023 Org 0308

Current Expenses .....	13000	\$ 4,000
------------------------	-------	----------

*167 - Division of Natural Resources –*

*License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2023 Org 0310

Wildlife Resources.....	02300	\$ 9,759,535
Administration .....	15500	2,405,642
Capital Improvements and Land Purchase (R).....	24800	2,410,936
Law Enforcement.....	80600	<u>9,787,279</u>
Total.....		\$ 24,363,392

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*168 - Division of Natural Resources –*

*Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2023 Org 0310

Current Expenses .....	13000	\$	125,000
------------------------	-------	----	---------

*169 - Division of Natural Resources –**Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100		\$	694,154
Current Expenses .....	13000		201,810
Equipment .....	07000		<u>106,615</u>
Total .....		\$	1,002,579

*170 - Division of Natural Resources –**Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100		\$	467,117
Current Expenses .....	13000		1,056,876
Repairs and Alterations .....	06400		15,016
Equipment .....	07000		8,300
Buildings .....	25800		8,300
Other Assets .....	69000		1,900,000
Land .....	73000		<u>31,700</u>
Total .....		\$	3,487,309

*171 - Division of Natural Resources –**State Parks and Recreation Endowment Fund*

(WV Code Chapter 20)

Fund 3211 FY 2023 Org 0310

Current Expenses .....	13000	\$	6,000
Repairs and Alterations .....	06400		3,000
Equipment .....	07000		2,000
Buildings .....	25800		3,000
Other Assets .....	69000		4,000
Land .....	73000		<u>2,000</u>
Total .....		\$	20,000

*172 - Division of Natural Resources –*

*Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2023 Org 0310

Personal Services and Employee Benefits ....	00100	\$	70,667
Current Expenses .....	13000		64,778
Equipment .....	07000		1,297
Buildings .....	25800		<u>6,969</u>
Total .....		\$	143,711

*173 - Division of Natural Resources –*

*Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2023 Org 0310

Unclassified.....	09900	\$	200
Current Expenses .....	13000		<u>19,800</u>
Total .....		\$	20,000

*174 - Division of Miners' Health, Safety and Training –*

*Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2023 Org 0314

Personal Services and Employee Benefits ....	00100	\$	516,356
--	-------	----	---------

Unclassified.....	09900	40,985
Current Expenses .....	13000	1,954,557
WV Mining Extension Service .....	02600	150,000
Buildings .....	25800	2,481,358
Land .....	73000	<u>1,000,000</u>
Total.....		\$ 6,143,256

*175 - Department of Commerce –*

*Office of the Secretary –*

*Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2023 Org 0327

Personal Services and Employee Benefits ....	00100	\$ 2,148,018
Unclassified.....	09900	30,000
Current Expenses .....	13000	1,315,078
Equipment.....	07000	<u>36,000</u>
Total.....		\$ 3,529,096

*176 - State Board of Rehabilitation –*

*Division of Rehabilitation Services –*

*West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2023 Org 0932

Personal Services and Employee Benefits ....	00100	\$ 119,738
Current Expenses .....	13000	1,180,122
Repairs and Alterations .....	06400	85,500
Equipment.....	07000	220,000
Buildings .....	25800	150,000
Other Assets.....	69000	<u>150,000</u>
Total.....		\$ 1,905,360

**DEPARTMENT OF ECONOMIC DEVELOPMENT**

*177 - Department of Economic Development –*

*Office of Energy –*

*Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2023 Org 0307

Energy Assistance - Total .....	64700	\$	7,211
---------------------------------	-------	----	-------

*178 - Department of Economic Development –*

*Office of the Secretary –*

*Entrepreneurship and Innovation Investment Fund*

(WV Code Chapter 5B)

Fund 3014 FY 2023 Org 0307

Entrepreneurship and Innovation Investment Fund .....	70301	\$	1,500,000
--	-------	----	-----------

*179 - Department of Economic Development –*

*Office of the Secretary –*

*Broadband Development Fund*

(WV Code Chapter 31G)

Fund 3034 FY 2023 Org 0307

Personal Services and Employee Benefits ....	00100	\$	647,075
Unclassified.....	09900		2,000,000
Current Expenses .....	13000		<u>235,302,925</u>
Total.....		\$	<u>237,950,000</u>



*180 - Department of Economic Development –**Office of the Secretary –**Office of Coalfield Community Development*

(WV Code Chapter 5B)

Fund 3162 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	438,687
Unclassified.....09900		8,300
Current Expenses .....13000		<u>399,191</u>
Total.....	\$	846,178

*181 - Department of Economic Development –**Office of the Secretary –**Broadband Enhancement Fund*

(WV Code Chapter 31G)

Fund 3013 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	131,682
Current Expenses .....13000		<u>1,648,318</u>
Total.....	\$	1,780,000

**DEPARTMENT OF EDUCATION***182 - State Board of Education –**Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	35,000
Unclassified.....09900		26,000
Current Expenses .....13000		<u>2,539,000</u>
Total.....	\$	2,600,000

*183 - School Building Authority –*

*School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2023 Org 0404

SBA Construction Grants .....	24000	\$ 59,845,818
Directed Transfer .....	70000	<u>1,371,182</u>
Total .....		\$ 61,217,000

The above appropriation for Directed Transfer (fund 3952, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

*184 - School Building Authority*

(WV Code Chapter 18)

Fund 3959 FY 2023 Org 0404

Personal Services and Employee Benefits ....	00100	\$ 1,171,429
Current Expenses .....	13000	244,195
Repairs and Alterations .....	06400	13,150
Equipment .....	07000	<u>26,000</u>
Total .....		\$ 1,454,774

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*185 - Division of Culture and History –*

*Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2023 Org 0432

Personal Services and Employee Benefits ....	00100	\$ 235,943
Current Expenses .....	13000	862,241
Equipment .....	07000	75,000
Buildings .....	25800	1,000

Other Assets .....	69000	52,328
Land .....	73000	<u>1,000</u>
Total .....		\$ 1,227,512

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### *186 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2023 Org 0312

Personal Services and Employee Benefits ....00100	\$	869,535
Current Expenses .....		2,060,457
Repairs and Alterations .....		1,000
Equipment .....		5,000
Other Assets .....		<u>4,403</u>
Total .....	\$	2,940,395

### *187 - Division of Environmental Protection –*

#### *Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	805,575
Unclassified.....09900		8,072
Current Expenses .....		155,969
Repairs and Alterations .....		500
Equipment .....		1,505
Other Assets .....		<u>2,000</u>
Total .....	\$	973,621

### *188 - Division of Environmental Protection –*

#### *Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	806,186
Unclassified.....09900		14,647
Current Expenses .....13000		876,863
Repairs and Alterations.....06400		13,000
Equipment .....07000		53,105
Other Assets .....69000		<u>20,000</u>
Total.....	\$	1,783,801

*189 - Division of Environmental Protection –*

*Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	1,678,252
Current Expenses .....13000		16,185,006
Repairs and Alterations.....06400		79,950
Equipment .....07000		130,192
Other Assets .....69000		<u>32,000</u>
Total.....	\$	18,105,400

*190 - Division of Environmental Protection –*

*Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	549,957
Current Expenses .....13000		<u>1,956,094</u>
Total.....	\$	2,506,051

*191 - Division of Environmental Protection –*

*Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	2,187,791
Unclassified.....09900		15,700
Current Expenses .....13000		932,300
Repairs and Alterations.....06400		9,500
Equipment .....07000		500
Other Assets .....69000		<u>500</u>
Total.....	\$	3,146,291

*192 - Division of Environmental Protection –*

*Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	3,635,868
Unclassified.....09900		920
Current Expenses .....13000		2,202,231
Repairs and Alterations.....06400		60,260
Equipment .....07000		83,000
Other Assets .....69000		<u>57,500</u>
Total.....	\$	6,039,779

*193 - Division of Environmental Protection –*

*Underground Storage Tank*

*Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	486,251
Unclassified.....09900		7,520
Current Expenses .....13000		318,420
Repairs and Alterations.....06400		5,350
Equipment .....07000		3,610
Other Assets .....69000		<u>3,500</u>
Total.....	\$	824,651

*194 - Division of Environmental Protection –**Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	614,039
Unclassified.....09900		10,616
Current Expenses .....13000		767,905
Repairs and Alterations.....06400		7,014
Equipment.....07000		9,000
Other Assets.....69000		<u>3,500</u>
Total.....	\$	1,412,074

*195 - Division of Environmental Protection –**Solid Waste Reclamation and**Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	849,562
Unclassified.....09900		22,900
Current Expenses .....13000		3,604,737
Repairs and Alterations.....06400		25,000
Equipment.....07000		31,500
Buildings.....25800		500
Other Assets.....69000		<u>1,000</u>
Total.....	\$	4,535,199

*196 - Division of Environmental Protection –**Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	3,362,824
Unclassified.....09900		31,145
Current Expenses .....13000		940,229
Repairs and Alterations.....06400		30,930
Equipment.....07000		23,356
Other Assets.....69000		<u>25,554</u>
Total.....	\$	4,414,038

*197 - Division of Environmental Protection –*

*Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	6,112,158
Unclassified.....09900		70,572
Current Expenses .....13000		1,469,467
Repairs and Alterations.....06400		84,045
Equipment.....07000		103,601
Other Assets.....69000		<u>52,951</u>
Total.....	\$	7,892,794

*198 - Division of Environmental Protection –*

*Environmental Laboratory*

*Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	364,936
Unclassified.....09900		1,120
Current Expenses .....13000		201,146
Repairs and Alterations.....06400		1,000
Other Assets.....69000		<u>163,000</u>
Total.....	\$	731,202

*199 - Division of Environmental Protection –**Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2023 Org 0313

Current Expenses ..... 13000 \$ 5,182,076

*200 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2023 Org 0313

Current Expenses ..... 13000 \$ 60,000

*201 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	680,241
Unclassified.....09900		400
Current Expenses ..... 13000		2,754,258
Repairs and Alterations.....06400		800
Equipment.....07000		500
Other Assets.....69000		<u>2,500</u>
Total.....	\$	3,438,699

*202 - Division of Environmental Protection –**Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2023 Org 0313



Personal Services and Employee Benefits ....00100	\$	1,120,989
Unclassified.....09900		1,180
Current Expenses .....13000		589,834
Repairs and Alterations.....06400		27,612
Equipment.....07000		23,500
Other Assets.....69000		<u>11,520</u>
Total.....	\$	1,774,635

*203 - Oil and Gas Conservation Commission –*

*Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2023 Org 0315

Personal Services and Employee Benefits ....00100	\$	165,187
Current Expenses .....13000		161,225
Repairs and Alterations.....06400		1,000
Equipment.....07000		9,481
Other Assets.....69000		<u>1,500</u>
Total.....	\$	338,393

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*204 - Division of Health –*

*Ryan Brown Addiction Prevention and Recovery Fund*

(WV Code Chapter 19)

Fund 5111 FY 2023 Org 0506

Current Expenses .....13000	\$	10,667,392
-----------------------------	----	------------

*205 - Division of Health –*

*The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 1,097,919
Unclassified.....09900	15,500
Current Expenses .....13000	<u>3,557,788</u>
Total.....	\$ 4,671,207

*206 - Division of Health –*

*Hospital Services Revenue Account*

*Special Fund*

*Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2023 Org 0506

Institutional Facilities Operations .....33500	\$ 44,555,221
Medical Services Trust Fund – Transfer.....51200	<u>27,800,000</u>
Total.....	\$ 72,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2023, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

*207 - Division of Health –**Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	985,121
Unclassified.....09900		18,114
Current Expenses .....13000		<u>2,209,105</u>
Total.....	\$	3,212,340

*208 - Division of Health –**The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	669,651
Unclassified.....09900		7,113
Current Expenses .....13000		<u>98,247</u>
Total.....	\$	775,011

*209 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2023 Org 0506

Current Expenses .....13000	\$	9,740
-----------------------------	----	-------

*210 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$	19,100
---	----	--------

Unclassified.....	09900	373
Current Expenses .....	13000	<u>17,875</u>
Total.....		\$ 37,348

*211 - Division of Health –*

*West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 719,208
Unclassified.....	09900	223,999
Current Expenses .....	13000	<u>30,134,400</u>
Total.....		\$ 31,077,607

*212 - Division of Health –*

*Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2023 Org 0506

Current Expenses .....	13000	\$ 7,579
------------------------	-------	----------

*213 - Division of Health –*

*Medical Cannabis Program Fund*

(WV Code Chapter 16A)

Fund 5420 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 509,658
Current Expenses .....	13000	<u>2,046,040</u>
Total.....		\$ 2,555,698

*214 - West Virginia Health Care Authority –*

*Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2023 Org 0507

Personal Services and Employee Benefits ....00100	\$	1,348,406
Unclassified.....09900		20,100
Current Expenses .....13000		<u>785,445</u>
Total.....	\$	2,153,951

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

*215 - West Virginia Health Care Authority –**Certificate of Need Program Fund*

(WV Code Chapter 16)

Fund 5377 FY 2023 Org 0507

Personal Services and Employee Benefits ....00100	\$	844,926
Current Expenses .....13000		<u>474,967</u>
Total.....	\$	1,319,893

*216 - Division of Human Services –**Health Care Provider Tax –**Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2023 Org 0511

Medical Services.....18900	\$	393,594,315
Medical Services Administrative Costs .....78900		<u>251,273</u>
Total.....	\$	393,845,588

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The

remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*217 - Division of Human Services –*

*Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 24,809,509
Unclassified.....09900	380,000
Current Expenses .....13000	<u>12,810,491</u>
Total.....	\$ 38,000,000

*218 - Division of Human Services –*

*Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2023 Org 0511

Medical Services.....18900	\$ 82,500,000
Medical Services Administrative Costs .....78900	<u>646,750</u>
Total.....	\$ 83,146,750

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

*219 - Division of Human Services –*

*James "Tiger" Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2023 Org 0511

Unclassified.....	09900	\$	7,000
Current Expenses .....	13000		<u>393,000</u>
Total.....		\$	400,000

*220 - Division of Human Services –**Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2023 Org 0511

Current Expenses .....	13000	\$	900,000
------------------------	-------	----	---------

*221 - Division of Human Services –**West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2023 Org 0511

Current Expenses .....	13000	\$	500,000
------------------------	-------	----	---------

*222 - Division of Human Services –**West Virginia Works Separate State Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2023 Org 0511

Current Expenses .....	13000	\$	1,500,000
------------------------	-------	----	-----------

*223 - Division of Human Services –**Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$	10,000
Current Expenses .....13000		<u>25,000</u>
Total.....	\$	35,000

**DEPARTMENT OF HOMELAND SECURITY**

*224 - Department of Homeland Security –*

*Office of the Secretary –*

*Law-Enforcement, Safety and Emergency Worker*

*Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2023 Org 0601

Current Expenses .....13000	\$	32,000
-----------------------------	----	--------

*225 - Division of Emergency Management –*

*Statewide Interoperable Radio Network Account*

(WV Code Chapter 15)

Fund 6208 FY 2023 Org 0606

Current Expenses .....13000	\$	80,000
-----------------------------	----	--------

*226 - Division of Emergency Management –*

*West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2023 Org 0606

Unclassified.....09900	\$	20,000
Current Expenses .....13000		3,980,000
Repairs and Alterations.....06400		250,000
Equipment .....07000		<u>250,000</u>
Total.....	\$	4,500,000



*227 - Division of Corrections and Rehabilitation –**Parolee Supervision Fees*

(WV Code Chapter 15A)

Fund 6362 FY 2023 Org 0608

Personal Services and Employee Benefits ....00100	\$	1,164,081
Unclassified.....09900		9,804
Current Expenses .....13000		758,480
Equipment.....07000		30,000
Other Assets.....69000		<u>40,129</u>
Total.....	\$	2,002,494

*228 - Division of Corrections and Rehabilitation –**Regional Jail and Correctional Facility Authority*

(WV Code Chapter 15A)

Fund 6675 FY 2023 Org 0608

Personal Services and Employee Benefits ....00100	\$	1,974,532
Debt Service.....04000		9,000,000
Current Expenses .....13000		<u>245,472</u>
Total.....	\$	11,220,004

*229 - West Virginia State Police –**Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2023 Org 0612

Personal Services and Employee Benefits ....00100	\$	1,965,212
Current Expenses .....13000		1,488,211
Repairs and Alterations.....06400		204,500
Equipment.....07000		3,770,751
Buildings.....25800		534,000
Other Assets.....69000		5,000

BRIM Premium.....	91300	<u>302,432</u>
Total.....		\$ 8,270,106

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

*230 - West Virginia State Police –*

*Forensic Laboratory Fund*

(WV Code Chapter 15)

Fund 6511 FY 2023 Org 0612

Personal Services and Employee Benefits ....	00100	\$ 1,615,128
Current Expenses .....	13000	90,000
Repairs and Alterations .....	06400	5,000
Equipment .....	07000	<u>545,000</u>
Total.....		\$ 2,255,128

*231 - West Virginia State Police –*

*Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2023 Org 0612

Current Expenses .....	13000	\$ 1,327,000
Equipment .....	07000	3,491,895
BRIM Premium.....	91300	<u>154,452</u>
Total.....		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

*232 - West Virginia State Police –*

*Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2023 Org 0612

Buildings .....	25800	\$ 1,022,778
Land .....	73000	1,000
BRIM Premium.....	91300	<u>77,222</u>
Total.....		\$ 1,101,000

*233 - West Virginia State Police –**Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2023 Org 0612

Current Expenses .....	13000	\$ 225,000
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	250,000
Buildings .....	25800	40,000
Other Assets.....	69000	45,000
BRIM Premium.....	91300	<u>5,000</u>
Total.....		\$ 585,000

*234 - West Virginia State Police –**Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2023 Org 0612

Personal Services and Employee Benefits ....	00100	\$ 268,731
Current Expenses .....	13000	376,443
Repairs and Alterations.....	06400	500
Equipment.....	07000	300,500
Other Assets.....	69000	300,500
BRIM Premium.....	91300	<u>18,524</u>
Total.....		\$ 1,265,198

*235 - West Virginia State Police –  
Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2023 Org 0612

Current Expenses .....	13000	\$	8,300
------------------------	-------	----	-------

*236 - West Virginia State Police –  
State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2023 Org 0612

Current Expenses .....	13000	\$	160,000
Repairs and Alterations.....	06400		<u>40,000</u>
Total.....		\$	200,000

*237 - Fire Commission –  
Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2023 Org 0619

Personal Services and Employee Benefits ....00100		\$	3,616,684
Unclassified.....09900			3,800
Current Expenses .....	13000		1,646,550
Repairs and Alterations.....	06400		58,500
Equipment.....	07000		140,800
BRIM Premium.....	91300		<u>65,000</u>
Total.....		\$	5,531,334

*238 - Division of Administrative Services –  
WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$	166,250
Unclassified.....09900		750
Current Expenses .....13000		1,846,250
Repairs and Alterations.....06400		<u>1,000</u>
Total.....	\$	2,014,250

*239 - Division of Administrative Services –**Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100	\$	24,748
Current Expenses .....13000		<u>1,478,135</u>
Total.....	\$	1,502,883

*240 - Division of Administrative Services –**Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2023 Org 0623

Current Expenses .....13000	\$	125,000
-----------------------------	----	---------

**DEPARTMENT OF REVENUE***241 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2023 Org 0303

Personal Services and Employee Benefits ....00100	\$	2,653,645
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		119,000
Current Expenses .....13000		650,475
Equipment.....07000		<u>8,500</u>
Total.....	\$	3,431,620

242 - Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2023 Org 0701

Retirement Systems – Unfunded Liability....77500 \$ 20,000,000

The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

243 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2023 Org 0701

Personal Services and Employee Benefits ....00100	\$	25,000
Unclassified.....09900		680
Current Expenses .....13000		42,000
Repairs and Alterations.....06400		120
Equipment.....07000		200
Total.....	\$	68,000

244 - Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	27,441
Current Expenses .....13000		7,717
Total.....	\$	35,158

245 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	724,718
Unclassified.....09900		8,500
Current Expenses .....13000		273,297
Repairs and Alterations.....06400		7,000
Equipment.....07000		<u>5,000</u>
Total.....	\$	1,018,515

*246 - Tax Division –**Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	275,024
Current Expenses .....13000		<u>5,406</u>
Total.....	\$	280,430

*247 - Tax Division –**Reduced Cigarette Ignition Propensity**Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2023 Org 0702

Current Expenses .....13000	\$	35,000
Equipment.....07000		<u>15,000</u>
Total.....	\$	50,000

*248 - Tax Division –**Local Sales Tax and Excise Tax**Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2023 Org 0702

Personal Services and Employee Benefits ....00100	\$	1,567,732
Unclassified.....09900		10,000
Current Expenses .....13000		784,563
Repairs and Alterations.....06400		1,000
Equipment.....07000		5,000
Total.....	\$	2,368,295

*249 - State Budget Office –**Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2023 Org 0703

Public Employees Insurance Reserve Fund –

Transfer.....90300	\$	6,800,000
--------------------	----	-----------

The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*250 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100	\$	760,866
Current Expenses .....13000		1,357,201
Repairs and Alterations.....06400		3,000
Equipment.....07000		81,374
Buildings.....25800		8,289
Other Assets.....69000		11,426
Total.....	\$	2,222,156



*251 - Insurance Commissioner –**Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100	\$	584,078
Current Expenses .....	13000	202,152
Repairs and Alterations .....	06400	5,000
Equipment .....	07000	34,225
Buildings .....	25800	4,865
Other Assets .....	69000	19,460
Total .....	\$	849,780

*252 - Insurance Commissioner –**Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100	\$	24,627,046
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	136,500
Current Expenses .....	13000	8,797,758
Repairs and Alterations .....	06400	68,614
Equipment .....	07000	1,728,240
Buildings .....	25800	25,000
Other Assets .....	69000	340,661
Total .....	\$	35,723,819

*253 - Insurance Commissioner –**Insurance Fraud Prevention Fund*

(WV Code Chapter 33)

Fund 7153 FY 2023 Org 0704

Current Expenses .....	13000	\$	15,000
------------------------	-------	----	--------

*254 - Insurance Commissioner –*

*Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2023 Org 0704

Employee Benefits .....	01000	\$ 50,000
Current Expenses .....	13000	<u>250,500,000</u>
Total .....		\$250,550,000

*255 - Insurance Commissioner –*

*Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2023 Org 0704

Current Expenses .....	13000	\$ 15,000,000
------------------------	-------	---------------

*256 - Insurance Commissioner –*

*Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2023 Org 0704

Current Expenses .....	13000	\$ 9,000,000
------------------------	-------	--------------

*257 - Insurance Commissioner –*

*Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2023 Org 0704

Current Expenses .....	13000	\$ 14,000,000
------------------------	-------	---------------

*258 - Municipal Bond Commission*

(WV Code Chapter 13)

Fund 7253 FY 2023 Org 0706

Personal Services and Employee Benefits ....00100	\$	321,604
Current Expenses .....	13000	154,344
Equipment .....	07000	<u>100</u>
Total .....	\$	476,048

*259 - Racing Commission –**Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2023 Org 0707

Medical Expenses – Total .....	24500	\$	154,000
--------------------------------	-------	----	---------

The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

*260 - Racing Commission –**Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2023 Org 0707

Personal Services and Employee Benefits ....00100	\$	272,430
Current Expenses .....	13000	85,433
Other Assets .....	69000	<u>5,000</u>
Total .....	\$	362,863

*261 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2023 Org 0707

Personal Services and Employee Benefits ....00100	\$	2,380,713
Salary and Benefits of Cabinet Secretary and Agency Heads .....		48,443
Current Expenses .....		497,284
Repairs and Alterations .....		5,000
Other Assets .....		<u>40,000</u>
Total .....	\$	<u>2,971,440</u>

*262 - Racing Commission –**Administration, Promotion, Education, Capital Improvement**and Greyhound Adoption Programs**to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2023 Org 0707

Personal Services and Employee Benefits ....00100	\$	924,832
Current Expenses .....		160,099
Other Assets .....		<u>200,000</u>
Total .....	\$	<u>1,284,931</u>

*263 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2023 Org 0708

Personal Services and Employee Benefits ....00100	\$	147,213
Current Expenses .....		54,186

Repairs and Alterations.....	06400	7,263
Equipment.....	07000	10,000
Buildings.....	25800	100,000
Transfer Liquor Profits and Taxes .....	42500	30,750
Other Assets.....	69000	100
Total.....		\$ 349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

*264 - Alcohol Beverage Control Administration*

(WV Code Chapter 60)

Fund 7352 FY 2023 Org 0708

Personal Services and Employee Benefits ....	00100	\$ 5,849,609
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	122,500
Current Expenses .....	13000	2,890,577
Repairs and Alterations.....	06400	91,000
Equipment.....	07000	108,000
Buildings.....	25800	375,100
Purchase of Supplies for Resale.....	41900	76,500,000
Transfer Liquor Profits and Taxes .....	42500	21,200,000
Other Assets.....	69000	125,100
Land .....	73000	100
Total.....		\$107,261,986

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses, and equipment of administrative offices, warehouses, and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

*265 - State Athletic Commission Fund*

(WV Code Chapter 29)

Fund 7009 FY 2023 Org 0933

Personal Services and Employee Benefits ....00100	\$	17,500
Current Expenses .....	13000	<u>28,000</u>
Total.....	\$	45,500

**DEPARTMENT OF TRANSPORTATION**

*266 - Division of Motor Vehicles –*

*Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2023 Org 0802

Current Expenses .....	13000	\$	189,000
------------------------	-------	----	---------

*267 - Division of Motor Vehicles –*

*Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2023 Org 0802

Personal Services and Employee Benefits ....00100	\$	3,929,736
Current Expenses .....	13000	4,372,596
Repairs and Alterations.....06400		16,000
Equipment.....07000		75,000
Other Assets.....69000		10,000
BRIM Premium.....91300		<u>75,116</u>
Total.....	\$	8,478,448

*268 - Division of Highways –**A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2023 Org 0803

Current Expenses ..... 13000 \$ 2,500,000

*269 - State Rail Authority -**West Virginia Commuter Rail Access Fund*

(WV Code Chapter 29)

Fund 8402 FY 2023 Org 0804

Current Expenses ..... 13000 \$ 600,000

**DEPARTMENT OF VETERANS' ASSISTANCE***270 - Veterans' Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2023 Org 0613

Current Expenses ..... 13000 \$ 1,654,234

Other Assets ..... 69000 10,000

Total ..... \$ 1,664,234

*271 - Department of Veterans' Assistance –**WV Veterans' Home –**Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2023 Org 0618

Current Expenses ..... 13000 \$ 289,400

Repairs and Alterations ..... 06400 10,600

Total ..... \$ 300,000

**BUREAU OF SENIOR SERVICES**

*272 - Bureau of Senior Services –*

*Community Based Service Fund*

(WV Code Chapter 29)

Fund 5409 FY 2023 Org 0508

Personal Services and Employee Benefits ....00100	\$	140,202
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201		25,795
Current Expenses .....13000		<u>10,348,710</u>
Total.....	\$	<u>10,514,707</u>

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

**HIGHER EDUCATION POLICY COMMISSION**

*273 - Higher Education Policy Commission –*

*System –*

*Tuition Fee Capital Improvement Fund*

*(Capital Improvement and Bond Retirement Fund)*

*Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2023 Org 0442

Debt Service.....04000	\$	27,402,035
General Capital Expenditures .....30600		5,000,000
Facilities Planning and Administration.....38600		<u>456,239</u>
Total.....	\$	<u>32,858,274</u>



The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

*274 - Tuition Fee Revenue Bond Construction Fund*

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2023 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

*275 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2023 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

*276 - West Virginia University –*

*West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2023 Org 0463

Personal Services and Employee Benefits ....00100	\$ 11,118,758
Current Expenses .....13000	4,524,300
Repairs and Alterations.....06400	425,000
Equipment .....07000	512,000
Buildings .....25800	150,000
Other Assets .....69000	<u>50,000</u>
Total.....	\$ 16,780,058

*277 - Marshall University –*

*School of Medicine*

(WV Code Chapter 18B)

Fund xxxx FY 2023 Org 0471

Marshall Medical School .....	17300	\$ 5,500,000
-------------------------------	-------	--------------

*278 - West Virginia School of Osteopathic Medicine*

(WV Code Chapter 18B)

Fund xxxx FY 2023 Org 0476

West Virginia School of Osteopathic Medicine.....	17200	\$ 3,900,000
--	-------	--------------

**MISCELLANEOUS BOARDS AND COMMISSIONS***279 - Board of Barbers and Cosmetologists –**Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2023 Org 0505

Personal Services and Employee Benefits ....00100	\$	568,198
Current Expenses .....	13000	234,969
Repairs and Alterations.....06400		<u>5,000</u>
Total.....	\$	808,167

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

*280 - Hospital Finance Authority –**Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2023 Org 0509

Personal Services and Employee Benefits ....00100	\$	10,000
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	93,339
Unclassified.....09900		1,501
Current Expenses .....	13000	<u>55,268</u>
Total.....	\$	160,108

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

*281 - State Armory Board –**General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2023 Org 0603

Personal Services and Employee Benefits ....00100	\$	1,687,298
Current Expenses .....13000		650,000
Repairs and Alterations .....06400		385,652
Equipment .....07000		250,000
Buildings .....25800		520,820
Other Assets .....69000		350,000
Land .....73000		<u>200,000</u>
Total.....	\$	4,043,770

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

*282 - WV State Board of Examiners for Licensed Practical Nurses –**Licensed Practical Nurses*

(WV Code Chapter 30)

Fund 8517 FY 2023 Org 0906

Personal Services and Employee Benefits ....00100	\$	507,607
Current Expenses .....13000		<u>107,700</u>
Total.....	\$	615,307

*283 - WV Board of Examiners for Registered Professional Nurses –**Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2023 Org 0907

Personal Services and Employee Benefits ....00100	\$	1,342,970
Current Expenses .....13000		312,655
Repairs and Alterations .....06400		3,000
Equipment .....07000		25,000

Other Assets .....	69000	4,500
Total .....		\$ 1,688,125

*284 - Public Service Commission*

(WV Code Chapter 24)

Fund 8623 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100		\$ 12,543,164
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	318,640
Unclassified.....	09900	147,643
Current Expenses .....	13000	2,507,202
Repairs and Alterations.....	06400	120,000
Equipment .....	07000	160,000
Buildings .....	25800	10
PSC Weight Enforcement .....	34500	4,742,560
Debt Payment/Capital Outlay .....	52000	350,000
Land .....	73000	10
BRIM Premium.....	91300	172,216
Total.....		\$ 21,061,445

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

*285 - Public Service Commission –*

*Gas Pipeline Division –*

*Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	288,700
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 11,949
Unclassified.....		09900 3,851
Current Expenses .....		13000 93,115
Repairs and Alterations.....		06400 4,000
Total.....	\$	401,615

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

*286 - Public Service Commission –*

*Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	2,367,199
Salary and Benefits of Cabinet Secretary and Agency Heads .....		00201 67,711
Unclassified.....		09900 29,233
Current Expenses .....		13000 577,557
Repairs and Alterations.....		06400 23,000
Equipment.....		07000 50,000
Total.....	\$	3,114,700

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

*287 - Public Service Commission –*

*Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	889,096
Current Expenses .....	13000	386,472
Equipment .....	07000	9,872
BRIM Premium.....	91300	<u>4,660</u>
Total.....	\$	1,290,100

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

*288 - Real Estate Commission –*

*Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2023 Org 0927

Personal Services and Employee Benefits ....00100	\$	628,277
Current Expenses .....	13000	293,122
Repairs and Alterations.....	06400	2,500
Equipment.....	07000	<u>5,000</u>
Total.....	\$	928,899

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

*289 - WV Board of Examiners for Speech-Language*

*Pathology and Audiology –*

*Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2023 Org 0930

Personal Services and Employee Benefits ....00100	\$	97,564
Current Expenses .....	13000	<u>63,499</u>
Total.....	\$	161,063

*290 - WV Board of Respiratory Care –**Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2023 Org 0935

Personal Services and Employee Benefits ....00100	\$	88,904
Current Expenses .....		<u>62,709</u>
Total .....	\$	151,613

*291 - WV Board of Licensed Dietitians –**Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2023 Org 0936

Personal Services and Employee Benefits ....00100	\$	20,219
Current Expenses .....		<u>20,250</u>
Total .....	\$	40,469

*292 - Massage Therapy Licensure Board –**Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2023 Org 0938

Personal Services and Employee Benefits ....00100	\$	112,641
Current Expenses .....		<u>42,388</u>
Total .....	\$	155,029

*293 - Board of Medicine –**Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2023 Org 0945



Personal Services and Employee Benefits ....00100	\$	1,577,216
Current Expenses .....	13000	1,108,789
Repairs and Alterations.....06400		<u>8,000</u>
Total.....	\$	2,694,005

*294 - West Virginia Enterprise Resource Planning Board –*

*Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2023 Org 0947

Personal Services and Employee Benefits ....00100	\$	5,494,051
Unclassified.....09900		132,000
Current Expenses .....	13000	17,214,993
Repairs and Alterations.....06400		300
Equipment .....	07000	502,000
Buildings.....	25800	2,000
Other Assets.....69000		<u>2,004,500</u>
Total.....	\$	25,349,844

*295 - Board of Treasury Investments –*

*Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2023 Org 0950

Personal Services and Employee Benefits ....00100	\$	857,714
Unclassified.....09900		14,850
Current Expenses .....	13000	580,889
BRIM Premium.....91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers.....93800		<u>3,500,000</u>
Total.....	\$	4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of

custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*296 - Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2023 Org 0951

Personal Services and Employee Benefits ....00100	\$	2,559,000
Repairs and Alterations.....06400		10,000
Unclassified.....09900		21,000
Current Expenses .....13000		500,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	3,098,500

Total TITLE II, Section 3 – Other Funds

(Including claims against the state) ..... \$2,001,383,914

**Sec. 4. Appropriations from lottery net profits.** — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

*297 - Education, Arts, Sciences and Tourism –**Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2023 Org 0211

	<b>Appropriation</b>	<b>Lottery Funds</b>
Debt Service – Total .....	31000	\$ 10,000,000

*298 - Department of Tourism –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 3067 FY 2023 Org 0304

Tourism – Telemarketing Center .....	46300	\$ 82,080
Tourism – Advertising (R).....	61800	2,422,407
Tourism – Operations (R).....	66200	<u>4,339,884</u>
Total.....		\$ 6,844,371

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800) and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*299 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 3267 FY 2023 Org 0310

Personal Services and Employee Benefits ....	00100	\$ 2,558,278
Current Expenses .....	13000	26,900
Pricketts Fort State Park.....	32400	106,560
Non-Game Wildlife (R) .....	52700	405,088
State Parks and Recreation Advertising (R) ....	61900	<u>494,578</u>

Total..... \$ 3,591,404

Any unexpended balances remaining in the appropriations for Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*300 - State Board of Education*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2023 Org 0402

FBI Checks.....	37200	\$	119,574
Vocational Education			
Equipment Replacement.....	39300		800,000
Assessment Program (R).....	39600		490,439
Literacy Project.....	89900		350,000
21st Century Technology Infrastructure			
Network Tools and Support (R) .....	93300		<u>12,611,880</u>
Total.....		\$	<u>14,371,893</u>

Any unexpended balances remaining in the appropriations for Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*301 - State Department of Education –*

*School Building Authority –*

*Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2023 Org 0404

Debt Service – Total .....	31000	\$	15,320,363
Directed Transfer .....	70000		<u>2,679,637</u>

Total..... \$ 18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

*302 - Division of Culture and History –*

*Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2023 Org 0432

Huntington Symphony .....	02700	\$	59,058
Preservation West Virginia (R).....	09200		491,921
Fairs and Festivals (R) .....	12200		1,346,814
Commission for National and Community Service (R) .....	19300		380,275
Archeological Curation/Capital Improvements (R).....	24600		38,546
Historic Preservation Grants (R).....	31100		417,933
West Virginia Public Theater.....	31200		120,019
Greenbrier Valley Theater .....	42300		115,000
Theater Arts of West Virginia.....	46400		90,000
Marshall Artists Series .....	51800		36,005
Grants for Competitive Arts Program (R).....	62400		811,500
West Virginia State Fair.....	65700		31,241
Save the Music .....	68000		40,000
Contemporary American Theater Festival....	81100		57,281
Independence Hall .....	81200		27,277
Mountain State Forest Festival .....	86400		38,187
WV Symphony.....	90700		59,058
Wheeling Symphony.....	90800		59,058
Appalachian Children's Chorus.....	91600		<u>54,554</u>

Total..... \$ 4,273,727

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$9,029, Hardy County Tour and Crafts Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum (Raleigh) \$3,393, Summers County Historical Landmark Commission \$2,970, Those Who Served War Museum (Mercer)

\$2,376, Three Rivers Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Back Home Festival (Wetzel) \$5,000, Barbour County Fair (Barbour) \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$3,340, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair (Berkeley) \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blacksville VFD Memorial Day Celebration (Monongalia) \$1,000, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Blue Ridge Arts and Crafts Festival (Jefferson) \$5,000, Boone County Fair (Boone) \$5,940, Boone County Labor Day Celebration (Boone) \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Bramwell Labor Day (Mercer) \$5,000, Brandonville Heritage Day (Preston) \$1,048, Braxton

County Fair (Braxton) \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) \$1,485, Brooke County Fair (Brooke) \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Auxiliary (Mineral) \$13,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burlington Volunteer Fire and Rescue Carnival (Mineral) \$4,000, Burnsville Freedom Festival (Braxton) \$1,407, Cabell County Fair (Cabell) \$5,940, Calhoun County Wood Festival (Calhoun) \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Cacapon River Fest (Hampshire) \$2,500, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, Christmas on Main Street (Hancock) \$11,881, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival (Clay) \$4,158, Clay District Fair (Monongalia) \$3,341, Clendenin Homecoming Festival (Kanawha) \$1,000, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Covered Bridge Festival (Marion) \$3,000, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair (Doddridge) \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion)



\$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flemington Days Fair and Festival (Taylor) \$2,379, Fly in Festival (Cabell) \$5,000, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$10,709, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show (Gilmer) \$2,376, Grant County Arts Council (Grant) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration (Hampshire) \$11,881, Hampshire County Fair (Hampshire) \$5,002, Hampshire Highlands Art & Music Festival (Hampshire) \$4,252, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Huntersville Traditions Day (Pocahontas) \$4,000, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair (Jackson) \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts

Fair (Lewis) \$684, Jefferson County Fair Association (Jefferson) \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, Knights of Columbus Irish Road Bowling (Marshall County) \$3,000, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival (Lincoln) \$4,752, Lincoln County Winterfest (Lincoln) \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Malden Salt Fest (Kanawha) \$2,000, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest (Marion) \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show (Marshall) \$1,485, Marshall County Fair (Marshall) \$5,000, Mason County Fair (Mason) \$2,970, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County (McDowell) \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer County Fair (Mercer) \$1,188, Mercer County Heritage Festival (Mercer) \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Fair (Mineral) \$1,040, Mineral County Veterans Day Parade (Mineral) \$891, Molasses Festival (Calhoun) \$1,188,

Monongahfest (Marion) \$3,752, Monongalia County Fair (Monongalia) \$7,250, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon (Morgan) \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New Martinsville Regatta (Wetzel) \$9,000, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair (Nicholas) \$2,970, Nicholas County Potato Festival (Nicholas) \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$4,000, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair (Ohio) \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Brick Playhouse (Randolph) \$7,000, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Osage Street Fair (Monongalia) \$1,000, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend (Pendleton) \$1,188, Pendleton County Committee for Arts (Pendleton) \$8,910, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$1,500, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair (Pleasants) \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days (Pocahontas) \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival

(Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair (Putnam) \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council (Randolph) \$1,782, Randolph County Fair (Randolph) \$4,158, Randolph County Ramps and Rails (Randolph) \$2,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition (Ritchie) \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival (Wayne) \$684, Spirit of Grafton Celebration (Taylor) \$6,240, Spring Mountain Festival (Grant) \$2,500, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair (Taylor) \$3,567, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming (Putnam) \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$16,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and

Celebration (Tucker) \$10,692, Tucker County Fair (Tucker) \$2,821, Tucker County Health Fair (Tucker) \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair (Tyler) \$3,088, Tyler County Fireworks Celebration (Tyler) \$2,000, Union Community Irish Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair (Wayne) \$2,970, Wayne County Fall Festival (Wayne) \$2,970, Webster County Fair (Webster) \$3,600, Webster County Wood Chopping Festival (Webster) \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County (Brooke) \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Freedom Festival (Logan) \$4,456, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia Rivers and Rails Festival (Pleasants) \$1,099, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest (Wetzel) \$3,267, Wetzel County Town and Country Days (Wetzel) \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event (Harrison) \$2,970, Winfield Watersports Weekend (Putnam) \$3,240, Wirt

County Fair (Wirt) \$1,485, Wirt County Pioneer Days (Wirt) \$1,188, Wyoming County Civil War Days (Wyoming) \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Commission for National and Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), and Grants for Competitive Arts Program (fund 3534, appropriation 62400) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and Cultural Grant Program allocations.

*303 - Library Commission –*

*Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2023 Org 0433

Books and Films .....	17900	\$	360,784
Services to Libraries .....	18000		550,000
Grants to Public Libraries .....	18200		9,439,571
Digital Resources .....	30900		219,992
Infomine Network.....	88400		<u>943,353</u>
Total.....		\$	11,513,700

*304 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 3587 FY 2023 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500)

at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*305 - Higher Education Policy Commission –*

*Lottery Education –*

*Higher Education Policy Commission –*

*Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2023 Org 0441

RHI Program and Site Support (R).....03600	\$ 1,915,854
RHI Program and Site Support –	
RHEP Program Administration .....03700	146,653
RHI Program and Site Support – Grad Med	
Ed and Fiscal Oversight (R) .....03800	89,586
Minority Doctoral Fellowship (R) .....16600	129,604
Health Sciences Scholarship (R).....17600	225,908
Vice Chancellor for Health Sciences –	
Rural Health Residency Program (R) .....60100	62,725
WV Engineering, Science, and	
Technology Scholarship Program.....86800	<u>452,831</u>
Total.....	\$ 3,023,161

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation

86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

*306 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2023 Org 0442

Debt Service – Total .....31000 \$ 5,000,000

Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*307 - Higher Education Policy Commission –*

*Lottery Education –*

*West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2023 Org 0463

WVU Health Sciences –

RHI Program and Site Support (R).....03500	\$ 1,208,106
MA Public Health Program and Health Science Technology (R).....62300	52,445
Health Sciences Career Opportunities Program (R) .....86900	336,987
HSTA Program (R) .....87000	1,802,118
Center for Excellence in Disabilities (R) .....96700	<u>318,711</u>
Total.....	\$ 3,718,367

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and



Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*308 - Higher Education Policy Commission –*

*Lottery Education –*

*Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2023 Org 0471

Marshall Medical School –

RHI Program and Site Support (R).....03300	\$	434,910
Vice Chancellor for Health Sciences –		
Rural Health Residency Program (R) .....60100		<u>174,109</u>
Total.....	\$	609,019

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*309 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2023 Org 0508

Personal Services and Employee Benefits ....00100	\$	142,503
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....		70,720
Current Expenses .....		332,284

Repairs and Alterations.....	06400	1,000
Local Programs Service Delivery Costs .....	20000	2,435,250
Silver Haired Legislature .....	20200	18,500
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....	53900	14,203,501
Roger Tompkins Alzheimer's Respite Care.....	64300	2,304,286
WV Alzheimer's Hotline.....	72400	45,000
Regional Aged and Disabled Resource Center.....	76700	425,000
Senior Services Medicaid Transfer .....	87100	16,400,070
Legislative Initiatives for the Elderly.....	90400	9,671,239
Long Term Care Ombudsman.....	90500	297,226
BRIM Premium.....	91300	7,718
In-Home Services and Nutrition for Senior Citizens .....	91700	<u>6,845,941</u>
Total.....		\$ 53,200,238

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

Total TITLE II, Section 4 – Lottery Revenue..... \$134,145,880

**Sec. 5. Appropriations from state excess lottery revenue fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of

the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

*310 - Governor's Office*

(WV Code Chapter 5)

Fund 1046 FY 2023 Org 0100

<b>Appropriation</b>	<b>Excess Lottery Funds</b>
----------------------	-----------------------------

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*311 - Office of Technology*

(WV Code Chapter 5A)

Fund 2532 FY 2023 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*312 - Department of Economic Development –*

*Office of the Secretary –*

*West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2023 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*313 - Division of Natural Resources –*

*State Park Improvement Fund*

Fund 3277 FY 2023 Org 0310

Current Expenses (R) .....	13000	\$	23,300
Repairs and Alterations (R) .....	06400		161,200
Equipment (R).....	07000		200,000
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		<u>1,020,500</u>
Total.....		\$	1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

*314 - West Virginia Infrastructure Council –*

*West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2023 Org 0316

Directed Transfer .....70000 \$ 46,000,000

The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

*315 - Department of Education –*

*School Building Authority*

Fund 3514 FY 2023 Org 0404

Debt Service - Total .....	31000	\$ 18,999,900
Directed Transfer .....	70000	<u>100</u>
Total.....		\$ 19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.

The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund (fund 3952, organization 0404) to be used for school construction and maintenance projects.

*316 - Higher Education Policy Commission –*

*Education Improvement Fund*

Fund 4295 FY 2023 Org 0441

PROMISE Scholarship – Transfer.....80000 \$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

*317 - Higher Education Policy Commission –*

*Higher Education Improvement Fund*

Fund 4297 FY 2023 Org 0441

Directed Transfer ..... 70000 \$ 15,000,000

The above appropriation for Directed Transfer shall be transferred to Higher Education Policy Commission – System – Tuition Fee Capital Improvement Fund (fund 4903, org 0442) as authorized by Senate Concurrent Resolution No. 41.

*318 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

Fund 4932 FY 2023 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*319 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services ..... 18900 \$ 26,697,960

*320 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapter 15A)

Fund 6283 FY 2023 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

*321 - Lottery Commission –*

*General Purpose Account*

Fund 7206 FY 2023 Org 0705

General Revenue Fund – Transfer .....70011 \$ 65,000,000

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

*322 - Lottery Commission –*

*Refundable Credit*

Fund 7207 FY 2023 Org 0705

Directed Transfer .....70000 \$ 10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner's request.

*323 - Lottery Commission –*

*Distributions to Statutory Funds and Purposes*

Fund 7213 FY 2023 Org 0705

Parking Garage Fund – Transfer.....70001 \$ 500,000  
2004 Capitol Complex Parking Garage  
Fund – Transfer.....70002 216,478

Capitol Dome and Improvements Fund –		
Transfer.....	70003	1,796,256
Capitol Renovation and Improvement		
Fund – Transfer.....	70004	2,381,252
Development Office Promotion Fund –		
Transfer.....	70005	1,298,864
Research Challenge Fund – Transfer .....	70006	1,731,820
Tourism Promotion Fund – Transfer .....	70007	4,808,142
Cultural Facilities and Capitol Resources		
Matching Grant Program Fund –		
Transfer.....	70008	1,250,535
State Debt Reduction Fund – Transfer.....	70010	20,000,000
General Revenue Fund – Transfer .....	70011	1,167,799
West Virginia Racing Commission		
Racetrack Video Lottery Account .....	70012	3,463,637
Historic Resort Hotel Fund .....	70013	24,010
Licensed Racetrack Regular Purse Fund .....	70014	<u>22,383,247</u>
Total.....		\$ 61,022,040

*324 - Racing Commission*

Fund 7308 FY 2023 Org 0707

Special Breeders Compensation		
(WVC §29-22-18a, subsection (I)) .....	21800	\$ 2,000,000

*325 - Economic Development Authority –*

*Economic Development Project Fund*

Fund 9065 FY 2023 Org 0944

Debt Service – Total .....	31000	\$ 19,000,000
----------------------------	-------	---------------

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).



*326 - Economic Development Authority –  
Cacapon and Beech Fork State Parks –  
Lottery Revenue Debt Service*

Fund 9067 FY 2023 Org 0944

Debt Service.....04000 \$ 2,032,000

*327 - Economic Development Authority –*

*State Parks Lottery Revenue Debt Service Fund*

Fund 9068 FY 2023 Org 0944

Debt Service.....04000 \$ 4,395,000

Total TITLE II, Section 5 –

Excess Lottery Funds..... \$300,652,000

**Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2023.

**LEGISLATIVE**

*328 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 8738 FY 2023 Org 2300

	<b>Appropriation</b>	<b>Federal Funds</b>
Economic Loss Claim Payment Fund.....33400	\$	1,100,000

**JUDICIAL**

*329 - Supreme Court*

Fund 8867 FY 2023 Org 2400

Personal Services and Employee Benefits ....00100	\$ 1,813,000
Current Expenses .....13000	1,557,000
Repairs and Alterations.....06400	100,000
Equipment.....07000	250,000
Other Assets.....69000	<u>280,000</u>
Total.....	\$ 4,000,000

## EXECUTIVE

### *330 - Governor's Office –*

#### *Coronavirus State Fiscal Recovery Fund*

(WV Code Chapter 4)

Fund 8823 FY 2023 Org 0100

Personal Services and Employee Benefits ....00100	\$ 941,932,089
Unclassified.....09900	13,554,899
Current Expenses .....13000	400,000,000
Repairs and Alterations.....06400	1,000
Equipment.....07000	1,000
Other Assets.....69000	<u>1,000</u>
Total.....	\$1,355,489,988

### *331 - Department of Agriculture*

(WV Code Chapter 19)

Fund 8736 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$ 2,708,867
Unclassified.....09900	50,534
Current Expenses .....13000	6,828,661
Repairs and Alterations.....06400	650,000
Equipment.....07000	910,500
Buildings.....25800	1,000,000
Other Assets.....69000	550,000
Land .....73000	500,000
Federal Coronavirus Pandemic .....89101	<u>1,098,839</u>
Total.....	\$ 14,297,401

*332 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	685,045
Unclassified.....09900		8,755
Current Expenses .....13000		136,012
Repairs and Alterations.....06400		5,500
Equipment.....07000		<u>114,478</u>
Total.....	\$	949,790

*333 - Department of Agriculture –**State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	97,250
Current Expenses .....13000		<u>15,599,974</u>
Total.....	\$	15,697,224

*334 - Department of Agriculture –**Land Protection Authority*Fund 8896 FY 2023 Org 1400

Personal Services and Employee Benefits ....00100	\$	46,526
Unclassified.....09900		5,004
Current Expenses .....13000		<u>448,920</u>
Total.....	\$	500,450

*335 - Attorney General –**Medicaid Fraud Unit*Fund 8882 FY 2023 Org 1500

Personal Services and Employee Benefits ....00100	\$	1,434,886
Unclassified.....09900		15,336
Current Expenses .....13000		599,513
Repairs and Alterations.....06400		4,313
Equipment .....07000		7,500
Other Assets .....69000		<u>11,336</u>
Total.....	\$	2,072,884

*336 - Secretary of State –*

*State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2023 Org 1600

Personal Services and Employee Benefits ....00100	\$	210,240
Unclassified.....09900		7,484
Current Expenses .....13000		415,727
Repairs and Alterations.....06400		15,000
Other Assets .....69000		<u>100,000</u>
Total.....	\$	748,451

**DEPARTMENT OF COMMERCE**

*337 - Division of Forestry*

(WV Code Chapter 19)

Fund 8703 FY 2023 Org 0305

Personal Services and Employee Benefits ....00100	\$	610,888
Unclassified.....09900		51,050
Current Expenses .....13000		5,232,560
Repairs and Alterations.....06400		155,795
Equipment .....07000		100,000
Other Assets .....69000		<u>1,808,300</u>
Total.....	\$	7,958,593

*338 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 8704 FY 2023 Org 0306

Personal Services and Employee Benefits ....00100	\$	54,432
Unclassified.....09900		2,803
Current Expenses .....13000		195,639
Repairs and Alterations.....06400		5,000
Equipment.....07000		7,500
Other Assets.....69000		<u>15,000</u>
Total.....	\$	280,374

*339 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 8706 FY 2023 Org 0308

Personal Services and Employee Benefits ....00100	\$	427,254
Unclassified.....09900		5,572
Current Expenses .....13000		167,098
Repairs and Alterations.....06400		<u>500</u>
Total.....	\$	600,424

*340 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 8707 FY 2023 Org 0310

Personal Services and Employee Benefits ....00100	\$	10,318,396
Unclassified.....09900		107,693
Current Expenses .....13000		7,887,660
Repairs and Alterations.....06400		566,250
Equipment.....07000		2,126,141
Administration .....15500		50,325
Buildings.....25800		951,000
Other Assets.....69000		4,768,670
Land.....73000		<u>2,893,920</u>
Total.....	\$	29,670,055

*341 - Division of Miners' Health,**Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2023 Org 0314

Personal Services and Employee Benefits ....00100	\$	670,029
Current Expenses .....	13000	<u>150,000</u>
Total.....	\$	820,029

*342 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 8835 FY 2023 Org 0323

Unclassified.....	09900	\$	5,127
Current Expenses .....	13000		667,530
Reed Act 2002 –			
Unemployment Compensation .....	62200		4,446,737
Reed Act 2002 – Employment Services .....	63000		<u>3,246,737</u>
Total.....		\$	8,366,131

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

*343 - State Board of Rehabilitation –**Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$ 12,042,929
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	138,000
Current Expenses .....13000	34,440,940
Repairs and Alterations .....06400	350,400
Equipment .....07000	<u>1,275,870</u>
Total.....	\$ 48,248,139

*344 - State Board of Rehabilitation –*

*Division of Rehabilitation Services –*

*Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2023 Org 0932

Personal Services and Employee Benefits ....00100	\$ 12,945,086
Current Expenses .....13000	13,383,206
Repairs and Alterations .....06400	1,100
Equipment .....07000	<u>83,350</u>
Total.....	\$ 26,412,742

**DEPARTMENT OF TOURISM**

*345 - Department of Tourism –*

*Tourism Workforce Development Fund*

(WV Code Chapter 5B)

Fund 8903 FY 2023 Org 0304

Federal Coronavirus Pandemic .....89101	<u>5,148,017</u>
Total.....	\$ 5,148,017

**DEPARTMENT OF ECONOMIC DEVELOPMENT**

*346 - Department of Economic Development –*

*Office of the Secretary*

(WV Code Chapter 5B)

Fund 8705 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	1,521,231
Unclassified.....09900		50,000
Current Expenses .....13000		<u>21,304,019</u>
Total.....	\$	22,875,250

*347 - Department of Economic Development –**Office of Energy*

(WV Code Chapter 5B)

Fund 8892 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	985,462
Unclassified.....09900		7,350
Current Expenses .....13000		<u>8,266,076</u>
Total.....	\$	9,258,888

*348 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8901 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$	854,189
Repairs and Alterations.....06400		250
Equipment.....07000		6,000
Unclassified.....09900		106,795
Current Expenses .....13000		<u>20,303,081</u>
Total.....	\$	21,270,315

**DEPARTMENT OF EDUCATION***349 - State Board of Education –**State Department of Education*



(WV Code Chapters 18 and 18A)

Fund 8712 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	5,890,196
Unclassified.....09900		2,000,000
Current Expenses .....13000		1,434,146,008
Repairs and Alterations.....06400		10,000
Equipment.....07000		10,000
Other Assets.....69000		10,000
Federal Coronavirus Pandemic .....89101		<u>4,990,123</u>
Total.....	\$	<u>\$1,447,056,327</u>

*350 - State Board of Education –**School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	1,924,124
Unclassified.....09900		1,150,500
Current Expenses .....13000		258,781,265
Repairs and Alterations.....06400		20,000
Equipment.....07000		100,000
Other Assets.....69000		<u>25,000</u>
Total.....	\$	<u>\$262,000,889</u>

*351 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100	\$	1,938,607
Unclassified.....09900		155,000
Current Expenses .....13000		17,820,081
Repairs and Alterations.....06400		10,000
Equipment.....07000		10,000

Other Assets .....	69000	<u>10,000</u>
Total .....		\$ 19,943,688

*352 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2023 Org 0402

Personal Services and Employee Benefits ....00100		\$ 3,540,241
Unclassified.....09900		1,000,000
Current Expenses .....	13000	133,346,390
Repairs and Alterations.....06400		10,000
Equipment.....07000		10,000
Other Assets.....69000		10,000
Federal Coronavirus Pandemic .....	89101	<u>17,336,635</u>
Total.....		\$ 155,253,266

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*353 - Division of Culture and History*

(WV Code Chapter 29)

Fund 8718 FY 2023 Org 0432

Personal Services and Employee Benefits ....00100		\$ 851,130
Current Expenses .....	13000	1,947,372
Repairs and Alterations.....06400		1,000
Equipment.....07000		1,000
Buildings.....25800		1,000
Other Assets.....69000		1,000
Land .....	73000	360
Federal Coronavirus Pandemic .....	89101	<u>765,400</u>
Total.....		\$ 2,802,862

*354 - Commission for National and Community Service*

(WV Code Chapter 5F)

Fund 8841 FY 2023 Org 0432

Personal Services and Employee Benefits ....00100	\$	446,874
Current Expenses .....		5,587,325
Repairs and Alterations .....		1,000
Federal Coronavirus Pandemic .....		<u>1,960,558</u>
Total .....	\$	<u>7,995,757</u>

*355 - Library Commission*

(WV Code Chapter 10)

Fund 8720 FY 2023 Org 0433

Personal Services and Employee Benefits ....00100	\$	368,524
Current Expenses .....		1,076,162
Equipment .....		543,406
Federal Coronavirus Pandemic .....		<u>2,388,880</u>
Total .....	\$	<u>4,376,972</u>

*356 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 8721 FY 2023 Org 0439

Equipment .....	\$	1,000
Federal Coronavirus Pandemic .....		<u>710,176</u>
Total .....	\$	<u>711,176</u>

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***357 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2023 Org 0313

Personal Services and Employee Benefits ....00100	\$	32,273,598
Unclassified.....09900		1,923,580
Current Expenses .....		153,850,118
Repairs and Alterations .....		739,783

Equipment .....	07000	1,712,238
Other Assets .....	69000	2,177,261
Land .....	73000	<u>80,000</u>
Total .....		\$192,756,578

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*358 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 1,660,962
Unclassified.....	09900	73,307
Current Expenses .....	13000	92,583,302
Federal Coronavirus Pandemic .....	89101	<u>4,886,344</u>
Total .....		\$ 99,203,915

*359 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 16,607,893
Unclassified.....	09900	856,614
Current Expenses .....	13000	102,758,622
Equipment .....	07000	456,972
Buildings .....	25800	155,000
Other Assets .....	69000	380,000
Federal Coronavirus Pandemic .....	89101	<u>248,935,941</u>
Total .....		\$370,151,042

*360 - Division of Health –*

*West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2023 Org 0506

## West Virginia Drinking Water Treatment

Revolving Fund – Transfer .....	68900	\$ 16,000,000
---------------------------------	-------	---------------

*361 - Human Rights Commission*

(WV Code Chapter 5)

Fund 8725 FY 2023 Org 0510

Personal Services and Employee Benefits ....00100	\$	455,925
Unclassified.....09900		5,050
Current Expenses .....	13000	<u>64,950</u>
Total.....	\$	525,925

*362 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$	80,538,993
Unclassified.....09900		22,855,833
Current Expenses .....	13000	112,181,984
Medical Services.....18900		3,935,000,000
Medical Services Administrative Costs .....	78900	132,380,661
CHIP Administrative Costs.....85601		4,549,783
CHIP Services.....85602		49,752,412
Federal Economic Stimulus .....	89100	5,002,723
Federal Coronavirus Pandemic .....	89101	<u>151,642,105</u>
Total.....	\$	4,493,904,494

**DEPARTMENT OF HOMELAND SECURITY***363 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2023 Org 0601

Unclassified.....09900	\$	5,000
------------------------	----	-------

Current Expenses .....	13000	<u>495,000</u>
Total.....		\$ 500,000

*364 - Division of Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2023 Org 0606

Personal Services and Employee Benefits ....00100		\$ 1,418,043
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	61,250
Current Expenses .....	13000	20,429,281
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>100,000</u>
Total.....		\$ 22,013,574

*365 - Division of Corrections and Rehabilitation*

(WV Code Chapters 15A)

Fund 8836 FY 2023 Org 0608

Unclassified.....	09900	\$ 1,100
Current Expenses .....	13000	<u>108,900</u>
Total.....		\$ 110,000

*366 - West Virginia State Police*

(WV Code Chapter 15)

Fund 8741 FY 2023 Org 0612

Personal Services and Employee Benefits ....00100		\$ 2,502,056
Current Expenses .....	13000	2,125,971
Repairs and Alterations.....	06400	42,000
Equipment.....	07000	2,502,285
Buildings.....	25800	750,500
Other Assets.....	69000	144,500
Land .....	73000	<u>500</u>
Total.....		\$ 8,067,812

*367 - Fire Commission*

(WV Code Chapter 29)

Fund 8819 FY 2023 Org 0619

Current Expenses .....	13000	\$	80,000
------------------------	-------	----	--------

*368 - Division of Administrative Services*

(WV Code Chapter 15)

Fund 8803 FY 2023 Org 0623

Personal Services and Employee Benefits ....00100		\$	1,270,062
Unclassified.....09900			25,185
Current Expenses .....	13000		75,381,973
Repairs and Alterations.....06400			<u>1,750</u>
Total.....		\$	<u>76,678,970</u>

**DEPARTMENT OF REVENUE***369 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2023 Org 0704

Personal Services and Employee Benefits ....00100		\$	145,000
Current Expenses .....	13000		2,825,000
Equipment.....07000			<u>30,000</u>
Total.....		\$	<u>3,000,000</u>

**DEPARTMENT OF TRANSPORTATION***370 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2023 Org 0802

Personal Services and Employee Benefits ....00100		\$	551,394
Current Expenses .....	13000		5,448,106

Repairs and Alterations.....06400	500
Total.....	\$ 6,000,000

*371 - Division of Public Transit*

(WV Code Chapter 17)

Fund 8745 FY 2023 Org 0805

Personal Services and Employee Benefits ....00100	\$ 1,040,576
Current Expenses .....13000	18,863,149
Repairs and Alterations.....06400	2,500
Equipment.....07000	3,501,714
Buildings .....25800	2,450,000
Other Assets .....69000	250,000
Total.....	\$ 26,107,939

*372 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 8831 FY 2023 Org 0807

Current Expenses .....13000	\$ 400,000
Other Assets .....69000	100
Total.....	\$ 400,100

**DEPARTMENT OF VETERANS' ASSISTANCE***373 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2023 Org 0613

Personal Services and Employee Benefits ....00100	\$ 3,016,683
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	57,120
Current Expenses .....13000	2,840,300
Repairs and Alterations.....06400	20,000
Equipment.....07000	25,000
Buildings .....25800	250,000



Land .....	73000	500
Veterans' Cemetery .....	80800	175,000
Federal Coronavirus Pandemic .....	89101	<u>1,900,000</u>
Total.....		\$ 8,284,603

*374 - Department of Veterans' Assistance –*

*Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2023 Org 0618

Personal Services and Employee Benefits ....00100	\$	951,931
Current Expenses .....	13000	595,700
Repairs and Alterations.....	06400	60,500
Equipment.....	07000	10,500
Buildings .....	25800	500
Other Assets .....	69000	6,500
Land .....	73000	100
Federal Coronavirus Pandemic .....	89101	<u>1,600,000</u>
Total.....	\$	3,225,731

**BUREAU OF SENIOR SERVICES**

*375 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2023 Org 0508

Personal Services and Employee Benefits ....00100	\$	783,001
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	8,840
Current Expenses .....	13000	13,811,853
Repairs and Alterations.....	06400	3,000
Federal Coronavirus Pandemic .....	89101	<u>16,400,000</u>
Total.....	\$	31,006,694

**MISCELLANEOUS BOARDS AND COMMISSIONS***376 - Adjutant General –**State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2023 Org 0603

Unclassified.....	09900	\$	982,705
Mountaineer ChalleNGe Academy .....	70900		11,573,992
Martinsburg Starbase .....	74200		547,801
Charleston Starbase.....	74300		516,838
Military Authority .....	74800		<u>88,132,332</u>
Total.....		\$	<u>101,753,668</u>

The Adjutant General shall have the authority to transfer between appropriations.

*377 - Adjutant General –**West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2023 Org 0603

Personal Services and Employee Benefits ....	00100	\$	1,350,000
Current Expenses .....	13000		150,000
Repairs and Alterations .....	06400		50,000
Equipment .....	07000		200,000
Buildings .....	25800		100,000
Other Assets .....	69000		100,000
Land .....	73000		<u>50,000</u>
Total.....		\$	<u>2,000,000</u>

*378 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	1,410,819
Current Expenses .....13000		368,953
Repairs and Alterations.....06400		39,000
Equipment .....07000		<u>1,000</u>
Total.....	\$	1,819,772

*379 - Public Service Commission –**Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2023 Org 0926

Personal Services and Employee Benefits ....00100	\$	639,344
Unclassified.....09900		4,072
Current Expenses .....13000		124,628
Equipment .....07000		<u>3,000</u>
Total.....	\$	771,044

*380 - National Coal Heritage Area Authority*

(WV Code Chapter 29)

Fund 8869 FY 2023 Org 0941

Personal Services and Employee Benefits ....00100	\$	193,043
Current Expenses .....13000		328,008
Repairs and Alterations.....06400		5,000
Equipment .....07000		3,000
Other Assets.....69000		<u>2,000</u>
Total.....	\$	531,051
Total TITLE II, Section 6 - Federal Funds .....		<u>\$8,941,564,394</u>

**Sec. 7. Appropriations from federal block grants.** — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2023.

*381 - Department of Economic Development –**Office of the Secretary –**Community Development*Fund 8746 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 10,662,609
Unclassified.....09900	2,375,000
Current Expenses .....13000	<u>224,476,883</u>
Total.....	\$237,514,492

*382 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2023 Org 0307

Personal Services and Employee Benefits ....00100	\$ 771,289
Unclassified.....09900	125,000
Current Expenses .....13000	17,781,811
Repairs and Alterations.....06400	1,500
Equipment.....07000	<u>9,000</u>
Total.....	\$ 18,688,600

*383 - WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2023 Org 0323

Personal Services and Employee Benefits ....00100	\$ 2,941,437
Salary and Benefits of Cabinet Secretary and Agency Heads .....00201	124,018
Unclassified.....09900	23,023
Current Expenses .....13000	63,381,511
Repairs and Alterations.....06400	1,600

Equipment.....	07000	500
Buildings.....	25800	<u>1,100</u>
Total.....		\$ 66,473,189

*384 - Division of Health –*

*Maternal and Child Health*

Fund 8750 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 2,343,848
Unclassified.....	09900	81,439
Current Expenses .....	13000	<u>5,794,267</u>
Total.....		\$ 8,219,554

*385 - Division of Health –*

*Preventive Health*

Fund 8753 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 274,388
Unclassified.....	09900	22,457
Current Expenses .....	13000	1,895,366
Equipment.....	07000	<u>165,642</u>
Total.....		\$ 2,357,853

*386 - Division of Health –*

*Substance Abuse Prevention and Treatment*

Fund 8793 FY 2023 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 683,799
Unclassified.....	09900	115,924
Current Expenses .....	13000	10,853,740
Federal Coronavirus Pandemic .....	89101	<u>14,965,070</u>
Total.....		\$ 26,618,533

*387 - Division of Health –*

*Community Mental Health Services*

Fund 8794 FY 2023 Org 0506

Personal Services and Employee Benefits ....00100	\$ 571,034
Unclassified.....09900	33,533
Current Expenses .....13000	4,883,307
Federal Coronavirus Pandemic .....89101	<u>12,480,519</u>
Total.....	\$ 17,968,393

*388 - Division of Human Services –*

*Energy Assistance*

Fund 8755 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 1,959,926
Unclassified.....09900	350,000
Current Expenses .....13000	38,182,151
Federal Coronavirus Pandemic .....89101	<u>48,296,777</u>
Total.....	\$ 88,788,854

*389 - Division of Human Services –*

*Social Services*

Fund 8757 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 9,106,066
Unclassified.....09900	171,982
Current Expenses .....13000	<u>8,870,508</u>
Total.....	\$ 18,148,556

*390 - Division of Human Services –*

*Temporary Assistance for Needy Families*

Fund 8816 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 21,331,693
Unclassified.....09900	1,250,000
Current Expenses .....13000	105,871,588
Federal Coronavirus Pandemic .....89101	<u>4,617,546</u>
Total.....	\$ 133,070,827

391 - *Division of Human Services –**Child Care and Development*Fund 8817 FY 2023 Org 0511

Personal Services and Employee Benefits ....00100	\$ 2,867,623
Unclassified.....09900	350,000
Current Expenses .....13000	47,000,307
Federal Coronavirus Pandemic .....89101	<u>330,722,313</u>
Total.....	\$380,940,243
Total TITLE II, Section 7 –	
Federal Block Grants .....	<u>\$998,789,094</u>

**Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal year 2023, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$17,924, special revenue funds in the amount of \$63,003 and state road funds in the amount of \$433,232 for payment of claims against the state.

**Sec. 9. Appropriations from general revenue fund surplus accrued.** — The following items are hereby appropriated from the state fund, general revenue, and are to be available for expenditure during the fiscal year 2023 out of surplus funds only, accrued from the fiscal year ending June 30, 2022, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriations be payable only from surplus as of July 31, 2022 from the fiscal year ending June 30, 2022, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2022, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

*392 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2023 Org 0511

Medical Services – Surplus.....63300 \$ 8,800,000

*393 - Department of Tourism –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 0246 FY 2023 Org 0304

Tourism – Brand Promotion - Surplus.....61893 \$ 7,000,000

*394 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2023 Org 0613

Personal Services and Employee Benefits –

Surplus .....24301 \$ 293,474

Veterans' Nursing Home – Surplus.....29100 652,530

Total..... \$ 946,004

*395 - Department of Veterans' Assistance –**Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2023 Org 0618

Personal Services and Employee Benefits –

Surplus .....24301 \$ 69,783

Current Expenses – Surplus .....13099 80,000

Total..... \$ 149,783



*396 - Division of Environmental Protection -*

(WV Code Chapter 22)

Fund 0273 FY 2023 Org 0313

Directed Transfer – Surplus .....70099 \$ 50,000,000

The above appropriation for Directed Transfer – Surplus (fund 0273, appropriation 70099) shall be transferred to the Mining Mutual Insurance Company Fund (fund xxxx).

*397 - Department of Commerce –*

*Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2023 Org 0327

Directed Transfer – Surplus .....70099 \$ 1,000,000

The above appropriation for Directed Transfer – Surplus (fund 0606, appropriation 70099) shall be transferred to the Marketing and Communications Operating Fund (fund 3002).

*398 - Division of Administrative Services*

(WV Code Chapter 15)

Fund 0546 FY 2023 Org 0623

Current Expenses – Surplus .....13099 \$ 11,400,000

Justice Reinvestment Initiative – Surplus .....89599 750,000

Total..... \$ 12,150,000

From the above appropriation for Current Expenses – Surplus (fund 0546, appropriation 13099) \$11,400,000 shall be used for the Victims of Crime Act (VOCA).

*399 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2023 Org 0211

Capital Outlay, Repairs and Equipment –

Surplus .....67700 \$ 4,000,000

*400 - Department of Economic Development –*

*Office of the Secretary*

(WV Code Chapter 5B)

Fund 0256 FY 2023 Org 0307

Directed Transfer – Surplus .....70099 \$ 500,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Broadband Enhancement Fund (fund 3013).

*401 - Division of Personnel*

(WV Code Chapter 29)

Fund 0206 FY 2023 Org 0222

Directed Transfer – Surplus .....70099 \$ 1,500,000

The above appropriation for Directed Transfer – Surplus (fund 0206, appropriation 70099) shall be transferred to the Department of Administration, Division of Personnel (fund 2440).

*402 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2023 Org 0603

Armory Board Transfer – Surplus .....70199 \$ 1,525,000

*403 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapter 15A)

Fund 0450 FY 2023 Org 0608

Current Expenses – Surplus .....13099 \$ 4,200,000

*404 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2023 Org 0310

Equine Enrichment – Surplus .....xxxxx \$ 1,000,000

*405 - Division of Culture and History*

(WV Code Chapter 29)

Fund 0293 FY 2023 Org 0432

National Youth Science Camp – Surplus.....xxxxx \$ 100,000

*406 - Governor's Office –*

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2023 Org 0100

Congressional Earmark Maintenance of Effort –  
Surplus .....xxxxx \$ 100,000,000

*407 - Department of Revenue*

(WV Code Chapter 11)

Fund 0465 FY 2023 Org 0701

General Revenue Fund – Transfer –  
Surplus .....xxxxx \$ 265,000,000

The above appropriation for General Revenue Fund – Transfer – Surplus (fund 0465, appropriation #####) shall be credited to Fiscal Year 2023 General Revenue collections.

*408 - Department of Economic Development -*

*Office of the Secretary*

(WV Code Chapter 5B)

Fund 0256 FY 2023 Org 0307

Directed Transfer – Surplus ..... 70099 \$ 600,000,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to Industrial Development Loans (fund 9061).

*409 - Division of Culture and History*

*(WV Code Chapter 29)*

Fund 0293 FY 2023 Org 0432

Educational Enhancements - Surplus..... 92700 \$ 500,000

From the above appropriation for Educational Enhancements – Surplus (fund 0293, appropriation 92700) \$500,000 shall be used for Save the Children.

Total TITLE II, Section 9 –

General Revenue Surplus Accrued..... \$1,058,370,787

**Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2023 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2022, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2022.

In the event that surplus revenues available from the fiscal year ending June 30, 2022, are not sufficient to meet the appropriation

made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*410 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

*(WV Code Chapter 29)*

Fund 5405 FY 2023 Org 0508

Senior Services Medicaid Transfer –

Lottery Surplus .....	68199	\$ 14,750,000
In-Home Services and Nutrition for Senior Citizens – Surplus .....	76699	<u>2,000,000</u>
Total .....		16,750,000

*411 - Department of Arts Culture and History –*

*Division of Culture and History*

*(WV Code Chapter 5A)*

Fund 3534 FY 2023 Org 0432

Save the Music– Lottery Surplus .....	xxxxx	\$ 100,000
Capital Outlay and Maintenance –		
Lottery Surplus .....	76099	<u>3,000,000</u>
Total .....		3,100,000
Total TITLE II, Section 10 – Surplus Accrued .....		<u>\$ 19,850,000</u>

**Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2023 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2022, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2022.

In the event that surplus revenues available from the fiscal year ending June 30, 2022, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*412 - Racing Commission –*

*General Administration*

(WV Code Chapter 19)

Fund 7308 FY 2023 Org 0707

Directed Transfer .....70000 \$ 800,000

From the above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

*413 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services – Lottery Surplus.....68100 \$ 16,200,000

Total TITLE II, Section 11 – Surplus Accrued..... \$ 17,000,000

**Sec. 12. Special revenue appropriations.** — There are hereby appropriated for expenditure during the fiscal year 2023 special revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2 and are not expressly appropriated under this act: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2-1 et seq., W.Va. Code §12-3-1 et seq., and W.Va. Code §11B-2-1 et seq., unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended: *Provided, however*, That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.Va. Code §4-11-1, *et seq.* *Provided further*, That federal funds that become available to a spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W. Va. Code §4-11-5(d): *And provided further*, That no provision of this Act may be construed to authorize the expenditure of federal funds except as provided in this section.

During Fiscal Year 2023, the following funds are hereby available and are to be transferred to the appropriate funds as specified from available balances per the following:

*414 - Treasurer's Office –*

*Unclaimed Property Trust Fund*

(WV Code Chapter 12)

Fund 1342 FY 2023 Org 1300

Directed Transfer .....70000 \$ 5,000,000

From the above appropriation for Directed Transfer (Fund 1342, appropriation 70000), \$5,000,000 shall be transferred to the Department of Health and Human Resources, Division of Human Services – Medical Services Trust Fund (Fund 5185).

Total TITLE II, Section 12 – Special Revenue..... \$ 5,000,000

**Sec. 13. State improvement fund appropriations.** — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2023, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending

units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2023 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

**Sec. 14. Specific funds and collection accounts.** — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

**Sec. 15. Appropriations for refunding erroneous payment.** — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

**Sec. 16. Sinking fund deficiencies.** — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to



time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

**Sec. 17. Appropriations for local governments.** — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

**Sec. 18. Total appropriations.** — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

**Sec. 19. General school fund.** — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

### TITLE III – ADMINISTRATION

**Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

**Sec. 2. Constitutionality.** — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

Following discussion,

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

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

Engrossed Committee Substitute for Senate Bill 250, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 250) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton,

Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Karnes and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 250) 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 that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. House Bill 4097**, To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Weld, Azinger, and Woelfel.

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

### **Executive Communications**

The following communication from His Excellency, the Governor, was reported by the Clerk:



*Jim Justice*  
Governor of West Virginia

March 10, 2022

The Honorable Craig Blair  
President of the Senate  
State Capitol, Building 1, Room 229-M  
Charleston, West Virginia 25305

The Honorable Roger Hanshaw  
Speaker of the House of Delegates  
State Capitol, Building 1, Room 228-M  
Charleston, West Virginia 25305

Dear President Blair and Speaker Hanshaw:

After submission of my recommended FY 2023 Executive Budget on January 12, 2022, there are areas that require adjustment.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2023 Budget Bill for the following sections:

TITLE II – APPROPRIATIONS

**Section 1. Appropriations from general revenue.**

**Executive**

*Governor's Office – Civil Contingent Fund, Fund 0105, Fiscal Year 2023, Org 0100*

(To add a new item of appropriation.)

- Insert a new item of appropriation: "Court Improvement" Appropriation xxxxx for \$5,000,000.

(To add reappropriation language.)

- Insert into the reappropriation language after Civil Contingent Fund - Surplus (fund 0105, appropriation 26300), "...Local Economic Development Assistance - Surplus (fund 0105, appropriation 26600),..."

## OFFICE OF THE GOVERNOR

The Honorable Craig Blair, President  
 The Honorable Roger Hanshaw, Speaker  
 March 9, 2022  
 Page 2

**Department of Commerce**

*Department of Commerce – Office of the Secretary, Fund 0606, Fiscal Year 2023, Org 0327*  
 (To reflect 5% pay raise transferred from Department of Economic Development.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$60,318.

*Division of Natural Resources, Fund 0265, Fiscal Year 2023, Org 0310*

(To continue funding positions provided by supplemental appropriation SB 628/BB 4740.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$184,162.

**Department of Economic Development**

*Department of Economic Development – Office of the Secretary, Fund 0256, Fiscal Year 2023, Org 0307*  
 (To move pay raise to correct fund under Department of Commerce.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$60,318.

(To add directive language only to reflect fund transfer.)

- Amend the directive language for appropriation 13000 to read as follows: “From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$50,000 shall be used for the Western Potomac Economic Partnership, \$100,000 shall be used for Advantage Valley, \$548,915 for West Virginia University, and \$298,915 for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.”

(To remove Directed Transfer language from lines 12-13.)

- Remove the language “The above appropriation for Directed Transfer (fund 0256, appropriation 70000) shall be transferred to the Broadband Enhancement Fund (fund 3013).”

**Department of Education**

*State Board of Education – State Department of Education, Fund 0313, Fiscal Year 2023, Org 0402*

(To adjust Teachers’ Retirement Savings Realized per CPRB actuarial requirement.)

- Decrease “Teachers’ Retirement Savings Realized” Appropriation 09500 by \$15,814,000.

(To include HOPE Scholarship funding in accordance with §18-9A-25 of the West Virginia Code.)

- Insert a new item of appropriation: “Hope Scholarship Program” Appropriation 30401 for \$23,350,520.

*State Board of Education – State Aid to Schools, Fund 0317, Fiscal Year 2023, Org 0402*

(To adjust School Aid Formula based on the certified property valuations and actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Decrease “Less Local Share” adjustment by \$682,295 (it should now be -\$474,379,513).
- Decrease “Adjustments” adjustment by \$97,293 (it should now be -\$2,495,004).
- Amend “Total Basic State Aid” to reflect the sum of all appropriations and adjustments that precede it. It should now read as “\$1,207,845,815”.
- Decrease “Teachers’ Retirement System” Appropriation 01900 by \$3,976,760.
- Decrease “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$25,072,240.

## OFFICE OF THE GOVERNOR

The Honorable Craig Blair, President  
 The Honorable Roger Hanshaw, Speaker  
 March 9, 2022  
 Page 3

**Department of Health and Human Resources**

*Division of Health – Consolidated Medical Services Fund, Fund 0525, Fiscal Year 2023, Org 0506*

(To include reappropriation language.)

- On page 47, line 12, before the word “and” insert the following: “...Institutional Facilities Operations – Surplus (fund 0525, appropriation 63200),...”.

**Department of Homeland Security**

*West Virginia State Police, Fund 0453, Fiscal Year 2023, Org 0612*

(To adjust the Trooper Retirement Fund appropriation based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Increase “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$12,000.

**Department of Transportation**

*Division of Public Transit, Fund 0510, Fiscal Year 2023, Org 0805*

(To provide support to the Sistersville Ferry.)

- On page 63, after line 9, insert the following: “From the above appropriation for Current Expenses (fund 0510, appropriation 13000), \$30,000 shall be transferred to the City of Sistersville to support the Sistersville Ferry.”

**Higher Education Policy Commission**

*Higher Education Policy Commission – Administration – Control Account, Fund 0589, Fiscal Year 2023, Org 0441*

(To adjust reappropriation language.)

- On page 69, line 19, insert the letter “H” in front of “EAPS Grant Program”.

**Department of Veterans’ Assistance**

*Division of Veterans’ Affairs, Fund 0456, Fiscal Year 2023, Org 0613*

(To match state construction costs for the new Beckley facility.)

- Insert a new item of appropriation: “Buildings” Appropriation 25800 for \$8,181,000.

**Section 2. Appropriations from state road fund.****Department of Transportation**

*Division of Highways, Fund 9017, Fiscal Year 2023, Org 0803*

(To realign state road spending authority.)

- Decrease “Maintenance” Appropriation 23700 by \$21,200,000.
- Increase “General Operations” Appropriation 27700 by \$21,200,000.

## OFFICE OF THE GOVERNOR

The Honorable Craig Blair, President  
 The Honorable Roger Hanshaw, Speaker  
 March 9, 2022  
 Page 4

**Section 3. Appropriations from other funds.****Department of Administration**

*Department of Administration – Office of the Secretary – Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2023, Org 0201*

(To adjust spending authority to match the appropriation for Teachers' Retirement Savings Realized.)

- Decrease "Current Expenses" Appropriation 13000 by \$15,814,000.

**Miscellaneous Boards and Commissions**

*Hospital Finance Authority – Hospital Finance Authority Fund, Fund 5475, Fiscal Year 2023, Org 0509*

(To carry-forward spending authority established by supplemental appropriation SB 732/HB 4852.)

- Insert a new item of appropriation: "Personal Services and Employee Benefits" Appropriation 00100 for \$10,000.

**Section 6. Appropriations of federal funds.****Executive**

*Department of Agriculture, Fund 8736, Fiscal Year 2023, Org 1400*

(To carry-forward federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$1,098,839.

Insert a new budget item as follows:

**"Department of Tourism"**

*"342a - Department of Tourism – Tourism Workforce Development Fund, Fund 8903, Fiscal Year 2023, Org 0304"*

(To add Federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$5,148,017.

**Department of Arts, Culture, and History**

*Division of Culture and History, Fund 8718, Fiscal Year 2023, Org 0432*

(To carry-forward federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$765,400.

*Commission for National and Community Service, Fund 8841, Fiscal Year 2023, Org 0432*

(To carry-forward federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$1,960,558.

## OFFICE OF THE GOVERNOR

The Honorable Craig Blair, President  
 The Honorable Roger Hanshaw, Speaker  
 March 9, 2022  
 Page 5

*Library Commission, Fund 8720, Fiscal Year 2023, Org 0433*

(To carry-forward federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$2,388,880.

*Educational Broadcasting Authority, Fund 8721, Fiscal Year 2023, Org 0439*

(To carry-forward federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$710,176.

**Bureau of Senior Services***Bureau of Senior Services, Fund 8724, Fiscal Year 2023, Org 0508*

(To carry-forward federal spending authority for American Rescue Plan [ARPA] funds.)

- Insert a new item of appropriation: "Federal Coronavirus Pandemic" Appropriation 89101 for \$16,400,000.

**Section 9. Appropriations from general revenue fund surplus accrued.****Department of Economic Development***Department of Economic Development - Office of the Secretary, Fund 0256, Fiscal Year 2023, Org 0307*

(To amend directive language to correct fund.)

- Amend the language to read as follows: "The above appropriation for Directed Transfer (fund 0256, appropriation 70099) shall be transferred to the Broadband Enhancement Fund (fund 3013)."

**Executive***Governor's Office - Civil Contingent Fund, Fund 0105, Fiscal Year 2023, Org 0100*

(To add an item of surplus appropriation for federal maintenance of effort.)

- Insert a new item of appropriation: "Congressional Earmark Maintenance of Effort - Surplus" Appropriation xxxxx for \$100,000,000.

**Section 10. Appropriations from lottery net profits surplus accrued.****Bureau of Senior Services***Bureau of Senior Services, Fund 5405, Fiscal Year 2023, Org 0508*

(To restore state matching portion for Title XIX Waiver Program.)

- Increase "Senior Services Medicaid Transfer - Lottery Surplus" Appropriation 76500 by \$750,000.



## OFFICE OF THE GOVERNOR

The Honorable Craig Blair, President  
The Honorable Roger Hanshaw, Speaker  
March 9, 2022  
Page 6

Insert a new budget item as follows:

**"Department of Arts, Culture, and History"**

*"401a – Division of Culture and History, Fund 3534, Fiscal Year 2023, Org 0432"*

(To add new items of appropriation.)

- Insert "Save the Music – Lottery Surplus" Appropriation xxxxx for \$100,000.
- Insert "Capital Outlay and Maintenance – Lottery Surplus" Appropriation 76099 for \$3,000,000.

**Section 11. Appropriations from state excess lottery revenue surplus accrued.**

(To correct section numbering.)

- On page 188, line 1, replace "Sec. 10" with "Sec. 11".

Thank you for your prompt attention to this matter. Note also that while my introduced budget bill accounted for additional General and Lottery revenue appropriations for salary increases, to avoid additional base budget growth, any agency specific legislation relating to salaries passed after my introduced budget bill could potentially be addressed within existing Personal Services and Employee Benefits appropriations through the elimination and/or realignment of vacant positions, as available and appropriate. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,



Jim Justice  
Governor

cc: The Honorable Eric Tarr, Senate Finance Chairman  
The Honorable Eric Householder, House of Delegates Finance Chairman  
State Budget Office

In compliance with Article VI, Section 51 of the Constitution, the Senate consented to receive the foregoing amendment to the Budget Bill, which was referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Senate Concurrent Resolution 12**, Raymond Jarrell, Jr., Memorial Road.

**Senate Concurrent Resolution 20**, US Air Force LT COL Robert J. Hill Memorial Road.

**House Concurrent Resolution 1**, Alex Perdue Memorial Bridge.

**House Concurrent Resolution 5**, James "Big Jim" Shaffer Memorial Bridge.

**House Concurrent Resolution 6**, Elmer Galford Memorial Road.

**House Concurrent Resolution 10**, Lance CPL Leonard Joe Zelaski Memorial Bridge.

**House Concurrent Resolution 48**, WVSP Sergeant John S. Syner Memorial Road.

**House Concurrent Resolution 49**, Charles M. "Charlie" Biggs Memorial Highway.

**House Concurrent Resolution 52**, U.S. Army SGT Roy E. Givens Memorial Road.

**House Concurrent Resolution 90**, U.S. Army PVT Robert (Bob) Mullins Sr. Memorial Bridge.

**House Concurrent Resolution 95**, Clemmer Brothers WWII Veterans Memorial Bridge.

And,

**House Concurrent Resolution 96**, U. S. Air Force Captain Perry Thomas Rose Memorial Road.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Craig Blair,  
*Chair ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 12 and 20 and H. C. R. 1, 5, 6, 10, 48, 49, 52, 90, 95, and 96) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Senate Concurrent Resolution 16**, William Gregory "Greg" White, P.E., Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 16** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge numbers 40A180 and 40A181, locally known as Buffalo Interchange Bridges on U.S. Rt. 35 near Buffalo,

Putnam County, the "William Gregory 'Greg' White, P.E., Memorial Bridges".

Whereas, William Gregory "Greg" White, P.E., was born February 21, 1959, in Charleston, West Virginia, the son of Maralu White Craven and William Clifford White. He graduated in 1977 from Parkersburg South High School and continued his education at West Virginia Tech, where he received a bachelor's degree in civil engineering; and

Whereas, William Gregory "Greg" White, P.E., loved his work as a licensed professional civil engineer and owned his own business, White Brothers Consulting, a partnership he shared with his brother Tim; and

Whereas, Some of the projects William Gregory "Greg" White, P.E., was involved in as a structural engineer for the design and detail of various bridges include, but are not limited to: The Wolfe Valley Girder Bridge in Mason County; the East Fork Beam Span Bridge in Mingo County; the Buzzard Creek Bridge in Putnam County; the Capehart Bridge in Mason County; the Central Station Bridge in Doddridge County; the Monongahela River Bridge and Approaches in Marion County; the I-40 Widening Project in North Little Rock, Arkansas; the Sam Houston Tollway Widening in Houston, Texas; the Witcher Creek Bridge in Kanawha County; the Virginia Hybrid Energy Center in Virginia City, Virginia; two of the West Virginia Turnpike bridges over U.S. Rt. 60 in Kanawha County; the Upper Sleith Fork Bridge in Braxton County; the South Branch Potomac Bridge in Hardy County; and the Gypsy Bridge in Harrison County; and

Whereas, William Gregory "Greg" White, P.E., was an avid supporter of local youth soccer leagues and the Ripley High School marching band. He was also an ordained deacon at Witcher Baptist Church in Belle, West Virginia, and a member of the West Ripley Baptist Church; and

Whereas, Sadly, William Gregory "Greg" White, P.E., passed away on Sunday, December 16, 2018; and

Whereas, The bridges being named in honor of William Gregory "Greg" White, P.E., were the last ones that he designed and stamped with his license before he passed away; and

Whereas, It is fitting that an enduring memorial be established to commemorate William Gregory "Greg" White, P.E., and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge numbers 40A180 and 40A181, locally known as Buffalo Interchange Bridges on U.S. Rt. 35 near Buffalo, Putnam County, the "William Gregory 'Greg' White, P.E., Memorial Bridges"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridges as the "William Gregory 'Greg' White, P.E., Memorial Bridges"; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 18**, US Army SSGT Fred E. Duty Memorial Highway.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 18** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge number 03-020/00-002.94 (03A058), (37.9898,-81.852), locally known as SIXMILE CK BR NO 2.94, carrying CR 20 over Sixmile Creek in Boone County, as the "U.S. Army SSGT Fred E. Duty Memorial Bridge".

Whereas, Fred E. Duty was born November 4, 1922, in Ramage, Boone County, West Virginia, the only son to Hugh and Mary Bell Duty. He had two sisters, Nancy and Joyce. Fred grew up in Boone County, where he also found the love of his life and

married Doris Burton Duty. Fred E. Duty graduated from Scott High School in Boone County, West Virginia, and attended Morris Harvey College in Charleston, West Virginia; and

Whereas, Fred E. Duty was inducted into the U.S. Army on January 5, 1943, and received basic combat training, US Army 12-week ordnance school, and 41C20 fire control artillery repairman training. SSGT Fred E. Duty was a member of the HQ Co 1134th Engineers as a light truck driver for combat engineers and served in battles in Northern France, Ardennes, Rhineland, and Central Europe and was wounded in battle in Germany on March 27, 1945. He was awarded the Purple Heart, American Theater Service Ribbon, European Theater Service Ribbon, African Theater Service Ribbon, Middle Eastern Theater Service Ribbon, World War II Victory Medal, and Good Conduct Medal; and

Whereas, Except for SSGT Fred E. Duty's time serving his country in the military, he lived in Madison his entire life, attended vocational school, and became an electrician. This led to his employment as an electrician for 34 years in the coal mines of Armco Steel where he was a member of the United Mine Workers of America. SSGT Fred E. Duty was a loyal and faithful member of the Madison United Methodist Church where he served as a lay speaker, showing his faith, and leading by example. SSGT Fred E. Duty could regularly be seen quietly performing work for and supporting members of his community in various public service programs both organized and on his own merits. SSGT Fred E. Duty became a dedicated and long serving member of the Veterans of Foreign Wars Post 5578 in Madison, West Virginia. SSGT Fred E. Duty could always be seen serving his community with many activities of the VFW and performing the final rites to fallen comrades at their gravesides on a regular basis until he passed away on August 19, 2019, having served his fellow citizens for over 96 years; and

Whereas, It is fitting that an enduring memorial be established to commemorate SSGT Fred E. Duty and his contributions to our state, country, community, and Boone County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 03-020/00-002.94 (03A058), (37.9898,-81.852), locally known as SIXMILE CK BR NO 2.94, carrying CR 20 over Sixmile Creek in Boone County, as the "U.S. Army SSGT Fred E. Duty Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army SSGT Fred E. Duty Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 24**, USMC CPL Roger Lee Boothe Memorial Road.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 24** (originating in the Committee on Rules)—Requesting the Division of Highways name a portion of Route 85, beginning at the southern end of Dunlap Brothers Road at Uneeda and ending one-mile south near Quinland in Boone County, as the "U.S. Marine Corps CPL Roger Lee Boothe Memorial Road".

Whereas, Roger Lee Boothe was born in Logan County on August 20, 1947, and moved to Uneeda in Boone County at the age of three and was raised there; and

Whereas, CPL Roger Lee Boothe graduated from Scott High School and, at age 18, he entered the Marine Corps; and

Whereas, While at Quang Tri, Vietnam, with only eight days left until his deployment home, the bunker to which CPL Roger Lee Boothe was assigned was shelled, leaving him paralyzed from the waist down; and

Whereas, When CPL Roger Lee Boothe returned home, he enrolled at the West Virginia Rehab Center, studied accounting, and played on their wheelchair basketball team; and

Whereas, CPL Roger Lee Boothe went on to earn a chemistry degree from West Virginia State University and then successfully completed the pharmacy program at West Virginia University; and

Whereas, CPL Roger Lee Boothe returned to Uneeda to help his mother who was ill. He opened a pharmacy there in 1976 to help his community; and

Whereas, CPL Roger Lee Boothe was always a guiding light for his community who never turned down the opportunity to help someone in need, whether it was loaning money for food, medicine, or just being there to listen when someone was going through a difficult time; and

Whereas, CPL Roger Lee Boothe always had an interest in sports. He played basketball and baseball as a left-handed pitcher in high school; and

Whereas, Later, CPL Roger Lee Boothe played wheelchair basketball, participated in the Charleston Distance Run, and supported athletic teams in Madison County and the surrounding areas; and

Whereas, CPL Roger Lee Boothe also became interested in flying, learned to fly ultralight planes, and even built his own airplane and customized it with hand controls; and

Whereas, CPL Roger Lee Boothe has selflessly helped several students get their college degrees and much more; and

Whereas, CPL Roger Lee Boothe was a very humble, private person. He did not speak of his many outreach and assistance efforts on his own, and this information was gathered by family and friends who love and appreciate him; and

Whereas, Sadly, on Sunday, August 11, 2019, CPL Roger Lee Boothe passed away. He was preceded in death by his parents, Bill



and Mary (Green) Boothe; his brother, Ralph; his sister, RoseMary (Boothe) McCray; and nephew, Bill Church; and

Whereas, CPL Roger Lee Boothe is survived by his companion and love of his life of 25 years, Nada Baldwin; his brother, Dale Boothe; sister, Rita Boothe Church; nieces, Wendy Miller, London Gibson, and Dee-Dee Seagraves; nephews, Tom, Jim, and Joe Boothe; a special friend, Brock Loftis; a special granddaughter, Brittany Baldwin; and a 12-year-old granddaughter, Azriella Baldwin; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Roger Lee Boothe and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion Route 85, beginning at the southern end of Dunlap Brothers Road at Uneeda and ending one-mile south near Quinland in Boone County, the "U.S. Marine Corps CPL Roger Lee Boothe Memorial Road"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of road as the "U.S. Marine Corps CPL Roger Lee Boothe Memorial Road"; and, be it

*Further Resolved*, That the Clerk of the West Virginia Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 30**, McClintic Family Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 30** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge number 13-017/02-000.34 (13A250), (37.94358, -80.47152), locally known as Culverson Creek Bridge,

carrying CR 17/2 over Culverson Creek in Greenbrier County, the "McClintic Family Veterans Memorial Bridge".

Whereas, Five of the McClintic family served in the United States Army overseas from 1957-1979; and

Whereas, Levi McDonald McClintic was born in 1934 and attended Potomac State and West Virginia University, earning a Bachelor of Science degree in Agriculture. He joined the United States Army in 1957 and was stationed in Fort Benning, Georgia and Bamberg, Germany. He returned to Greenbrier County and was employed as a meat inspector from 1966-1992. He and his wife Ramona Hanna have five children, eight grandchildren, and six great-grandchildren. His grandson, Christopher Wiseman, served 12 years in the United States Navy. Levi and Ramona McClintic operate the McClintic farm today; and

Whereas, Patrick Wallace McClintic was born in 1935 and attended Potomac State and West Virginia University, earning a degree in Agriculture. He joined the United States Army in 1958 and retired in 1985. Patrick "Pat" Wallace McClintic rose to the rank of Colonel and completed assignments in Fort Dix, New Jersey, Korea, Germany, Fort Leavenworth, Kansas, Virginia, Florida, Pennsylvania, and the Pentagon in Washington, D.C. Colonel Patrick "Pat" Wallace McClintic also served two tours in Vietnam. He later served as a professor of Military Science at West Virginia University. Colonel McClintic, who died in 1995, was a recipient of the Bronze Star, and is buried at the Arlington National Cemetery in Washington, D.C. He and his wife Bobbie Ann Cole have two children and three grandchildren; and

Whereas, James Alan McClintic was born in 1937 and joined the United States Army in 1961 after graduating from Potomac State and West Virginia University, earning a degree in Physical Education. He was stationed in Fort Benning, Georgia and Fort Sill, Oklahoma for two years. He returned to Greenbrier County and taught until his retirement from Renick Junior High School/Greenbrier County public schools in 1989. James "Alan" McClintic and Frances Spencer divorced but have four children and 11 grandchildren. Son, Kevin McClintic, retired from the

United States Army, and grandson Trevor Weikle has 12 years' service in the United States Army and continues today to serve in the United States Army Reserves. James "Alan" McClintic and his wife, Dora Whitt, have two children and four grandchildren, and continue to live on and operate part of the McClintic farm; and

Whereas, Wayne Leonard McClintic was born in 1943 and was a ROTC Army cadet at West Virginia University. Upon completing a master's degree in Agricultural Engineering in 1967, Wayne joined the United States Army and was stationed at Fort Belvoir, Virginia, Saudi Arabia, and Fort Leonard Wood, Missouri as Second Lieutenant of the Corps of Engineers. Wayne and his wife, Thomasine Michael, have four children and eight grandchildren; and

Whereas, Bedford Rader McClintic was born in 1946 and was a ROTC Army cadet at West Virginia University. He graduated with degrees in Physical Education in 1968, and from the University of Kentucky in 1969. He entered the United States Army and served assignments in Indiana, Georgia, and overseas in Germany and Vietnam. He continued to serve in the United States Army Reserves until 1979. He served as principal of Frankford School, his alma mater, from 1978-2017, when he retired from the Greenbrier County public school system. He and his wife, Patricia Dodson, have two children and three grandchildren. His daughter, Debbie, and her husband Jason were married on the bridge in 2009. Bedford Rader McClintic and Patricia Dodson have a "camp" along the creek that borders the old Boy Scout camp, part of the original McClintic homestead; and

Whereas, It is fitting that an enduring memorial be established to commemorate the military service of the McClintic family and contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 13-017/02-000.34 (13A250), (37.94358, - 80.47152), locally known as Culverson Creek Bridge, carrying CR

17/2 over Culverson Creek in Greenbrier County, the "McClintic Family Veterans Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "McClintic Family Veterans Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 33**, US Army SGT Lewis M. "Mike" Totten Memorial Road.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 33** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge number 20-077/00-089.68 (20A625), (38.24249,-81.56771), locally known as MARMET BR, carrying I-77 over 98th Street in Marmet in Kanawha County, the "U. S. Army SGT Lewis M. 'Mike' Totten Memorial Bridge".

Whereas, Lewis Malcolm "Mike" Totten was born on August 25, 1949, the son of the late Charlotte and Roy Totten; and

Whereas, Lewis M. "Mike" Totten, a native of Marmet, was a graduate of East Bank High School and earned a Bachelor of Arts in Social Studies Education from the University of Charleston, taking courses at night over a ten-year period while working full time at E.I. DuPont in Belle; and

Whereas, SGT Lewis M. "Mike" Totten served in the U.S. Army from 1969 to 1971, rising to the rank of E5 Sergeant. SGT Lewis M. "Mike" Totten served in combat in Vietnam from March 1970 to March 1971, as part of the "air cavalry," 2nd Battalion, 7th Cavalry Regiment, until wounded in combat, for which he has reportedly received the Purple Heart. He then served in the corps-level U.S. Army Republic of Vietnam (USARV) and was part of the intelligence-counterintelligence Phoenix Program; and

Whereas, After returning home from military service, SGT Lewis M. “Mike” Totten was a bridge inspector for the State of West Virginia; and

Whereas, SGT Lewis M. “Mike” Totten was also a certified public school teacher, master electrician, pipefitter, and boilermaker; and

Whereas, Collaborating with former Senator Tod Kaufman, SGT Lewis M. “Mike” Totten advocated for the successful Senate resolution that led to the creation of what later became the West Virginia Veterans Memorial at the State Capitol Complex. Both met with and secured the support of Governor Arch Moore, Jr. on the issue of a state Vietnam Veterans Memorial, which later became an all-wars memorial. He later helped secure one of the largest corporate donations to the state’s Veterans Memorial Commission; and

Whereas, SGT Lewis M. “Mike” Totten participated in E. I. DuPont’s volunteer team for “Project Teach,” a semester-long effort to cover instruction in public school classrooms while regular teachers received first-generation computer training at a time when technology first entered the classroom. SGT Lewis M. “Mike” Totten designed the instructional program for E. I. DuPont’s volunteer team, training and coaching the company’s contributors; and

Whereas, While at E. I. DuPont and working in coordination with the Belle Works’ Human Resources Department, SGT Lewis M. “Mike” Totten provided counseling to veterans with PTSD. He also trained employees on the first substance-abuse and smoking policy program in the global DuPont system; and

Whereas, SGT Lewis M. “Mike” Totten retired from E.I. DuPont in Belle as an electrical-instrument mechanic after 39 years of service. He developed multiple safety devices for the chemical industry and received multiple safety awards; and

Whereas, At the time of his death, SGT Lewis M. “Mike” Totten was president of the Marmet Hospital Foundation, having

served on its board for several decades. His final project with the foundation created the first ADA wheelchair-accessible playground in the West Virginia State Parks system, in Kanawha State Forest; and

Whereas, SGT Lewis M. “Mike” Totten was also a former president of the Charleston Chapter of the Vietnam Veterans of America, a member of the American Legion, and taught map-reading classes for local Boy Scout troops in the Kanawha Valley; and

Whereas, SGT Lewis M. “Mike” Totten, 71, of Belle, died unexpectedly on November 16, 2020, at the Cleveland Clinic, suffering cardiac arrest after contracting COVID-19 following a long-awaited kidney transplant. He is survived by his wife, Mary Martha Totten and his son, Mark Leslie Totten. Also surviving are his sister, Debbie; brother, George Totten; sister, Marie Leavens Dawson, as well as many other extended family members; and

Whereas, It is fitting that an enduring memorial be established to commemorate SGT Lewis M. “Mike” Totten and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-077/00-089.68 (20A625), (38.24249,-81.56771), locally known as MARMET BR, carrying I-77 over 98th Street in Marmet in Kanawha County, the “U. S. Army SGT Lewis M. ‘Mike’ Totten Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the bridge as the “U. S. Army SGT Lewis M. “Mike” Totten Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 39**, Walker Brothers' Veteran Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 39** (originating in the Committee on Rules)—Requesting the Division of Highways to name bridge number 20-079/00-019.22 (NB and SB) (20A514-20A515), locally known as I-79 CLENDENIN I/C NB, carrying I-79 over CR 53 in Kanawha County, the "Walker Brothers Veterans Memorial Bridge".

Whereas, All five of the Walker men volunteered for military service during the Vietnam War with three experiencing injuries while on active duty; and

Whereas, Albert J.L. Walker served as a civil engineer in the U.S. Air Force at the Eielson Air Force Base in Alaska when the Great Alaskan Earthquake struck in 1964. He was active in rescue efforts and recovery of the dead following the strongest earthquake in North American history; and

Whereas, Allie Melton Walker served in the U.S. Air Force at the Kaden Air Force Base, Okinawa, Japan, as an aircraft mechanic. He deployed to Vietnam for three months at a time as the crew chief on the C130 aircraft delivering cargo and picking up the wounded and the dead. He earned a Good Conduct Medal (AFGCM w/1BR OLC), Special Ops, and marksmanship; and

Whereas, Ray Milton Walker served in the U.S. Army at the Dong Tam Base Camp where he was a part of the ground recon team for the 1st Aviation Brigade. He was awarded the Combat Infantryman Badge (CIB), Bronze Star, National Defense Service Medal with two bronze stars, and Marksman Badge with Rifle Bar; and

Whereas, Roger Bill Walker served in the U.S. Air Force at Udorn Airbase, Thailand, as a radar operator and air traffic controller assisting with the bombing of North Vietnam. He received the National Defense Service Medal, Vietnam Service Medal, Air Force Good Conduct, and Special Ops; and

Whereas, David Allen Walker joined the WV Army National Guard while he was still a senior in high school, serving as a Green Beret with the 19th S.F. Group Airborne as a combat engineer. He was injured during paratrooper trainer when his plane caught on fire and forced him to jump onto the tarmac wearing full combat gear. He continued to serve in supply and transport. David Allen Walker also served the State of West Virginia as a WV Delegate from the 33rd District from 2009 to 2015; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Walker brothers and their contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-079/00-019.22 (NB and SB) (20A514-20A515), locally known as I-79 CLENDENIN I/C NB, carrying I-79 over CR 53 in Kanawha County, the "Walker Brothers Veterans Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Walker Brothers Veterans Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 40**, Frye Brothers' Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 40** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge number 17-034/00-000.01 (17A296), (39.23653, -80.39654), locally known as Laurel Park Truss, carrying CR 34 over West Fork River in Harrison County, the "Frye Brothers Veterans Memorial Bridge".



Whereas, Three of the four Frye brothers served in World War II, with one brother killed in action; and

Whereas, The Frye brothers' father was killed in a coal mining accident, forcing their mother to send them to group homes until she found a job and was able to support her four boys and two girls who were all under the age of 12; and

Whereas, The oldest Frye brother, Thomas, was not allowed to enlist because he worked in the defense industry and would have been his widowed mother's sole source of support if his younger brothers were killed; and

Whereas, Kermit C. Frye was drafted in 1940 and served as a Navy Seaman Second Class; and

Whereas, Kermit C. Frye was killed in action with his body "lost at sea" after the East Indian motor merchant ship was torpedoed and sunk off the Coast of South Africa on November 3, 1942; and

Whereas, Kermit C. Frye was awarded a posthumous Purple Heart and memorialized with a cross at the North Africa American Cemetery in Carthage, Tunisia; and

Whereas, Richard G. Frye was drafted in 1942 and served as Army Private First Class, fighting in both Africa and Germany combat campaigns; and

Whereas, Harold Q. Frye, known as "Red", due to the color of his hair, was drafted in 1942 and served as a Private First Class cannoneer in the 119th Field Artillery Division of the 9th Army; and

Whereas, Harold Q. Frye, jumped into the icy waters off Normandy, surrounded by the bodies of dead comrades, making it safely to shore despite carrying a 90-pound pack and having a severe asthma attack, while fellow soldier Dale Crim shouted, "Swim Frye! Swim Dammit". Dale Crim later told Frye's daughter that the experience was so haunting many soldiers never talked

about it, but he wanted her to know the bravery of her father and how they encouraged each other to survive; and

Whereas, Harold Q. Frye, operated a "Long Tom" gun during the Battle of the Bulge with a commendation from the XIX Corps Artillery headquarters for helping to protect aircraft, armor, and infantry as they made their rapid run through Germany in pursuit of enemy troops; and

Whereas, Harold Q. Frye received an additional commendation from Lieutenant General W. H. Simpson for taking part in the six-week bloody battle. Approximately 19,000 American troops were killed before the crushing defeat of the German Army was completed; and

Whereas, Harold Q. Frye returned to Clarksburg after the war and served as a nursing assistant at the Veterans Hospital for more than 20 years. He was recognized for saving the life of a patient who became choked on a piece of meat; and

Whereas, it is fitting that an enduring memorial be established to commemorate the Frye brothers for the contributions of Thomas Frye, Kermit C. Frye, Richard G. Frye, and Harold Q. Frye to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name Bridge Number 17-034/00-000.01 (17A296), (39.23653, -80.39654), locally known as Laurel Park Truss, carrying CR 34 over West Fork River in Harrison County, the "Frye Brothers Veterans Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Frye Brothers Veterans Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to forward four copies of the resolution to family members.

**Senate Concurrent Resolution 42**, USMC SSGT Herbert "Herbie" D. Barnes Veteran Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 42** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge number 17A361 (17-025/99-000.34), locally known as Camden Street Bridge, over the West Fork River in Harrison County, the "U.S.M.C. SSGT Herbert 'Herbie' D. Barnes Memorial Bridge".

Whereas, Herbert "Herbie" D. Barnes was born May 15, 1927, to alcoholic parents and raised in extreme poverty in West Virginia. He enlisted in the U.S. Marine Corps at age 19, writing in his journal that the Marine Corps became his family and his home for two decades where he "slept in warm barracks, had three warm meals a day, had nice clothes, shoes, and a hot shower every day"; and

Whereas, SSGT Herbert "Herbie" D. Barnes left training in Quantico, Virginia, to board the troop ship USS President Adams headed for Trinidad in 1947 when the ship was caught in a typhoon that nearly capsized the vessel, causing him to remember that "I was scared to death that the ship was going to sink"; and

Whereas, SSGT Herbert "Herbie" D. Barnes helped guard the amphibious base in Trinidad where he watched PBY seaplanes land and take off on the water as part of their mission to hunt enemy submarines. He took his next ocean voyage, headed to South Korea, where he fought on the beaches in and around Inchon Harbor. SSGT Herbert "Herbie" D. Barnes and his unit fought their way to Korea's capital of Seoul where they were targeted by snipers during a 10-day battle; and

Whereas, SSGT Herbert "Herbie" D. Barnes and his fellow Marines dug in for an extremely bloody battle with Red Chinese soldiers in temperatures that dropped as low as 35 degrees below zero. They used sandbags and frozen bodies since it was too cold

to dig foxholes for which he and his fellow troops were dubbed the "Frozen Chosen"; and

Whereas, SSGT Herbert "Herbie" D. Barnes served as a drill instructor during the Vietnam War, a time he rarely discussed with his family. His son remembers his father somberly describing it as the spookiest place he had ever been. SSGT Herbert "Herbie" D. Barnes retired after 20 years in the U.S. Marine Corps earning a WW II Victory Medal, Good Conduct Medal with three stars, Presidential Unit Citation with one-star, Korean Service Medal with three stars, and National Defense Service Medal with one star; and

Whereas, SSGT Herbert "Herbie" D. Barnes was a member of the VFW, Post 573, and past commander of the Elks and Moose. He died on October 29, 2017, at age 90; and

Whereas, It is fitting that an enduring memorial be established to commemorate SSGT Herbert "Herbie" D. Barnes and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17A361 (17-025/99-000.34), locally known as Camden Street Bridge, over the West Fork River in Harrison County, the "U.S.M.C. SSGT Herbert 'Herbie' D. Barnes Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S.M.C SSGT Herbert 'Herbie' D. Barnes Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

And,

**Senate Concurrent Resolution 50**, US Army CPL John William (J.W.) Cruse Jr. Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 50** (originating in the Committee on Rules)—Requesting the Division of Highways name bridge number 13-060/29-000.01 (13A271), (37.99398, -80.74791), locally known as Reese Bridge, carrying County Route 60/29 over Meadow River in Greenbrier County, the "U. S. Army T/5 John William (J.W.) Cruse Jr. Memorial Bridge".

Whereas, John William (J.W.) Cruse Jr. was born on March 30, 1924, in Oak Hill, West Virginia to John William and Anna Cruse; and

Whereas, Technician Fifth Grade (T/5) John William (J.W.) Cruse Jr. served in the US Army during World War II from July 13th, 1944, to December 18, 1945, when he was honorably discharged. During his service, he was a T/5 under George Patton with the 2nd Armored Division nicknamed "Hell on Wheels". While T/5 John William (J.W.) Cruse Jr. was serving, he had four brothers also deployed for active duty during WWII; and

Whereas, T/5 John William (J.W.) Cruse Jr. received a Purple Heart after being wounded in action on the Rhine River. He was also awarded the Bronze Star; and

Whereas, In a picture taken during his service, T/5 John William (J.W.) Cruse Jr. is seen cracking a smile after learning that Germany had surrendered and the war was over; in that moment, he and his unit were 10 miles outside of Berlin; and

Whereas, T/5 John William (J.W.) Cruse Jr. married Margaret Dollie Gipson Cruse in 1951, and they had four children; and

Whereas, T/5 John William (J.W.) Cruse Jr. raised his family in McRoss, which is just across the bridge proposed to be named in his honor herein; and

Whereas, According to his children, T/5 John William (J.W.) Cruse Jr. was a family man who valued Christianity and education, and he was often a quiet man unless he had an opinion, in which case he would let you know what he thought; and

Whereas, T/5 John William (J.W.) Cruse Jr. passed away on June 5, 2003. He was survived by his wife, Margaret Dolly Cruse, and his children, Rev. Bill Cruse, Judy Cruse Dean, Don Cruse, and John Melvin Cruse (d.2004); and

Whereas, It is fitting that an enduring memorial be established to commemorate T/5 John William (J.W.) Cruse Jr. and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 13-060/29-000.01 (13A271), (37.99398, -80.74791), locally known as Reese Bridge, carrying County Route 60/29 over Meadow River in Greenbrier County, the "U. S. Army T/5 John William (J.W.) Cruse Jr. Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army T/5 John William (J.W.) Cruse Jr. Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the nine committee substitutes be adopted.

Respectfully submitted,

Craig Blair,  
*Chair ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (Com. Sub. for S. C. R. 16, 18, 24, 30, 33,

39, 40, 42, and 50) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Senator Maroney, 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

**Senate Concurrent Resolution 62** (originating in the Committee on Health and Human Resources)—Requesting the Joint Legislative Oversight Commission on State Water Resources study and evaluate the quality of water services in West Virginia, including such services provided by both public and private water utilities.

Whereas, The Legislature recognizes that certain community water systems in West Virginia may be failing to provide citizens with quality water services; and

Whereas, The distribution of quality water services to the citizens of West Virginia requires that purveyors of public water improve the safety, reliability, and administrative oversight of water infrastructure; and

Whereas, To ensure that quality water services are being provided to the citizens of West Virginia, the Joint Legislative Oversight Commission on State Water Resources should evaluate: Whether the purveyors of public water have implemented asset management plans that are designed to inspect, maintain, repair, and renew infrastructure; whether the purveyors of public water routinely inspect, maintain, and repair valves and fire hydrants throughout the water system; whether purveyors of public water that utilize internet connected control systems have in place a

formal cybersecurity program; and whether purveyors of public water have formal mitigation plans in place to address violations; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Legislative Oversight Commission on State Water Resources study and evaluate the quality of water services provided in West Virginia; and, be it

*Further Resolved,* That the Joint Legislative Oversight Commission on State Water Resources report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Maynard, 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 63** (originating in the Committee on Government Organization)—Requesting the Committee on Government Organization study the potential economic benefits and regulatory challenges associated with certain outdoor recreational opportunities on state-owned land, specifically including available federal funding, wildlife viewing stamps, dispersed camping, and vehicular access.

Whereas, Outdoor recreational opportunities have the potential to convey significant economic benefits to the State of West Virginia as well as provide physical and mental health benefits to



both West Virginia residents and tourists visiting West Virginia; and

Whereas, Ensuring access to federal funding, such as federal funds available directly or through reimbursement under the Pittman-Robertson Act of 1937, and compliance with federal anti-discrimination laws, such as the Americans with Disabilities Act, raise issues that are complex and require further study; and

Whereas, Potentially allowing wildlife viewing stamps on state-owned property could have significant economic and recreational benefits, but also raises compliance issues surrounding the seasonal timing of access to property, such as whether it should be limited to a certain number of months a year for the general public; and whether physically impaired individuals may have year-round access for a Class Q/QQ hunting program; and

Whereas, Potentially allowing dispersed camping on state-owned property could have significant economic and recreational benefits to both West Virginia residents and tourists visiting West Virginia; and

Whereas, Ensuring access to the state-owned land on which wildlife viewing and dispersed camping would occur could be enhanced by identifying public roads that would provide access to those areas by surface type and further identifying the current feasibility of vehicular traffic on those roads; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Committee on Government Organization is hereby requested to study the potential economic benefits and regulatory challenges associated with certain outdoor recreational opportunities on state-owned land; and, be it

*Further Resolved,* That the Committee on Government Organization report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Committee on Government Organization.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Concurrent Resolution 64** (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study the effectiveness of Local School Improvement Councils, including, but not limited to, the degree of implementation in the schools of the state, meeting frequency and regularity, and general operations.

Whereas, Local School Improvement Councils were established in 1990 through the Legislature's adoption of Senate Bill 1 during the third extraordinary session; and

Whereas, Local School Improvement Councils "...facilitate and encourage the involvement of the school community in the operation of the local schools to improve educational quality...(by establishing) processes at each school which provide opportunities for involvement of the school community in the operation of the local schools and to support local initiatives to improve school performance" (W. Va. Code §18-5A-1 *et seq.*); and

Whereas, Local School Improvement Councils are comprised of various school constituent groups, including the school principal who serves as an ex officio member of the council, and is entitled

to vote, and who arranges for the election of members to the Local School Improvement Council, and convenes the Council's organizational meeting (W. Va. Code §18-5A-2); and

Whereas, The Local School Improvement Councils' membership includes educators and service personnel, with varied memberships for "vocational-technical schools" and schools of higher grade designations (W. Va. Code §18-5A-2); and

Whereas, Parents and other community members also comprise Local School Improvement Council membership, including at-large members appointed by the school principal (W. Va. Code §18-5A-2); and

Whereas, The Local School Improvement Council is required to have "at least" one meeting to "engage parents, students, school employees, business partners and other interested parties in a positive and interactive dialogue regarding the school's academic performance and standing... (which includes opportunities) for the parents, students, school employees, business partners and other interested parties to make specific suggestions on how to address issues which are seen to affect the school's academic performance which may include, but not limited to, parent and community involvement, the learning environment, student engagement, attendance, supports for at-risk students, curricular offerings, resources and the capacity for school improvement..." (W. Va. Code §18-5A-2); and

Whereas, The Local School Improvement Council of "each school deemed to be low performing...shall meet at least annually with the county board...to address the dialogue at its meeting or meetings to give the parents, students, school employees, business partners and other interested parties an opportunity to make specific suggestions on how to address issues which are seen to affect the school's academic performance and any other matters as may be requested by the county board (in the meeting agenda) provided to the council and may further provide any other information, comments or suggestions the local school improvement council wishes to bring to the county board's attention..." (W. Va. Code §18-5A-2); and

Whereas, Local School Improvement Council may provide alternatives to operations of a school, request waivers of rules, policies, interpretations, and statutes to implement these waivers (W. Va. Code §18-5A-3 and 3a); and

Whereas, County boards establish direct links between the county board and Local School Improvement Councils regarding the broad guidelines for oversight procedures, standards of accountability, and planning for future needs; in part, through annual meetings with the councils of each school deemed to be low performing (W. Va. Code §18-5-14); and

Whereas, County boards may meet with and request information from representatives of any of its Local School Improvement Councils at "such time and in such manner determined by the county board" (W. Va. Code §18-5-14), although Local School Improvement Councils may not "...restrict the ability of the county board of education in its efforts to effect county-wide school improvements (W. Va. Code §18-5A-1); and

Whereas, The degree to which Local School Improvement Councils function, understand their roles, and understand the abilities and powers provided them to effect change and innovation at the school and county level may not be well understood by the councils and local and state public education policy-makers at a time parents seek greater involvement in schools; and

Whereas, Well-functioning Local School Improvement Councils will enhance the entirety of the West Virginia public school system; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the effectiveness of Local School Improvement Councils, including, but not limited to, the degree of implementation in the schools of the state, meeting frequency and regularity, and general operations; and, be it

*Further Resolved,* That the study ascertain if Local School Improvement Councils are properly structured to ensure greater

community involvement and engagement in schools, to inform county boards and state public education policy-makers, including the Legislature, regarding meaningful public education innovation which advances student achievement in their school communities, including technical assistance and resources the councils may expect from local and state educational entities to effectuate waivers of statutes, policies, and pursuit of innovation without undue policy imprint or influence of these entities which modify or diminish the councils' abilities to accomplish statutory objectives, missions, and goals; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 65** (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance study the West Virginia Consumer Credit and Protection Act.

Whereas, "The purpose of the [West Virginia Consumer Protection and Credit Act] is to protect consumers from unfair, illegal, and deceptive acts or practices by providing an avenue of relief for consumers who would otherwise have difficulty proving their case under a more traditional cause of action." *State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc.*, 194 W. Va. 770, at 777, 461 S.E.2d 516, at 523 (1995); and

Whereas, The West Virginia Consumer Protection and Credit Act "represents a comprehensive attempt on the part of the Legislature to extend protection to the consumers and persons who obtain credit in this State and who obviously constitute the vast majority of our adult citizens." *Harless v. First National Bank in Fairmont, et al.*, 162 W. Va. 116, at 125, 246 S.E.2d 270, at 275 (1978); and

Whereas, Considering the recitals above regarding the West Virginia Consumer Protection and Credit Act, §46A-1-101 *et seq.*; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance through the Joint Committee on the Judiciary is hereby requested to study the West Virginia Consumer Credit and Protection Act; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, 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 2910**, To modify the allowable number of magistrate judges per county.

With amendments from the Committee on Government Organization pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2910) 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 Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Eng. House Bill 3073**, Relating to the West Virginia Emergency School Food Act.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4105**, Relating to service employees with National Association for Pupil Transportation Certifications.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. H. B. 3073 and Eng. Com. Sub. for H. B. 4105) 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 Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4001**, Generally relating to broadband.

With an amendment from the Committee on Economic Development pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 9, 2022;

And reports the same back with the recommendation that it do pass as amended by the Committee on Economic Development to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*



Senator Trump, 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 4012**, Prohibiting the showing of proof of a COVID-19 vaccination.

With amendments from the Committee on Health and Human Resources pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 9, 2022;

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, 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 4340**, Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

With amendments from the Committee on Health and Human Resources pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 8, 2022;

And reports the same back with the recommendation that it do pass as amended by the Committee on Health and Human

Resources to which the bill was first referred; and as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4344**, Relating to foster care.

With amendments from the Committee on Health and Human Resources pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4344) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, 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 4353**, Relating to On Cycle Elections - Voter Turnout Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4353) 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 Trump, 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 4600**, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4600) 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 Trump, 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 4642**, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts.

And reports the same back without recommendation as to passage; but with the recommendation that it be re-referred to the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4642) 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.

At the request of Senator Trump, unanimous consent being granted, the bill was re-referred to the Committee on the Judiciary.

Senator Trump, 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 4667**, Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

With amendments from the Committee on Economic Development pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4667) 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 Trump, 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 4827**, Relating to the promotion and development of public-use vertiports.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 9, 2022;

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, 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 4846**, Relating to flying under the influence and other aviation offenses.

And reports the same back without recommendation as to passage; but with the recommendation that it be re-referred to the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4846) 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.

At the request of Senator Trump, unanimous consent being granted, the bill was re-referred to the Committee on the Judiciary.

Senator Trump, 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 4847**, Relating to missing persons generally.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4847) 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 Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. House Joint Resolution 104**, Providing Term Limits for certain Constitutional Officers.

And has amended same.

And reports the same back with the recommendation that it be adopted, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (Eng. H. J. R. 104) 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 Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

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

And has amended same.

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

And has amended same.

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

And has amended same.

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

And has amended same.

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

And has amended same.

**House Concurrent Resolution 56**, Roy Lee Shamblin Memorial Bridge.

And has amended same.

**House Concurrent Resolution 60**, Fire Chief Lee Thomas Bridge.

And has amended same.

And,

**House Concurrent Resolution 89**, Hajash Brothers Memorial Bridge.

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Craig Blair,  
*Chair ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (H. C. R. 4, 7, 8, 14, 39, 56, 60, and 89) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The following amendments to the resolutions, from the Committee on Rules, were reported by the Clerk, considered simultaneously, and adopted:

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

On page one, in the Resolved clause, line eighteen, by striking out the words "John B. Short" and inserting in lieu thereof the words "U.S. Army Air Corps Sergeant John B. Short";

On page one, in the first Further Resolved clause, line twenty, by striking out the words "John B. Short" and inserting in lieu thereof the words "U.S. Army Air Corps Sergeant John B. Short";



And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number 23-10/7-0.01(23A048), locally known as the Gillman Bottom Bridge carrying CR 10/7 over Huff Creek in Logan County, West Virginia, the "U.S. Army Air Corps Sergeant John B. Short Memorial Bridge".

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

On page one, in the first Whereas clause, line four, by striking out the words "Kolhton "Red"";

On page one, in the second Whereas clause, line six, by striking out the words "Kolhton "Red"";

On page one, in the second Whereas clause, line six, after the word "Red" by inserting the words " and "Kolhton"";

On page one, in the third Whereas clause, line eight, by striking out the words "Kolhton "Red"";

On page one, in the fourth Whereas clause, line ten, by striking out the words "Kolhton "Red"";

On page one, in the fifth Whereas clause, line twelve, by striking out the words "Kolhton "Red"";

On page one, in the sixth Whereas clause, line sixteen, by striking out the words "Kolhton "Red"";

On page two, in the Resolved clause, line twenty, by striking out the words "Daniel Edward Kolhton "Red"" and inserting in lieu thereof the words "Daniel Edward "Kolhton"";

On page two, in the first Further Resolved clause, line twenty-three, by striking out the words "Daniel Edward Kolhton "Red"" and inserting in lieu thereof the words "Daniel Edward "Kolhton"";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number: 03-005/00-017.66 (03A042), (38.63616, -81.62303) locally known as Seth Bridge, carrying CR 5 over Big Coal River in Boone County, the "Daniel Edward "Kolhton" Haney Memorial Bridge".

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

On page one, in the third Whereas clause, line thirteen, by striking out the words "Bronze Star" and inserting in lieu thereof the words "Bronze Service Star".

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

On page three, in the Resolved clause, line sixty-three, by striking out the word "Colonel" and inserting in lieu thereof the words "U.S. Army Colonel";

On page two, in the first Further Resolved Clause, line sixty-seven, by striking out the word "Colonel" and inserting in lieu thereof the words "U.S. Army Colonel";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name a stretch of road on WV 46 in Mineral County, east of Keyser between Lime Stone Rd, CR 14 (WV 46, 39.428520472667465, -78.95480521741753) and Fountain Rd (46/11) as the "U.S. Army Colonel Ronald John "Ron" Chiccehitto Memorial Road".

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

On page two, in the Resolved clause, line thirty, by striking out the word "PFC" and inserting in lieu thereof the words "U.S. Army PFC";

On page two, in the first Further Resolved clause, line thirty-two, by striking out the word "PFC" and inserting in lieu thereof the words "U.S. Army PFC";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name the bridge bearing Identification Number 42-219/86-003.18 (42A228), located in Randolph County, West Virginia, carrying County Route 219 over Stalnaker Run, Latitude 38.988821, Longitude -79.83132, locally known as Stalnaker Run Bridge, the "U.S. Army PFC Donald L. Stuckey Memorial Bridge."

**House Concurrent Resolution 56, Roy Lee Shamblin Memorial Bridge.**

On page two, in the Resolved clause, lines forty and forty-one, by striking out the words "Roy Lee Shamblin" and inserting in lieu thereof the words "U.S. Army T/5 Roy Lee Shamblin";

Page two, in the first Further Resolved clause, line forty-four, by striking out the words "Roy Lee Shamblin" and inserting in lieu thereof the words "U.S. Army T/5 Roy Lee Shamblin";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name a bridge bearing the bridge number: 08-036/01-000.04 () (08A063), (38.55377,-81.12988) locally known as Laurel Fork Bridge, carrying CR 36/1 over Laurel Fork of Camp Run in Clay County, West Virginia, as the "U.S. Army T/5 Roy Lee Shamblin Memorial Bridge."

**House Concurrent Resolution 60**, Fire Chief Lee Thomas Bridge.

On page one, in the first Whereas clause, line four, by striking out the words "Fire Chief";

On page one, in the second Whereas clause, line six, by striking out the word "Chief";

On page one, in the third Whereas clause, line eight, by striking out the word "Chief" and inserting in lieu thereof the word "SP4";

On page one, in the Resolved clause, line fifteen, by striking out the words "Fire Chief" and inserting in lieu thereof the words "U.S. Army SP4";

On page one, in the first Further Resolved clause, line seventeen, by striking out the words "Fire Chief" and inserting in lieu thereof the words "U.S. Army SP4";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name bridge number 18-077/00-145.78 (NB-SB) (18A172), locally known as Sandy Creek NB-SB bridges, carrying I-77 over Sandy Creek in Jackson County, the "U.S. Army SP4 Lee Thomas Memorial Bridge".

**House Concurrent Resolution 89**, Hajash Brothers Memorial Bridge.

On page two, in the Resolved clause, lines forty-two and forty-three, by striking out the words "Hajash Brothers Memorial Bridge" and inserting in lieu thereof "Hajash Brothers WWII Veterans Memorial Bridge";

On page two, in the first Further Resolved clause, line forty-five, by striking out the words "Hajash Brothers Memorial Bridge" and inserting in lieu thereof the words "Hajash Brothers WWII Veterans Memorial Bridge";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name Bridge Numbers 41-077/00-040.83 (NB & SB) (41A221, 41A228), (37.74329, - 81.20788) locally known as I-77 OVER PINEY CR (NB & SB), carrying IS 77 over PINEY CREEK and CSX RR in Raleigh County, the "Hajash Brothers WWII Veterans Memorial Bridge".

The question being on the adoption of the resolutions, as amended, the same was put and prevailed.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Trump, Clements, and Maroney.

Thereafter, at the request of Senator Smith, and by unanimous consent, the remarks by Senator Trump were ordered printed in the Appendix to the Journal.

At the request of Senator Maroney, unanimous consent being granted, the remarks by Senator Clements were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions on March 9, 2022:

**Senate Resolution 52:** Senators Stollings, Grady, Stover, and Smith;

**Senate Resolution 53:** Senators Stollings, Jeffries, Phillips, and Baldwin;

**Senate Resolution 54:** Senators Stollings, Jeffries, and Phillips;

And,

**Senate Resolution 55:** Senators Stollings, Jeffries, Hamilton, and Phillips.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:42 p.m., the Senate adjourned until tomorrow, Friday, March 11, 2022, at 11 a.m.

---

## FRIDAY, MARCH 11, 2022

The Senate met at 11:03 a.m.

(Senator Blair, 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 Tom Takubo, a senator from the seventeenth district.

Pending the reading of the Journal of Thursday, March 10, 2022,

At the request of Senator Phillips, 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 Plymale, and by unanimous consent, the remarks by Senator Baldwin regarding an earlier introduction of Courtney and Abigail Frame, the daughter and granddaughter of

the Honorable Robert D. Beach, a senator from the thirteenth district, were ordered extended in the Journal as follows:

SENATOR BALDWN: Thank you very much, Mr. President.

I just want to follow up on the introduction that was made before. The Senator from Mon's daughter and granddaughter are here today and I've got a message for the Senator from Mon from the rest of his family:

Dad:

Thank you for everything you have done during your 20 years in the West Virginia Legislature. You have shown dedication and perseverance during difficult times, but you have never lost sight of what is best for West Virginia and its' citizens. You continued fighting, even against all odds. We are especially proud of your work and your legislation for teachers and nurses, seeing as how two of us are teachers and one a nurse.

But more importantly, we thank you for being such a good Dad to us and our brothers, Sam and Bob, and a fun Bob-Bob to your six (almost seven!) grandchildren. Your family comes first and we love very much.

We wish you happiness and success in your future adventures.

We love you with all of our hearts.

Love, Jennifer, Melanie and Courtney

---

The Senate proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 25**, Updating provisions of Medical Professional Liability Act.

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 245**, Revising wage payment and collection.

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

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

On page 2, section 3, line 39, by inserting a new subsection (c) to read as follows:

"(c) An employer who chooses to compensate its employees using payroll cards pursuant to the provisions of subsection (b)(3) of this section must also give employees the option of being paid by electronic transfer under the provisions of subsection (b)(4) of this section.";

And,

Renumbering the remaining subsections accordingly.

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

Engrossed Committee Substitute for Senate Bill 245, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Lindsay, and Stollings—7.



Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 245) passed with its title.

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

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

**Eng. Com. Sub. for Senate Bill 443**, Including police and firefighter as electors of trustees for certain pension funds.

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

**Eng. Com. Sub. for Senate Bill 476**, Relating to imposition of minimum severance tax on coal.

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 478**, Relating to Neighborhood Investment Program.

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

**Eng. Com. Sub. for Senate Bill 487**, Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B.

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

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

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

## **ARTICLE 2. STATE BUDGET OFFICE.**

### **§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.**

(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the balance of the Revenue Shortfall Reserve Fund to ~~thirteen~~ eight percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding ~~thirteen~~ eight percent of the state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further deposit by the

secretary under the provisions of this section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall Reserve Fund balance is less than ~~thirteen~~ eight percent of the total appropriations from the State Fund, General Revenue. On or before January 1, 2023, and each year thereafter, the secretary shall recommend in writing to the Governor and the Joint Committee on Government and Finance whether the percentage of the state's General Revenue Fund budget set forth in this paragraph should be adjusted by subsequent enactment of the Legislature and the reasons therefor.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or section twenty-one or twenty-two of this article, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to convene the Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.

(d) Upon the creation of the fund, the Legislature is authorized and may make an appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs

caused by acts of God or natural disasters or for other fiscal needs as determined solely by the Legislature.

(e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, the Governor may, by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and subject to all other conditions, requirements and limitations set forth in this section, the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The amount of funds borrowed under this subsection shall not exceed one and one-half percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days of their withdrawal.

(f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury. The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the provisions of article twenty-f, chapter thirty-three of this code and all interest and other return earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be expended solely for the purposes set forth in subsection (d) of this section, subject to the following conditions:

(1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall Reserve Fund described in subsection (b) of this section have first been expended, except that the interest or other return earned on moneys

in the Revenue Shortfall Reserve Fund – Part B may be expended as provided in subdivision (2) of this subsection;

(2) Notwithstanding any other provision of this section to the contrary, the Legislature may appropriate any interest and other return earned thereon that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes set forth in section three, article eleven-a, chapter four of this code; and

(3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater amount as may be certified as necessary by the Director of the Budget Office for the purposes of subsection (e) of this section, shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

(2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.;

And,

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

**Eng. Com. Sub. for Senate Bill 487**—A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to decreasing the threshold below which the secretary of the department of revenue is to annually deposit up to the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended; and requiring the secretary to provide certain annual reports to the Governor and the Joint Committee on Government and Finance.

On motion of Senator Tarr, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 487) were reported by the Clerk, considered simultaneously, and adopted:

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

## **ARTICLE 2. STATE BUDGET OFFICE.**

### **§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.**

(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The

Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the combined balance of the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B to ~~thirteen~~ twenty percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B ~~is~~ are funded at an a combined amount equal to or exceeding ~~thirteen~~ twenty percent of the state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further deposit by the secretary under the provisions of this section of any surplus revenues as set forth in this subsection until ~~that~~ the time that the combined balances of the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B ~~balance~~ is less than ~~thirteen~~ twenty percent of the total appropriations from the State Fund, General Revenue.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or section twenty-one or twenty-two of this article, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to

convene the Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.

(d) Upon the creation of the fund, the Legislature is authorized and may make an appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined solely by the Legislature.

(e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, the Governor may, by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and subject to all other conditions, requirements and limitations set forth in this section, the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The amount of funds borrowed under this subsection shall not exceed one and one-half percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and



redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days of their withdrawal.

(f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury. The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the provisions of article twenty-f, chapter thirty-three of this code and all interest and other return earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be expended solely for the purposes set forth in subsection (d) of this section, subject to the following conditions:

(1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall Reserve Fund described in subsection (b) of this section have first been expended, except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund – Part B may be expended as provided in subdivision (2) of this subsection;

(2) Notwithstanding any other provision of this section to the contrary, the Legislature may appropriate any interest and other return earned thereon that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes set forth in section three, article eleven-a, chapter four of this code; and

(3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year

appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater amount as may be certified as necessary by the Director of the Budget Office for the purposes of subsection (e) of this section, shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

(2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.;

And,

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

**Eng. Com Sub. for Senate Bill 487**—A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to the threshold which the secretary of the department of revenue is to annually deposit up to the first fifty

percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended; raising the percentage of the threshold; and combining the totals of the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B Revenue for calculation of threshold.

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

Engrossed Committee Substitute for Senate Bill 487, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 487) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 487) takes effect from passage.

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

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

**Eng. Senate Bill 492**, Relating to electronic collection of tolls.

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

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

On page 2, section 11, line 26, by striking the word "shall" and inserting in lieu thereof the word "may";

And,

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

**Eng. Senate Bill 492**—A Bill to amend and reenact §17-16A-11 of the Code of West Virginia, 1931, as amended, relating to the electronic collection of tolls; and providing that nonrenewal of vehicle registration provisions may become effective whenever a reciprocal enforcement agreement is entered into by the West Virginia Parkways Authority, the Commissioner of Motor Vehicles, and any state sharing a common border with this state.

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

Engrossed Senate Bill 492, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: Martin—1.

Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 492) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: Martin—1.

Absent: Woelfel—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. 492) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 528**, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund.

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

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

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

That the total appropriation for the fiscal year ending June 30, 2022, to fund 0525, fiscal year 2022, organization 0506, be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*58 – Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2022 Org 0506

	<b>Appropriation</b>	<b>General Revenue Fund</b>
6a Institutional Facilities and Operations –		
Surplus (R) .....	63200	\$ 15,625,000

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

Engrossed Committee Substitute for Senate Bill 528, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 528) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 528) takes effect from passage.

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

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

**Eng. Senate Bill 546**, Expanding uses of fees paid by students at higher education institutions.

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

**Eng. Senate Bill 570**, Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias.

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

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

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

**ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

**§30-29-5a. Criminal justice training regarding individuals with autism spectrum disorders; Alzheimer's and dementia.**

(a) The Law-Enforcement ~~Special~~ Professional Standards Subcommittee ~~may~~ shall establish within the basic training curriculum, a course for law-enforcement training programs for the training of law-enforcement officers and correction officers in appropriate interactions with individuals with autism spectrum disorders, Alzheimer's and related dementias and ~~may~~ shall develop guidelines for law enforcement response to individuals on the autism spectrum, experience Alzheimer's and related dementias who are victims or witnesses to a crime, or suspected or convicted of a crime.

(b) The course of instruction and the guidelines relating to autism spectrum disorders shall be developed and delivered by the West Virginia Autism Training Center, located at Marshall University. This course of instruction may stress positive responses to such individuals, de-escalate potentially dangerous situations, provide an understanding of the different manner in which such



individuals process sensory stimuli and language, social communication, and language difficulties likely to affect interaction, and appropriate methods of interrogation. Training instructors shall always include adults with autism spectrum disorders and/or a parent or primary caretaker of an individual diagnosed with autism spectrum disorder.

(c) The training course of instruction relating to Alzheimer's and dementia shall consist of two hours and be based on evidence-informed research into the identification of persons with Alzheimer's and other dementias, risks such as wandering or elder abuse, and the best practices for law-enforcement officers interacting with such persons. The training course of instruction may be delivered by any qualified entity, organization, or person approved by the Law-Enforcement Professional Standards Subcommittee.

(c) (d) As used in this section:

(1) "Agency" means the ability to make independent decisions and act in one's own best interests;

(2) "Alzheimer's" means a medical condition diagnosis of the most common type of dementia which is a gradually progressive type of brain disorder that causes problems with memory, thinking, and behavior.

(2) (3) "Autism spectrum disorder" means a developmental disability characterized by persistent and significant deficits in social communication, social interaction, communication, and behavior, and may include the diagnosis of pervasive developmental disorder, not otherwise specified, autistic disorder, and Asperger's Syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

(4) Related "dementias" means a major neurocognitive disorder resulting in the loss of cognitive functioning, thinking, remembering, and reasoning to such an extent that it interferes with

a person's daily life and activities, including, but not limited to, inability to control emotions, and change of personalities.

(3) (5) "Law-enforcement officer" means any officer of any West Virginia law-enforcement agency, or any state institution of higher education as defined in §30-29-1(6) of this code; and

(4) (6) "Training instructors" means professional experts, autistic adults, and/or the family member or primary caregiver of an autistic individual who deliver instruction and information.

(d) (e) The autism spectrum disorder course of basic training for law-enforcement officers and correction officers may include at least three hours of instruction in the procedures and techniques described in this subsection:

(1) The nature and manifestation of autism spectrum disorders;

(2) Appropriate techniques for interviewing or interrogating an individual on the autism spectrum, including techniques to ensure the legality of statements made, and techniques to protect the rights of the interviewee;

(3) Techniques for locating an individual on the autism spectrum who runs away and is in danger, and returning the individual while causing as little stress as possible to the individual;

(4) Techniques for recognizing an autistic individual's agency while identifying potential abusive or coercive situations;

(5) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law-enforcement officer or correction officer and the autistic individual;

(6) Techniques for differentiating between an individual on the autism spectrum from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an autistic individual;

(7) Procedures to identify and address challenges related to the safety and well-being of autistic individuals in a correctional facility; and

(8) The impact of interaction with law-enforcement officers or correction officers on autistic individuals.

(f) The Alzheimer's and related dementias course of basic training for law-enforcement officers and correction officers may include at least two hours of instruction in the procedures and techniques described in this subsection:

(1) Dementia, psychiatric, and behavioral symptoms;

(2) Communication issues, including how to communicate respectfully and effectively with the individual who has dementia in order to determine the most appropriate response and effective communication techniques to enhance collaboration with caregivers;

(3) Techniques for understanding and approaching behavioral symptoms and identify alternatives to physical restraints;

(4) Identifying and reporting incidents of abuse, neglect, and exploitation to Adult Protective Services (APS) at West Virginia Department of Health and Human Services;

(5) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law-enforcement officer or correction officer and the individual with Alzheimer's or related dementias;

(6) Protocols for contacting caregivers when a person with dementia is found wandering or during emergency or crisis situations;

(7) Local caregiving resources that are available for people living with dementia; and

(8) The impact of interaction with law-enforcement officers or correction officers on Alzheimer's and dementia individuals.

(e) (g) All law-enforcement recruits may receive the course of basic training for law-enforcement officers, established in this section, as part of their required certification process. The course of basic training for law-enforcement officers may be taught as part of the "crisis intervention and conflict resolution" and "people with special needs" components of the training.

(f) (h) All correction officer recruits may receive the course of basic training for correction officers, established in this section, as part of their required certification process.

(g) (i) The Commissioner of the Division of Corrections and Rehabilitation periodically may include within the in-service training curriculum a course of instruction on individuals with autism spectrum disorder, Alzheimer's, and related dementias, consistent with this section.

(h) (j) The Law-Enforcement Professional Standards Subcommittee periodically may include within its in-service training curriculum, a course of instruction on individuals with autism spectrum disorder, Alzheimer's, and related dementias, consistent with this section.

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

Engrossed Senate Bill 570, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 570) passed with its title.

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

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

**Eng. Com. Sub. for Senate Bill 571**, Declaring certain claims to be moral obligations of state.

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

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

On page 1, section 1, following the enacting clause, by striking the section heading in its entirety and inserting in lieu thereof the following:

**"§1. Finding and declaring certain claims against the Legislature, Joint Committee on Government and Finance; Department of Environmental Protection; Department of Environmental Protection, Office of Special Reclamation; Department of Health & Human Resources; Department of Homeland Security, Division of Corrections and Rehabilitation; Department of Transportation, Division of Highways; Department of Transportation, Division of Motor Vehicles; Department of Veterans Affairs; and West Virginia Parole Board to be moral obligations of the state and directing payment thereof.";** and

On page 6, section 1, line 89, by striking "Christie" and inserting in lieu thereof "Cristie"; and

On page 10, section 1, line 182, following "Sandra", by striking "McCalister" and inserting in lieu thereof "McAlister".

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

Engrossed Committee Substitute for Senate Bill 571, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 571) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 571) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 584**, Relating to WV Infrastructure and Jobs Development Council.

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

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

On page 4, section 10, line 68, following the word "assistance" by inserting "to defray the expenses of the preapplication process";

On page 4, section 17c, line 5, following the word "balances" by striking the words "for each congressional district";

And,

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

**Eng. Com. Sub. for Senate Bill 584**—A Bill to amend and reenact §31-15A-10 and §31-15A-17c of the Code of West Virginia, 1931, as amended, all relating generally to the West Virginia Infrastructure and Jobs Development Council; modifying when available funds may be converted to grants; removing congressional district limitations; increasing the cap on annual spending for assistance with the pre-application process to project sponsors; increasing the amount that may be transferred annually to the critical needs and failing systems sub account; and increasing the cap relating to providing extensions to a water or wastewater facility from \$1 million to \$2 million provided overages not to

exceed 10 percent of the total project cost are paid by certain persons.

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

Engrossed Committee Substitute for Senate Bill 584, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 584) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 584) takes effect from passage.



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

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

**Eng. Com. Sub. for Senate Bill 585**, Creating administrative medicine license for physicians not practicing clinical medicine.

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 624**, Making supplementary appropriation to DHHR, Division of Health, Laboratory Services.

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

**Eng. Com. Sub. for Senate Bill 625**, Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account.

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 633**, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund.

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

**Eng. Senate Bill 634**, Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations.

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

concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 641**, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System.

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

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

On page 1, section 7, line 11, following the word "set" by striking "actuarily" and inserting in lieu thereof "actuarially";

On page 2, section 7, line 21, following "retirement" by inserting "system";

On page 2, section 7, line 29, following "set" by striking "actuarily" and inserting in lieu thereof "actuarially";

And,

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

**Eng. Com. Sub. for Senate Bill 641**—A Bill to amend and reenact §7-14D-7 of the Code of West Virginia, 1931, as amended, relating to the deputy sheriff retirement system; allowing the Consolidated Public Retirement Board to set employer contribution levels; requiring the level to be set actuarially; and providing an effective date.

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

Engrossed Committee Substitute for Senate Bill 641, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady,

Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2023.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) takes effect July 1, 2023.

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

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

**Eng. Com. Sub. for Senate Bill 643**, Removing residency requirement of members appointed to county airport authority.

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

**Eng. Com. Sub. for Senate Bill 698**, Relating to number and selection of members for Governor's Veterans Council.

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 715**, Decreasing and increasing existing items of appropriations from State Fund, General Revenue.

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 716**, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development.

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 717**, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board.

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

**Eng. Senate Bill 718**, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund.

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

**Eng. Senate Bill 719**, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees.

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 720**, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund.

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

**Eng. Senate Bill 722**, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund.

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

**Eng. Senate Bill 723**, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund.

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

**Eng. Senate Bill 724**, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority.

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 725**, Supplementing and amending appropriations to DHS, WV State Police.

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

**Eng. House Bill 2817**, Donated Drug Repository Program.

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

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

On page 1, subdivision (1), after the word, "wholesaler," by inserting the words, "drug manufacturer,";

And,

On page 1, subdivision (6), after the word, "repackager" by inserting the words, "or manufacturer".

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

Engrossed House Bill 2817, as amended, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2817) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for House Bill 4113**, Public Health definitions and powers of secretary and commissioner.

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

**Eng. Com. Sub. for House Bill 4257**, Require visitation immediately following a procedure in a health care facility.

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 4479**, Establishing the Coalfield Communities Grant Facilitation Commission.

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

**Eng. House Bill 4604**, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 61**, Requesting Joint Committee on Government and Finance study how public libraries are funded and supported.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 62,** Requesting Joint Legislative Oversight Commission on State Water Resources study and evaluate quality of water services in WV.

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

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar.

**Senate Concurrent Resolution 63,** Requesting Committee on Government Organization study potential economic benefits and regulatory challenges associated with certain outdoor recreational opportunities.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 64,** Requesting Joint Committee on Government and Finance study effectiveness of Local School Improvement Councils.

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



The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 65**, Requesting Joint Committee on Government and Finance study WV Consumer Credit and Protection Act.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Resolution 52**, Highlighting West Virginia's once-in-a-lifetime opportunity to strengthen national security and energy independence and supply world energy markets.

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

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

**Senate Resolution 55**, Congratulating Bridgeport High School baseball team for winning 2021 Class AAA state championship.

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

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

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

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

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 55) adopted.

Thereafter, at the request of Senator Caputo, and by unanimous consent, the remarks by Senator Romano regarding the adoption of Senate Resolution 55 were ordered printed in the Appendix to the Journal.

**Senate Resolution 56**, Recognizing James Monroe High School Mavericks Youth Leadership Association students for their participation in Harvard University Model United Nations Conference.

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

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

**Senate Resolution 57**, Congratulating Point Pleasant High School Black Knights wrestling team for winning 2022 Class AA state championship.

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

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

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

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

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 57) adopted.

Thereafter, at the request of Senator Tarr, and by unanimous consent, the remarks by Senator Grady regarding the adoption of Senate Resolution 57 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 731**, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 731) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 731) takes effect from passage.

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

**Eng. Senate Bill 732**, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 732) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 732) takes effect from passage.

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

**Eng. Senate Bill 733**, Supplementing and amending appropriation to Executive, Governor's Office.

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 733) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 733) takes effect from passage.

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

At the request of Senator Plymale, unanimous consent being granted, Senator Plymale addressed the Senate regarding the induction of Thomas Plymale, brother of the Honorable Robert H. Plymale, a senator from the fifth district, into the West Virginia Soccer Association Hall of Fame.

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senator Plymale were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:57 a.m., the Senate recessed until 1 p.m. today.

The Senate reconvened at 1:05 p.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with

its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 172**, Increasing compensation of elected county officials.

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

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

On page three, section four, line sixty-six, by striking out "2021" and inserting in lieu thereof "2022";

On page five, section four, line one hundred ten, by striking out "2021" and inserting in lieu thereof "2022";

On page one, following the article heading, inserting the following:

**"§7-7-1. Legislative findings and purpose.**

(a) The Legislature finds that it has, since January 1, 2007 2015, consistently and annually imposed upon the county commissioners, sheriffs, county and circuit clerks, assessors and prosecuting attorneys in each county new and additional duties by the enactment of new provisions and amendments to this code. The new and additional duties imposed upon the aforesaid county officials by these enactments are such that they would justify the increases in compensation as provided in section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(b) The Legislature further finds that there are, from time to time, additional duties imposed upon all county officials through the acts of the Congress of the United States and that such acts constitute new and additional duties for county officials and, as such, justify the increases in compensation as provided by section

four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(c) The Legislature further finds that there is a direct correlation between the total assessed property valuations of a county on which the salary levels of the county commissioners, sheriffs, county and circuit clerks, assessors and prosecuting attorneys are based, and the new and additional duties that each of these officials is required to perform as they serve the best interests of their respective counties. Inasmuch as the reappraisal of the property valuations in each county has now been accomplished, the Legislature finds that a change in classification of counties by virtue of increased property valuations will occur on an infrequent basis. However, it is the further finding of the Legislature that when such change in classification of counties does occur, that new and additional programs, economic developments, requirements of public safety and the need for new services provided by county officials all increase, that the same constitute new and additional duties for county officials as their respective counties reach greater heights of economic development, as exemplified by the substantial increases in property valuations and, as such, justify the increases in compensation provided in section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(d) The Legislature further finds and declares that the amendments enacted to this article are intended to modify the provisions of this article so as to cause the same to be in full compliance with the provisions of the Constitution of West Virginia and to be in full compliance with the decisions of the Supreme Court of Appeals of West Virginia.";

On page two, section four, line thirty-two, following the words "is effective", by striking out "July 1, 2014" and inserting in lieu thereof a parentheses, a blank line, and a parentheses;

And,

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



**Eng. Senate Bill 172**—A Bill to amend and reenact §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as amended, all relating to increasing the compensation of elected county officials.

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

Engrossed Senate Bill 172, as amended by the House of Delegates, was then put upon its passage.

Senator Romano requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate, as he is a potential candidate for county commissioner.

The Chair replied that Senator Romano should be excused from voting on any matter pertaining to the bill and, without objection, Senator Romano was excused from voting on any matter pertaining to the bill.

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

The nays were: None.

Absent: Beach and Grady—2.

Excused from voting: Romano—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 172) passed with its House of Delegates amended title.

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 2733**, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

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, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 2733) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2733**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to authorizing special registration plates and establishing fees.

*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 2838**, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

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, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 2838) passed with its title.

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

**Eng. House Bill 3082**, Stabilizing funding sources for the DEP Division of Air Quality.

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, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3082) 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 3231**, Public Utilities not required to pay interest on security deposits.

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, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 3231) 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 4008**, Relating to Higher Education Policy Commission funding formula.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

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

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on March 9, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4008, already placed in that position.

**Eng. Com. Sub. for House Bill 4021**, Relating to the Medical Student Loan Program.

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, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 4021) 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 4059**, Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

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, Baldwin, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover,

Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Beach—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. 4059) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4059**—A Bill to amend and reenact §29-6-4 of the Code of West Virginia, 1931, as amended, relating to exemptions from classified service; clarifying that all new Department of Health and Human Resources' Deputy Commissioners are policy-making positions exempt from civil service; and exempting persons employed as attorneys from the civil service.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Beach—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. 4059) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4087**, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4020, already placed in that position.

**Eng. Com. Sub. for House Bill 4098**, Relating to Geothermal Energy Development.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Thursday, March 10, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Smith, as chair of the Committee on Energy, Industry, and Mining, and by unanimous consent, the unreported Energy, Industry, and Mining committee amendment to the bill was withdrawn.

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

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

**ARTICLE 33. GEOTHERMAL ENERGY DEVELOPMENT.**

**§22-33-1. Short title.**

This article shall be known and cited as the Geothermal Resources Act.

**§22-33-2. Legislative findings; declaration of policy.**

(a) The Legislature finds that:

(1) A geothermal resource is a reservoir inside the Earth from which heat can be extracted economically compared to other conventional sources of energy and used for generating electric power or any other suitable industrial, commercial, agricultural, residential, or domestic application in the future;

(2) Geothermal resources vary widely from one location to another depending on the temperature and depth of the resource;

(3) There are no existing laws in this state that allow for the safe and efficient development of a regulatory program for geothermal resources; and

(4) The secretary should have broad authority to develop a regulatory program for geothermal resources to meet the economic needs of the state and to protect the public interest.

(b) The Legislature declares that the establishment of a new regulatory program to address the exploration, development, and production of geothermal resources in this state is in the public interest and should be done in a manner that protects the environment and our economy for current and future generations.

(c) The Legislature declares that in view of the urgent need for prompt decision of matters submitted to the secretary under this article, all actions which the secretary is required to take pursuant to this article shall be taken as quickly as possible consistent with adequate consideration of the issues involved.

**§22-33-3. Applicability; exceptions.**

The provisions of this article shall apply to geothermal resources at temperatures and volumetric flow rates established by the secretary by legislative rule: *Provided*, That this article shall not apply to geothermal heating and cooling heat pump systems for private residential dwellings and farm buildings.



**§22-33-4. Ownership of geothermal resources.**

(a) Ownership of any geothermal resource is vested in the owner of the surface property overlying the geothermal resource unless severance of the geothermal resource is clear and unambiguous in an instrument conveying ownership of the geothermal resource.

(b) No mineral or water estate shall be construed to include any geothermal resource unless clearly and unambiguously included in an instrument reserving or conveying the geothermal resource.

(c) Nothing in this article shall divest any person or the state of any right, title, or interest they might have in any geothermal resource.

(d) Nothing in this article may be construed as vesting in the secretary the jurisdiction to adjudicate property rights disputes.

**§22-33-5. Definitions.**

As used in this article:

(a) "Correlative right" means the right of each geothermal owner in a geothermal system to produce without waste his or her just and equitable share of the geothermal resource in the geothermal system.

(b) "Geothermal energy" means the usable energy that is produced or that can be produced from a geothermal resource.

(c) "Geothermal resource" means the natural heat of the earth and the energy, in whatever form, that is present in, associated with, or created by, or that may be extracted from, such natural heat, as determined by the secretary by legislative rule.

(d) "Geothermal system" means any aquifer, pool, reservoir, or other geologic formation containing geothermal resources.

(e) "Secretary" means the Secretary of the Department of Environmental Protection or his or her designee as provided in article one of this chapter.

**§22-33-6. Geothermal resources permit required.**

It is unlawful for any person to commence any work relating to the exploration, development, or production of geothermal resources without first obtaining a well permit from the secretary pursuant to this article.

**§22-33-7. Jurisdiction of the secretary; powers and duties; geothermal resources regulatory program.**

(a) The secretary is vested with jurisdiction over all aspects of this article and has the exclusive authority to perform all acts necessary to implement this article.

(b) The secretary shall develop a regulatory program for the exploration, development, and production of geothermal resources in this state. The regulatory program promulgated by the secretary shall include, but not be limited to, the following:

(1) Application for a permit on a form prescribed by the secretary and containing any information the secretary considers is necessary to issue a decision on the permit application;

(2) A procedure for reviewing a permit application and issuance of decision to grant or deny a permit;

(3) A procedure allowing the public to comment on a permit application prior to issuance of a decision by the secretary;

(4) A permit term not to exceed five years;

(5) A procedure to renew or modify permits on forms prescribed by the secretary and containing any information the secretary considers is necessary to issue a decision on the renewal or modification;

(6) Fees for permit applications and for permit renewals and modifications;

(7) A procedure to suspend or revoke permits;

(8) Standards for developing, drilling, and reclaiming well sites;

(9) Guidelines for the safe disposal of spent geothermal fluids and other unusable or contaminated fluids generated in the production of geothermal resources;

(10) Standards to ensure protection of all water resources of this state; and

(11) Inspections and investigations to ensure compliance with any provision in this article or rule or permit or order issued by the secretary.

**§22-33-8. Civil penalties.**

Any person who knowingly violates any provision of this article or rule promulgated hereunder or order or permit issued pursuant to this article is a liable for a civil penalty of not less than \$100 nor more than \$500 for each violation.

**§22-33-9. Administrative orders; injunctive relief.**

(a) When the secretary determines, on the basis of any information, that a person is in violation of any requirement of this article or rule promulgated thereunder, the secretary may issue an order stating with reasonable specificity the nature of the violation and requiring compliance within a reasonable specified time period, or the secretary may commence a civil action in the circuit court of the county in which the violation occurred or in the circuit court of Kanawha County for appropriate relief, including a temporary or permanent injunction. The secretary or the Environmental Quality Board may stay any order issued by the secretary until the order is reviewed by the Environmental Quality Board.

(b) In addition to the powers and authority granted to the secretary by this chapter to enter into consent agreements, settlements, and otherwise enforce this chapter, the secretary shall propose a rule for legislative approval to establish a mechanism for the administrative resolution of violations set forth in this article

through consent order or agreement as an alternative to instituting a civil action.

**§22-33-10. Appeal to Environmental Quality Board.**

Any person aggrieved or adversely affected by an action, decision, or order of the secretary made and entered in accordance with the provisions of this article may appeal to the Environmental Quality Board pursuant to the provisions of §22B-1-1 *et seq.* of this code.

**§22-33-11. Judicial review.**

Any person or the secretary aggrieved or affected by a final order of the Environmental Quality Board is entitled to judicial review thereof pursuant to the provisions of §29B-1-9 of this code.

**§22-33-12. Rulemaking.**

The secretary shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement and carry out the provisions of this article.

On motion of Senator Karnes, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4098) was reported by the Clerk:

On page 2, section 3, line 4, after the word "buildings" by inserting the words "and any geothermal system regulated pursuant to section 10 of the Bureau of Public Health legislative rule for Water Well Design Standards, 64 CSR 46 or any horizontal system with a depth of less than 30 feet".

Following discussion,

The question being on the adoption of the amendment offered by Senator Karnes to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4098, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 4098) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4098**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-33-1, §22-33-2, §22-33-3, §22-33-4, §22-33-5, §22-33-6, §22-33-7, §22-33-8, §22-33-9, §22-33-10, §22-33-11, and §22-33-12, all relating to geothermal energy development; providing for a short title; providing for certain legislative findings and declaration of policy; providing for applicability of geothermal resources regulatory program and exceptions; providing for ownership of geothermal resources; defining terms; requiring a permit; establishing the jurisdiction of the secretary of the Department of Environmental Protection to regulate the geothermal resources regulatory program; providing for powers and duties of the secretary and minimum requirements of the regulatory program; providing for civil penalties; providing for administrative orders and injunctive relief; providing for administrative and judicial review of decisions and orders issued pursuant to the provisions of the program; and directing the

secretary to propose a legislative rule to implement the geothermal resources regulatory program.

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

**Eng. House Bill 4110**, Relating to staffing levels at multi-county vocational centers.

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, Baldwin, Boley, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

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

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4110) 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 4112**, Provide consumers a choice for pharmacy services.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Thursday, March 10, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration

of Engrossed Committee Substitute for House Bill 4087, already placed in that position.

**Eng. Com. Sub. for House Bill 4285**, Relating to real estate appraiser licensing board requirements.

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, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Nelson—1.

Absent: Beach and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4285) passed.

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

**Eng. Com. Sub. for House Bill 4285**—A Bill to amend and reenact §30-38-10, §30-38-11, and §30-38-17 of the Code of West Virginia, 1931, as amended, all relating to real estate appraiser licensing board requirements; prohibiting board members from participating in any decision regarding disciplinary action concerning real estate appraiser activity in which member has participated, testified, been engaged to testify, or otherwise has conflict of interest; requiring board provide applicants written statement when applicant's request for license is denied; requiring board send written statement within 15 calendar days of its decision to deny an applicant's license or renewal request; setting forth content and mailing requirements for board's written statement; requiring board offer guidance on certain issues relating to

nonconformity with Uniform Standards of Professional Appraisal Practice when submitted to the board; providing 60 days for applicant to cure any nonconformity to appraisal practice standards; revising process for adoption of uniform standards of appraisal practice; and making other technical modifications.

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

**Eng. House Bill 4288**, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Maynard, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4112, already placed in that position.

**Eng. Com. Sub. for House Bill 4336**, Providing for the valuation of natural resources property.

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

The nays were: None.

Absent: None.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4336) passed with its title.

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

**Eng. House Bill 4355**, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

On third reading, coming up in regular order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Thursday, March 10, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed House Bill 4288, already placed in that position.

**Eng. Com. Sub. for House Bill 4373**, To exclude fentanyl test strips from the definition of drug paraphernalia.

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: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Azinger—1.

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. 4373) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4373**—A Bill to amend and reenact §47-19-3 of the Code of West Virginia, 1931, as amended; and to amend §60A-4-403a of said code, all relating to excluding fentanyl test strips from the definition of drug paraphernalia; and specifying that possession, sale, or purchase of fentanyl test strips are not prohibited under Chapter 60A of this code.

*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 4389**, Relating to repealing school innovation zones provisions superseded by Innovation in Education Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, March 10, 2022, for amendments to be received on third reading, was read a third time.

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

On page one, after the enacting clause, by inserting the following:

## **ARTICLE 2. STATE BOARD OF EDUCATION.**

### **§18-2-25e. Athletic eligibility of transfer students.**

(a) The West Virginia Secondary School Activities Commission shall modify its rule, prior to the 2022-2023 school year, to allow students to transfer schools and retain athletic eligibility one time during a student's four years of secondary school, inclusive of grades nine through 12. The West Virginia

Secondary School Activities Commission may promulgate an emergency rule, if necessary, to modify its rule prior to the 2022-2023 school year.

(b) The State Board of Education, in its review and approval of the West Virginia Secondary School Activities Commission's rule described in this section, shall ensure that the rule modification achieves the intent of this section to not require a student to undergo one year of athletic ineligibility if the student transfers secondary schools during or after the student's ninth grade year.

(c) Nothing in this section is intended to limit or restrict a student transferring more than one time for the following reasons:

(1) A student transferring back to the student's residential district and participating in athletics as currently permitted by the West Virginia Secondary School Activities Commission's rules;

(2) The West Virginia Secondary School Activities Commission's ability to make eligibility determinations on a case-by-case basis when warranted by a student's circumstances in accordance with the West Virginia Secondary School Activities Commission's rules; or

(3) For any other reason permitted under the rules of the West Virginia Secondary School Athletics Commission.

Engrossed Committee Substitute for House Bill 4389, as just amended, was then put upon its passage.

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

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

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4389) passed.

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

**Eng. Com. Sub. for House Bill 4389**—A Bill to repeal §18-5B-1, §18-5B-2, §18-5B-3, §18-5B-4, §18-5B-5, §18-5B-6, §18-5B-7, §18-5B-8, §18-5B-9, §18-5B-11, §18-5B-12, §18-5B-13 and §18-5B-14 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2-25e; to amend and reenact §18-5B-10 of said code; and to amend and reenact §18-5E-3 of said code, all relating to education generally; allowing students to transfer schools and retain their athletic eligibility one time during a student's four years of secondary school; requiring West Virginia Secondary School Activities Commission to modify its rule; authorizing emergency rule; requiring State Board of Education to ensure rule does not require student to undergo one year of athletic ineligibility upon transfer after ninth grade; clarifying effect on multiple transfers for certain reasons; repealing school innovation zones provisions superseded by Innovation in Education Act; updating exceptions to statutes granted to schools to reflect changes in underlying circumstances; updating provisions related to granted exceptions to accommodate exceptions which may be granted to innovation in education schools and school systems; and clarifying process for state board and legislative oversight commission on education accountability to approve and recommend exceptions to statutes.

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

**Eng. House Bill 4419**, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

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 House Bill 4419 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Plymale, Romano, Stollings, and Woelfel—11.

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. 4419) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 4419**—A Bill to amend and reenact §3-8-5c, §3-8-9b, and §3-8-10 of the Code of West Virginia, 1931, as amended, all relating to allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees; excepting candidate committees and caucus campaign committees from making certain contributions; authorizing candidate committees and caucus campaign committees to make certain contributions up to \$75,000; eliminating coordinated expenditure limit for a state political party committee or a caucus campaign committee; eliminating limit for excess contributions to be contributed by a candidate to a state party executive committee or state party legislative caucus committee; and making amendments effective on November 9, 2022.

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

**Eng. House Bill 4433**, Providing that retirement benefits are not subject to execution.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4433) 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 4488**, Relating to coal mining and changing fees for permitting actions.

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 4488 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4488) 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 4492**, Creating the Division of Multimodal Transportation.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4492) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4492) takes effect from passage.

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

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

On motion of Senator Takubo, at 1:52 p.m., the Senate recessed until 2:15 p.m. today.

The Senate reconvened at 2:34 p.m. and resumed business under the second order.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. House Bill 4496**, Allowing interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested.

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

The nays were: None.

Absent: None.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4496) 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 4497**, Extending the regional jail per diem through July 1, 2023.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4497) 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 4511**, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed House Bill 4355, already placed in that position.

**Eng. Com. Sub. for House Bill 4559**, Providing for legislative rulemaking relating to the disposition of unidentified and unclaimed remains in the possession of the Chief Medical Examiner.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4559) 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 4563**, Provide for a license plate for auto mechanics.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4563) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4563**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-6-15a, relating to authorizing auto mechanics to make application for access to the Division of Motor Vehicles' electronic temporary plate issuance system in order to access temporary plates to be used to operate or move a vehicle upon the highways and streets of this state solely for the purposes of diagnosing mechanical or functional problems of a vehicle or testing a vehicle being repaired or serviced; setting forth application, renewal, and plate fees; requiring the Commissioner of the Division of Motor Vehicles to determine whether applicants are qualified; requiring the display of proof of insurance upon any vehicles bearing a temporary registration plate; setting forth definitions; and authorizing the Commissioner of the Division of Motor Vehicles to terminate an auto mechanic's access to the electronic temporary plate issuance system upon a finding that an auto mechanic's use of that system is in violation of law.

*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 4565**, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan.

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, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4565) passed with its title.

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

**Eng. House Bill 4566**, Creating the Economic Enhancement Grant Fund.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4566) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings,

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4566) 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 4568**, To allow phased rehabilitations of certified historic structures.

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 House Bill 4568 pass?"

Senator Plymale requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate, as he is president of the Keith-Albee Performing Arts Center which could be eligible for the bill's funds.

The Chair replied that Senator Plymale should be excused from voting on any matter pertaining to the bill and, without objection, Senator Plymale was excused from voting on any matter pertaining to the bill.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: None.

Excused from voting: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4568) 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 4608,** To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4608) 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 4629,** Relating to procedures for certain actions against the state.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4629) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4629**—A Bill to amend and reenact §55-17-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §55-17-3a, all relating to actions against the State of West Virginia; providing for expiration of notice of intent to institute an action where an action has not been instituted within the prescribed time period; requiring complaining party or parties to provide a new notice; requiring new notices to be accompanied by the required fee payable to the attorney general or chief officer of the state agency; providing that applicable statute of limitations is not tolled during second or subsequent notices; prohibiting a court from issuing a writ of mandamus, a writ of prohibition or an injunction against the Legislature under the separation of powers provision of the state constitution; prohibiting the naming of the Legislature or its presiding officers in any action challenging the constitutionality of a statute under the separation of powers provision of the state constitution; requiring dismissal of such actions or dismissal of the improperly joined parties; and providing for retrospective and

retroactive application of prohibitions to all actions pending at the time of the enactment of this bill.

*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 4634**, Relating to occupational licensing or other authorization to practice.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, March 10, 2022, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4511, already placed in that position.

**Eng. Com. Sub. for House Bill 4636**, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4634, already placed in that position.

**Eng. Com. Sub. for House Bill 4662**, Relating to licensure of Head Start facilities in this state.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion



of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4636, already placed in that position.

**Eng. House Bill 4743**, Relating to security and surveillance requirements of medical cannabis organization facilities.

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: the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes and Martin—2.

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. 4743) 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 4787**, Creating the Highly Automated Motor Vehicle 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, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4787) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4787**—A Bill to amend the Code of West Virginia Code, 1931, as amended, by adding thereto a new chapter, designated §17H-1-1, §17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7, §17H-1-8, §17H-1-9, §17H-1-10, §17H-1-11, §17H-1-12, §17H-1-13, §17H-1-14, and §17H-1-15, all relating to establishing the Fully Autonomous Vehicle Act; defining terms; providing for construction of the act; providing requirements for the operation of fully autonomous vehicles without a human driver and with a human driver; providing for the operation of on-demand autonomous vehicle networks; providing for the operation of fully autonomous commercial and motor vehicle carriers; providing for the platooning of fully autonomous vehicles; providing for licensing, titling, registration, and insurance requirements of fully autonomous vehicles; providing for control and regulation of fully autonomous vehicles; providing for equipment standards for fully autonomous vehicles; and providing duties following a crash involving fully autonomous vehicles.

*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 4826**, Relating to e-sports.

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: Beach, Boley, Brown, Caputo, Clements, Geffert, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Stollings,

Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—27.

The nays were: Azinger, Baldwin, Grady, Karnes, Martin, Roberts, and Smith—7.

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. 4826) 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 4829**, Modifying definitions of certain school cafeteria personnel.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed House Bill 4662, already placed in that position.

**Eng. House Bill 4848**, Relating to nonintoxicating beer, wine and liquor licenses.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 10, 2022, for further amendments to be received on third reading, was read a third time.

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

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

## CHAPTER 11. TAXATION.

**ARTICLE 16. NONINTOXICATING BEER.****§11-16-5a. Off-premises sales not required to be bagged.**

A licensee who is licensed for off-premises sales of nonintoxicating beer or nonintoxicating craft beer is not required to place nonintoxicating beer or nonintoxicating craft beer, in a bag.

**§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.**

(a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted

for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program. The annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is \$200 per third party entity, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code, and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) "Prepared food or a meal" shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee may not have a pecuniary interest in a Class A retail dealer, as set forth in this article, therefore a third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third party delivery licensee to the person purchasing may not be greater than ~~five dollars~~ \$20 per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed ~~five dollars~~.

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third party delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class A retail dealer or third party delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;

(3) The Class A retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit;

(4) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating

beer or nonintoxicating craft beer orders in the county or contiguous counties where the Class A retail dealer is located;

(5) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class A retail dealer or third party delivery licensee shall pay and account for all sales and municipal taxes;

(6) A Class A retail dealer or third party delivery licensee may not deliver prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

(7) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not for resale; and

(8) A Class A retail dealer or third party delivery licensee shall not deliver and leave prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

*(f) Telephone, mobile ordering application, or web-based software requirements. —*

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification;~~

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery

driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification ;

(4) All records are subject to inspection by the commissioner. A Class A retail dealer or third party delivery licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be issued a retail transportation permit per §11-16-6d(g) of this code.

(g) *Retail Transportation Permit.* —

(1) A Class A retail dealer or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class A retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the Class A retail dealer or third party delivery licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement.* —

(1) A Class A retail dealer or third party delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class A retail dealers or licensees, employees, or independent contractors.



(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class A retail dealer or third party delivery licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

**§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class B retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.**

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a telephone, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license

for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through a telephone order, a mobile ordering application, or web-based software program. The nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is \$200 per third party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and nonintoxicating beer or nonintoxicating craft beer by the licensee or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed nonintoxicating beer or nonintoxicating

craft beer bottles, cans, or growlers shall not be in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third party delivery licensee to the purchasing person may not be greater than ~~five dollars~~ \$20 per delivery order. For any third party licensee also licensed for wine delivery as set forth in §60-8-6f of this code the total convenience fee for any order, sale, and delivery of sealed wine may not exceed ~~five dollars~~. \$20.

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. A Class B retail dealer and a third party licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class B retail dealer and a third party licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and submit the certification of the training to the commissioner;

(3) The Class B retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of the licensure;

(4) A Class B retail dealer and a third party licensee may deliver food and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail dealer is located;

(5) A Class B retail dealer and a third party licensee may only deliver food and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class B retail dealer and a third party licensee shall pay and account for all sales and municipal taxes;

(6) A Class B retail dealer and a third party licensee may not deliver food and nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

(7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are only for personal use, and not for resale; and

(8) A Class B retail dealer and a third party licensee shall not deliver and leave food and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the food and nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, requires a stored scanned image of the purchasing person's legal identification;~~

(2) Any mobile ordering application or web-based software used must create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification ;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class B retail dealer and a third party licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

(g) *Retail Transportation Permit.* —

(1) A Class B retail dealer and a third party licensee shall obtain and maintain a retail transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class B retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, required by the commissioner. Upon any change in vehicles or drivers, Class B retail dealer and a third party licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement.* —

(1) The Class B retail dealer and a third party licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class B retail dealers or third party licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class B

retail dealer or third party licensee, their employees, or independent contractors.

(3) It is a violation for any Class B retail dealer or third party licensee, their employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

**§11-16-8. Form of application for license; fee and bond; refusal of license.**

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of ~~such~~ the residency, and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, the person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees, or other persons in active control of the activities of the limited liability company, association, or trust relating to the license, shall include the residency for these persons on the application. All applicants and licensees ~~must~~ shall include a manager on the applicant's license application, or a licensee's renewal application, who ~~must~~ shall meet all other requirements of licensure. ~~including, but not limited to, The applicant shall be a United States citizenship or naturalization citizen or a naturalized citizen, passing pass a background investigation, being be at least 21 years of age, being be a suitable person, being be of good morals and character of good moral character, and meet other requirements,~~ all as set forth in this article and the rules

promulgated thereunder, all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain licensure, a licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees, or other persons in active control of the activities of the trust relating to the license, shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e) of this code and shall further state, under oath, the names, addresses, Social Security numbers, and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust ~~must~~ shall state that the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number, and birth date;

(2) The place of birth of the applicant, that he or she is a citizen of the United States and of good moral character and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application ~~must~~ shall state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States and a person of good moral character. If the applicant is a firm, association, limited liability company, partnership, limited partnership, trust, or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries, or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary, or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a

naturalized citizen, when and where naturalized, each of whom ~~must~~ shall qualify and sign the application;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the ~~place~~ premises or building in which ~~is proposed~~ the applicant proposes to do business conforms to all applicable laws of health, fire, and zoning regulations and is a safe and proper place or building; not within ~~300~~ 200 feet of a school or church measured from front door to front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition ~~against locating a proposed business in a place or building within 300 feet of a school~~ does not apply to a college, ~~or~~ university, or church that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within ~~300~~ 200 feet of the college, ~~or~~ university, or church;

(6) That the applicant is not incarcerated and has not during the five years preceding the date of ~~said~~ the application been convicted of a felony;

(7) That the applicant is the only person in any manner pecuniarily interested in the business ~~so asked~~ to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust instrument to the commissioner for his or her



review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance of a license and, if any applicant fails to qualify, the commissioner shall refuse to issue the license ~~shall be refused~~. In addition to the information furnished in any application, the commissioner may make ~~such~~ any additional and independent investigation of each applicant, manager, and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, ~~must~~ shall be submitted with all true and correct information. For the purpose of conducting ~~such~~ the independent investigation, the commissioner may withhold the granting or refusal to grant the license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it appears that the applicant and manager meet the requirements in the code and the rules, including, but not limited to, being a suitable person of ~~good reputation and morals~~ good moral character; having made no false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in the application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner is of the opinion:

(1) That the applicant or manager is not a suitable person to be licensed;

(2) That the place to be occupied by the applicant is not a suitable place; or is within ~~300~~ 200 feet of any school or church

measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee so long as it is continuously so occupied. ~~The prohibition against locating any such place within 300 feet of a school~~ does not apply to a college, ~~or university,~~ or church that has notified the commissioner, in writing, that it has no objection to the location of any such place within ~~300~~ 200 feet;

(3) That the manager, owner, employee, or person is in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or

(4) That the license should not be issued for reason of conduct declared to be unlawful by this article.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

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

#### **§60-1-3a. Off-premises sales not required to be bagged.**

Alcoholic liquors in this state are not required to be placed in a bag by a licensee who is licensed for off-premises sales of alcoholic liquors.

### **ARTICLE 3. SALES BY COMMISSIONER.**

#### **§60-3-26. Sale of certain liquors prohibited.**

(a) Upon the effective date of this section, the commissioner is hereby directed to divest the state of all stocks of alcoholic liquors in the commissioner's possession manufactured in the Russian Federation, or by any person or entity located therein, and to cease purchasing such products during the time this section is in effect.

(b) The commissioner, at the direction of the Governor, is hereby authorized to auction to the highest bidder or sell at a public event all stocks of alcohol liquors in the commissioner's possession which were either manufactured in the Russian Federation or by a person or entity located therein.

(c) The state's proceeds from the sale authorized by subsection (b) of this section shall be paid to a licensed, recognized charitable organization or organizations engaged in assisting the people of Ukraine.

(d) The provisions of this section shall expire three years from the effective date of the section or until the Governor lifts the ban established in subsection (a) of this section.

## **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

### **§60-3A-3a. Liquor sampling.**

(a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee may, ~~with the written approval of the commissioner,~~ conduct a liquor sampling event on a designated sampling day.

(b) At least five business days prior to the liquor sampling, the Class A retail licensee shall submit a written proposal to the commissioner ~~requesting to~~ informing the Commissioner that the Class A licensee will hold a liquor sampling event, including:

- (1) The day of the event;
- (2) The location of the event;
- (3) The times for the event; and

(4) The specific brand and flavor of the West Virginia product to be sampled.

(c) Upon approval by the commissioner, a Class A retail licensee may serve a complimentary liquor sample of the approved brand and flavor of the West Virginia product that is purchased by the Class A retail licensee from the commissioner.

(d) The complimentary liquor samples on any sampling day shall not exceed:

- (1) One separate and individual sample serving per customer verified to be 21 years of age or older; and

(2) One ounce in total volume.

(e) Servers at the liquor sampling event shall:

(1) Be employees of the Class A retail licensee; and

(2) Be at least 21 years of age or older; ~~and~~

~~(3) Have specific knowledge of the West Virginia product being sampled to convey to the customer.~~

(f) All servers at the liquor sampling event shall verify the age of the customer sampling liquor by requiring and reviewing proper forms of identification. Servers at the liquor sampling event may not serve any person who is:

(1) Under the age of 21 years;

(2) Intoxicated.

(g) A liquor sampling event shall:

(1) Occur only inside the Class A retail licensee's licensed premises; and

(2) Cease on or before 9:00 p.m. on any approved sampling day.

(h) Any liquor bottle used for sampling must be from the inventory of the licensee, and clearly and conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is broken on any liquor bottle or if any liquor bottle is opened, then that liquor bottle must be removed from the licensed premises immediately following the event.

(i) Violations of this section are subject to the civil and criminal penalties set forth in sections twenty-four, twenty-five-a, twenty-six and twenty-seven of this article;

~~(j) To implement the provisions of this section, the commissioner may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine a of~~

~~this code or propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.~~

**§60-3A-3b. Private liquor delivery license for a retail liquor outlet or a third party; requirements; limitations; third party license fee; private liquor bottle delivery permit; requirements, and curbside in-person and in-vehicle delivery by a retail liquor outlet.**

(a) A retail liquor outlet that is licensed to sell liquor for off-premises consumption may apply for a private liquor delivery license permitting the order, sale, and delivery of sealed liquor bottles or cans in the original container. The order, sale, and delivery of sealed liquor bottles or cans in the original container is permitted for off-premises consumption when completed by the licensee to a person purchasing the sealed liquor bottles or cans through a telephone, a mobile ordering application, or a web-based software program, authorized by the licensee's license. There is no additional fee for a licensed retail liquor outlet to obtain a private liquor delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private liquor delivery license for the privilege of ordering and delivery of sealed liquor bottles or cans, from a licensed retail liquor outlet. The order and delivery of sealed liquor bottles or cans permitted for off-premises consumption by a third party licensee when a retail liquor outlet sells to a person purchasing the sealed liquor bottles or cans through telephone orders, a mobile ordering application, or a web-based software program. The private liquor delivery license non-prorated, nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private liquor delivery license application shall comply with licensure requirements in this article and shall provide any information required by the commissioner.

(d) Sale Requirements. -

(1) The purchase of sealed liquor bottles or cans in the original container may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed liquor bottles or cans in the original container by the licensee or third party licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and in §11-16-1 *et seq.* of the code, for nonintoxicating beer or nonintoxicating craft beer.

(3) "Food", for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of up to five 750 milliliter sealed liquor bottles for each order: *Provided*, That the entire delivery order may not contain any combination of sealed liquor bottles or cans in the original container, where the combination is more than 128 fluid ounces of liquor total; and

(5) A third party delivery licensee shall not have a pecuniary interest in a retail liquor outlet, as set forth in this article. A third party private liquor delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private liquor delivery licensee may not collect a percentage of the liquor delivery order, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third-party private liquor delivery licensee to the purchasing person shall be no greater than ~~five dollars~~ \$20 per delivery order where a sealed liquor bottle or can in the original container is ordered by the purchasing person. For any third party licensee also licensed for other nonintoxicating beer or nonintoxicating craft beer delivery pursuant to §11-16-1 *et seq.* of this code, wine delivery pursuant to §60-8-1 *et seq.* of this code, or a sealed craft cocktail growler delivery pursuant to §60-7-1 *et seq.* of this code, the total convenience fee of any order, sale, and

delivery of sealed alcoholic liquor or nonintoxicating beer, or nonintoxicating craft beer shall not exceed ~~five dollars.~~ \$20.

(e) *Private Liquor Delivery Requirements.* —

(1) Delivery persons employed for the delivery of a sealed liquor bottles or cans in the original container shall be 21 years of age or older and a retail liquor outlet and a third-party private liquor delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A retail liquor outlet and a third-party private liquor delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. A retail liquor outlet and a third-party private liquor delivery licensee shall submit certification of the training to the commissioner;

(3) The retail liquor outlet or third party private liquor delivery licensee shall hold a private liquor bottle delivery permit for each vehicle delivering a sealed liquor bottle or can in the original container pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) A retail liquor outlet or third party private liquor delivery licensee shall deliver food and a sealed liquor bottle or can order in the original container in the market zone or contiguous market zone where the licensed retail liquor outlet is located;

(5) A retail liquor outlet or third party private liquor delivery licensee may only deliver food and a sealed liquor bottle or can in the original container to addresses located in West Virginia, The retail liquor outlet or third party private liquor delivery licensee shall pay and account for all sales and municipal taxes;

(6) A retail liquor outlet or third party private liquor delivery licensee may not deliver food and a sealed liquor bottle or can in the original container to any licensee licensed under §11-16-1 *et seq.* of this code, and under this chapter;

(7) Deliveries of food and a sealed liquor bottle or can in the original container are only for personal use, and not for resale; and

(8) A retail liquor outlet or third party private liquor delivery licensee shall not deliver and leave food and a sealed liquor bottle or can in the original container at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application ~~applicant~~, or web-based software to accept the food and a sealed liquor bottle or can in the original container for delivery which is subject to verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification;~~

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information~~ and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, ~~accessible by the delivery driver for verification,~~ and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A retail liquor outlet or third party private liquor delivery licensee shall retain records for three years, and shall not unreasonably withhold the records from the commissioner's inspection; and

(5) The retail liquor outlet or third party delivery licensee shall hold a valid private liquor bottle delivery permit required by subsection (g) of this section for each vehicle that may offer delivery.



(g) *Private Liquor Bottle Delivery Permit.* —.

(1) A retail liquor outlet or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of and a sealed liquor bottle or can in the original container.

(2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) Subject to the requirement of §60-6-12 of this code, a private liquor bottle delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The retail liquor outlet or the licensed third party are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a sealed liquor bottle. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this chapter.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

(i) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the

sale and curbside in-person or in-vehicle pick-up of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and delivery through a drive up or drive through structure, approved by the commissioner, of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

**§60-3A-8. Retail license application requirements; retail licensee qualifications.**

(a) Prior to or simultaneously with the submission of a bid for a retail license or the payment of a purchase option for a Class A retail license, each applicant shall file an application with the commissioner, stating under oath, the following:

(1) If the applicant is an individual, his or her name and residence address;

(2) If the applicant is other than an individual, the name and business address of the applicant; the state of its incorporation or organization; the names and residence addresses of each executive officer and other principal officer, partner, or member of the entity; a copy of the entity's charter or other agreement under which the entity operates; the names and residence addresses of any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant; and all applicants and licensees must list a manager on the applicant's license application, or a licensee's renewal application, and further that the manager shall meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, being a suitable person, being of good morals and character, and other requirements, all as set forth in the code and the legislative rules, in order for the manager to be able to meet and

conduct any regulatory matters, including, but not limited to, licensure or enforcement matters related to the applicant or licensee all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain active licensure, any change by a licensee in any manager listed on an application must be made immediately to the commissioner, in order to verify that the new manager meets licensure requirements;

(3) That the applicant and manager have ~~never~~ not been convicted in this state or any other state of any felony or other crime involving moral turpitude or convicted of any felony in this or any other state court or any federal court for a violation of any state or federal liquor law, and if the applicant is other than an individual, that none of its executive officers, other principal officers, partners, or members, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been convicted; and

(4) That the applicant and the manager, each is a United States citizen of good moral character and, if a naturalized citizen, when and where naturalized; and, if a corporation organized and authorized to do business under the laws of this state, when and where incorporated, with the name and address of each officer; that each officer is a citizen of the United States and a person of good moral character; and if a firm, association, partnership, or limited partnership, that each member is a citizen of the United States and, if a naturalized citizen, when and where naturalized, each of whom must sign the application.

(b) An applicant and manager shall provide the commissioner any additional information requested by the commissioner including, but not limited to, authorization to conduct a criminal background and credit records check.

(c) Whenever a change occurs in any information provided to the commissioner, the change shall immediately be reported to the commissioner in the same manner as originally provided.

(d) The commissioner shall disqualify each bid submitted by an applicant under §60-3A-10 of this code and no applicant shall be issued or eligible to hold a retail license under this article, if:

(1) The applicant has been convicted in this state of any felony or other crime involving ~~moral turpitude~~ fraud, dishonesty, or deceit or convicted of any felony in this or any other state court or any federal court for a violation of any state or federal liquor law; or

(2) Any executive officer or other principal officer, partner, or member of the applicant, or any person owning, directly or indirectly, at least twenty percent of the outstanding stock, partnership, or other interests in the applicant, has been convicted in this state of any felony or other crime involving ~~moral turpitude~~ fraud, dishonesty, or deceit or convicted of any felony in this or any other state court or any federal court for a violation of any state or federal liquor law.

(e) The commissioner shall not issue a retail license to an applicant which does not hold a license issued pursuant to federal law to sell liquor at wholesale.

### **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

#### **§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from state; transportation and storage; method of payment.**

(a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according to a uniform pricing schedule. The commissioner shall obtain, if possible, upon request, any liquor requested by a retail licensee and those permitted to manufacture and sell liquor pursuant to ~~section three, article four of this chapter~~ §60-4-3 of this code.

(b) Wholesale prices shall be established in order to yield a net profit for the General Revenue Fund of not less than \$6,500,000 annually on an annual volume of business equal to the average for the past three years. The net revenue derived from the sale of

alcoholic liquors shall be deposited into the General Revenue Fund in the manner provided in ~~section seventeen, article three of this chapter~~ §60-3-17 of this code.

(c) Notwithstanding any provision of this code to the contrary, the commissioner shall specify the maximum wholesale markup percentage which may be applied to the prices paid by the commissioner for all liquor, other than wine, in order to determine the prices at which all liquor, other than wine, will be sold to retail licensees. A retail licensee shall purchase all liquor, other than wine, for resale in this state only from the commissioner, and the provisions of ~~sections twelve and thirteen, article six of this chapter~~ §60-6-12 and §60-6-13 of this code shall not apply to the transportation of the liquor: *Provided*, That a retail licensee shall purchase wine from a wine distributor who is duly licensed under ~~article eight of this chapter.~~ §60-8-1 et seq. of this code. All liquor, other than wine, purchased by retail licensees shall be stored in the state at the retail outlet or outlets operated by the retail licensee: *Provided, however*, That the commissioner, in his or her discretion, may upon written request permit a retail licensee to store liquor at a site other than the retail outlet or outlets.

(d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic funds transfer which shall be initiated by the commissioner on the business day following the retail licensees order or by money order, certified check, or cashier's check which shall be received by the commissioner at least 24 hours prior to the shipping of the alcoholic liquors: *Provided*, That if a retail licensee posts with the commissioner an irrevocable letter of credit or bond with surety acceptable to the commissioner from a financial institution acceptable to the commissioner guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks in an amount up to the amount of the letter of credit.

(e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of ~~article seven of this chapter~~ §60-7-1 et seq. of this code at less than ~~one hundred ten percent~~ 112.5 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

(2) A retail licensee may not sell liquor to the general public at less than ~~one hundred ten percent~~ 110 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

#### **ARTICLE 4. LICENSES.**

##### **§60-4-22. Wholesale representatives' licenses.**

(a) A person, firm or corporation may not be or act or serve as an agent, broker or salesman selling or offering to sell or soliciting or negotiating the sale of alcoholic liquor to the commission or to any distributor licensed pursuant to article eight of this chapter without first obtaining a license so to do in accordance with the provisions of this section. Only salaried employees of distilleries, manufacturers, producers or processors of alcoholic liquor may be licensed hereunder and no person may be licensed hereunder who sells or offers to sell alcoholic liquor to the commission or any distributor on a fee or commission basis. The commission shall be the licensing authority and may grant to persons of good moral character the license herein provided and may refuse to grant such license to any person (1) convicted of a felony, within ten years prior to his or her application for such license (2) convicted of a crime involving fraud, dishonesty, or deceit or (3) convicted of a felony violation of a state or federal liquor law; refuse to grant, suspend or revoke licenses. Licenses shall be on an annual basis for the period from July 1, until June 30 next following. New and renewal licenses shall be granted only upon verified application to the commission presented on forms provided by the commission. Any person representing more than one producer, manufacturer or distributor of alcoholic liquors shall file a separate application and shall obtain a separate license for each such representation. The annual license fee shall be \$100. The fee for any license granted for the remainder of any license year between January 1, and June 30 of the same calendar year shall be \$50.

~~No person who is the father, mother, son, daughter, brother, sister, uncle, aunt, nephew or niece of a member of the commission or of any elected or appointed state official, county official or municipal official, or who is the spouse of any such person so related to a member of the commission or to any elected or~~

~~appointive state official, county official or municipal official, may be granted a license. No member of the Legislature or the spouse of any such member may be granted a license. Nor may any member or officer of any political party executive committee of this state or the spouse of any such member or officer be granted a license.~~

(b) In addition to all other information which the commission may require to be supplied on the license application forms, each applicant shall be required to state his or her name and his or her residence address and the name and business address of the producer, manufacturer or distributor he or she represents; the name and address of each additional producer, manufacturer or distributor of alcoholic liquors he or she represents; the monetary total of all alcoholic liquor sales, if any, made by him or her to the commission or to any distributor licensed pursuant to article eight of this chapter during the fiscal year preceding the license year for which he or she is seeking a license; the monetary total of the gross income received by him or her on such sales, if any, during such fiscal year; whether he or she has, during such fiscal year, made or given, voluntarily or on request, any gift, contribution of money or property to any member or employee of the commission or of any distributor licensed pursuant to article eight of this chapter or to or for the benefit of any political party committee or campaign fund; and his or her relationship, if any, by blood or marriage, to any member of the commission or to any elected or appointive state official, county official or municipal official. All such applications shall be verified by oath of the applicant and shall be prepared and filed in duplicate. All such applications and a current list of all licensees hereunder shall be matters of public record and shall be available to public inspection at the commission's offices at the State Capitol. Every licensee who ceases to be an agent, broker or salesman, as herein contemplated, shall so advise the commission in writing and such person's name shall be immediately removed from the license list and his or her license shall be canceled and terminated.

(c) All persons licensed under this section shall be authorized representatives of the wineries, farm wineries, distilleries, mini-

distilleries, manufacturers, producers or processors of alcoholic liquor they represent. A licensed person may not share, divide or split his or her salary with any person other than his or her wife or some legal dependent, nor may he or she make any contribution to any political party campaign fund in this state.

(d) All licensees shall be subject to all other provisions of this chapter and to the lawful rules promulgated by the commission. Licenses may be refused, suspended or revoked by the commission for cause, including any of the applicable grounds of revocation specified in section nineteen of this article. Provisions of this article relating to notice, hearing and appeals shall, to the extent applicable, govern procedures on suspension and revocation of licenses hereunder.

(e) Any person, firm or corporation violating any provision of this section, including knowingly making of any false statement in a verified application for a license shall be guilty of a misdemeanor offense and shall, upon conviction thereof, be fined not exceeding \$1,000 or imprisoned in jail not exceeding twelve months, or be subject to both such fine and imprisonment in the discretion of the court.

**§60-4-23. License to operate a facility where exotic entertainment is offered; definitions; restrictions, regulations and prohibitions; prohibitions against minors; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.**

[Repealed.]

## **ARTICLE 6. MISCELLANEOUS PROVISIONS.**

### **§60-6-24. Requirement for posting informational sign.**

~~Each store or outlet controlled or operated by the state Alcohol Beverage Control Commission, and any store, supermarket, club, restaurant, or Any licensee licensed under this chapter to sell alcoholic liquors, including liquor, wine, hard cider, other facility selling alcoholic beverages or nonintoxicating beer or~~



~~nonintoxicating craft beer for either on-premise on-premises or off-premise off-premises~~ consumption, shall post in an open and prominent place within ~~such~~ the establishment, a blood-alcohol chart containing information showing the estimated percent of alcohol in the blood by the number of drinks in relation to body weight and time of consumption, as follows:

~~FORM OMITTED~~

~~FORM OMITTED~~

~~The size of display and location of said blood-alcohol chart shall be prescribed by the commissioner, by rule and regulation as provided in the chart available on the commissioner's website. Enforcement of the posting provisions of this section shall be carried out by the West Virginia nonintoxicating beer commissioner commissioner in establishments which are for all licensees required to post such the notice. but are not subject to the supervision of the West Virginia Alcohol Beverage Control Commissioner~~

## **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

### **§60-7-2. Definitions; authorizations; requirements for certain licenses.**

Unless the context in which used clearly requires a different meaning, as used in this article:

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

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

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

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

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

~~(1)~~ (A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

~~(2)~~ (B) Is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

~~(3)~~ (C) Is organized and operated for legitimate purposes which has at least 100 duly- elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club are admitted only duly- elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining

facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or

(4) (D) Is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park, or at any airport, in which building or premises a club has been established, to which club are admitted only duly-elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(6) "Private bakery" means an applicant for a private club or licensed private club license that has a primary function of operating a food preparation business that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods. The applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, either: (A) In the icing, syrup, drizzle, or some other topping; (B) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (C) the alcohol can be added by the purchaser from an infusion packet containing alcohol no greater than 10 milliliters. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on or off-premises consumption. This applicant or licensee may sell the baked goods with alcohol added as authorized for on and off-premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subdivision which:

(i) Has at least 50 members;

(ii) Operates a kitchen that produces baked goods, as specified in this subdivision, including at least: (I) A baking oven and a four-burner range or hot plate; (II) a sink with hot and cold running water; (III) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (IV) baking utensils and pans, kitchen

utensils, and other food consumption apparatus as determined by the commissioner; and (V) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(iii) Maintains, at any one time, \$750 of food inventory capable of being prepared in the private bakery's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, baking items such as flour, sugar, icing, and other confectionary items, or canned prepared foods;

(iv) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(v) Meet and be subject to all other private club requirements.

(7) "Private cigar shop" means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu, which may be met by utilizing a private caterer, for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subdivision which:

(A) Has at least 50 members;

(B) Operates a cigar shop and bar with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (iv) kitchen

utensils and other food consumption apparatus as determined by the commissioner; and (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintains, at any one time, \$500 of food inventory capable of being prepared in the private club bar's kitchen or has on hand at least \$150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian, that person may not be admitted as a guest; and

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

~~(7)~~ (8) "Private caterer" means a licensed private club restaurant, private hotel, or private resort hotel authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

~~(4)~~ (A) Have at least 10 members and guests attending the catering event;

~~(2)~~ (B) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

~~(3)~~ (C) Operate a private club restaurant on a daily operating basis;

~~(4)~~ (D) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors who have received certified training in verifying the legal identification, the age of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

~~(5)~~ (E) Provide to the commissioner, at least 7 seven days before the event is to take place:

~~(A)~~ (i) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

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

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

~~(D)~~ (iv) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises: *Provided*, That the unlicensed private venue shall: ~~(i)~~ (I) Be inside a building or structure, ~~(ii)~~ (II) have other facilities to prepare and

serve food and alcohol, ~~(iii)~~ (III) have adequate restrooms and sufficient building facilities for the number of members and guests expected to attend the private catering event, and ~~(iv)~~ (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

~~(6)~~ (F) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

~~(7)~~ (G) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

~~(8)~~ (H) Meet and be subject to all other private club requirements; and

~~(9)~~ (I) Use an age verification system approved by the commissioner.

~~(g)~~ (9) "Private club bar" means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when licensed for ~~such~~ those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this ~~subsection~~ subdivision which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Operates a bar with a kitchen, including at least: ~~(A)~~ (i) A two-burner hot plate, air fryer, or microwave oven; ~~(B)~~ (ii) a sink with hot and cold running water; ~~(C)~~ (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; ~~(D)~~ (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and ~~(E)~~ (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) (C) Maintains, at any one time, \$500 of food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) (D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

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

(10) "Private food truck" means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals for sale at various locations within the state while utilizing a propane or electric generator powered kitchen. The private food truck applicant shall obtain county or municipal approval to operate for food and liquor, wine, and nonintoxicating beer or nonintoxicating craft beer sales and service, while providing a food menu for members and guests. The private food truck applicant shall meet the criteria set forth in this subdivision which:

(A) Has at least 10 members;

(B) Operates with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; and (iv) plastic or metal kitchen utensils and other food consumption apparatus as determined by the commissioner;



(C) Maintains, at any one time, \$500 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(D) Shall be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operate, and further each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(E) Provides the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to subsection (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

(F) Requires all nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from the licensed distributor where the private food truck has its home location or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code.

(G) Requires wine or hard cider sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(H) Requires liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private food truck has its main business location, all in accordance with §60-3A-1 *et seq.* of this code.

(I) A licensee authorized by this section shall utilize bona fide employees to sell, furnish, tender, or serve the nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(J) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery may obtain a private food truck license;

(K) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(L) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest;

(M) Obtains all permits required by §60-6-12 of this code; and

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

~~(h)~~ (11) "Private club restaurant" means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled with the restaurant, seating requirements for members and guests ~~must~~ shall be met by the restaurant area. The applicant for a private club restaurant license which: ~~shall meet the criteria set forth in this subsection which:~~

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Operate a restaurant and full kitchen with at least: ~~(A)~~ (i) Ovens and four-burner ranges; ~~(B)~~ (ii) refrigerators or freezers, or some combination of refrigerators and freezers greater than 50 cubic feet, or a walk-in refrigerator or freezer; ~~(C)~~ (iii) other kitchen utensils and apparatus as determined by the commissioner;

and ~~(D)~~ (iv) freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

~~(3)~~ (C) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

~~(4)~~ (D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant:

~~(5)~~ (E) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to \$10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative rules for carrying unconsumed wine off the licensed premises;

~~(6)~~ (F) ~~Must have~~ Has at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written

waiver supplied to commissioner of the requirement from the historic association or district with jurisdiction over a historic building: *Provided, further* That in no event ~~shall~~ may a private club restaurant have less than one restroom; and

(7) (G) ~~Shall meet and be~~ Meets and is subject to all other private club requirements.

(i) (12) "Private manufacturer club" means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufactures liquor, wine, nonintoxicating beer or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which: ~~meets the criteria set forth in this subsection and which:~~

(1) (A) Has at least 100 members;

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

(3) (C) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) (D) Maintains, at any one time, \$500 of fresh food inventory capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(5) (E) Owns or leases, controls, operates, and uses acreage amounting to at least one acre which is contiguous bounded or fenced real property that would be listed on the licensee's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(6) (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer club's licensed premises, and as noted on the private manufacturer club's floorplan;

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

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

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

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

(1) (A) Has at least 100 members;

(2) (B) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or appointed officers) of either the municipality or of the county in which the festival, fair, or other event is to be conducted;

(3) (C) Prepares, provides, or engages a food vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any documentation or agreements ~~of such~~ to the commissioner prior to approval;

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

(5) (E) Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(6) (F) Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event;

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

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

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

(1) (A) Has at least 2,000 members;

(2) (B) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(3) (C) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 20 hours per week;

(4) (D) Maintains, at any one time, \$2,500 of fresh food inventory capable of being prepared in the private hotel's full kitchen and in calculating the food inventory the commissioner may not include microwavable, frozen, or canned foods;

(5) (E) Owns or leases, controls, operates, and uses acreage amounting to more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(6) (F) Lists the entire property from ~~subdivision (5) paragraph (E) of this subsection~~ subdivision and all adjoining buildings and structures on the private hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private hotel's licensed premises and as noted on the private hotel's floorplan;

(7) (G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

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

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

(J) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have secure access via key or key card to an in-room mini-bar in their rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of 1.6 cubic feet for the sale of nonintoxicating beer or nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding 750 ml of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, and 200 ml, with any combination of those liquor bottles not exceeding 750 ml;

and (iv) any combination of canned or packaged food valued at least \$50. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

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

(1) (A) Has at least 5,000 members;

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

(3) (C) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 25 hours per week;

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

(5) (E) Owns or leases, controls, operates, and uses acreage amounting to at least 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for destination, resort, and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;



~~(6)~~ (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private resort hotel's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises; ~~and as noted on the private resort hotel's floorplan;~~

~~(7)~~ (G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

~~(8)~~ (H) Uses an age verification system approved by the commissioner;

~~(9)~~ (I) Meets and is subject to all other private club requirements; ~~and~~

~~(10)~~ (J) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery; and

(K) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml with any combination of such liquor bottles not

exceeding one and a half liters; and (iv) any combination of canned or packaged food valued at least \$100. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

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

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf club's floorplan and could be used for golfing events and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph D of this subsection and all adjoining buildings and structures on the private golf club's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a

building or structure or outdoors while on the private golf club's licensed premises; ~~and as noted on the private golf club's floorplan;~~

~~(6)~~ (F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises;

~~(7)~~ (G) Uses an age verification system approved by the commissioner; and

~~(8)~~ (H) Meets and is subject to all other private club requirements.

~~(n)~~ (17) "Private nine-hole golf course" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this ~~subsection~~ subdivision which:

~~(1)~~ (A) Has at least 50 members;

~~(2)~~ (B) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph (D) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private nine-hole golf course's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors

while on the private nine-hole golf course's licensed premises; ~~and as noted on the private nine hole golf course's floorplan;~~

~~(6)~~ (F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Uses an age verification system approved by the commissioner; and

~~(8)~~ (H) Meets and is subject to all other private club requirements.

~~(9)~~ (18) "Private tennis club" means an applicant for a private club or licensed private club licensee ~~meeting the criteria set forth in this subsection subdivision~~ which:

~~(1)~~ (A) Has at least 100 members;

~~(2)~~ (B) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

~~(3)~~ (C) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food;

~~(4)~~ (D) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4) paragraph (D) of this subsection subdivision~~ and all adjoining buildings and structures on the private tennis club's floorplan ~~that would comprise~~ comprising the licensed premises, ~~which~~ would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors

while on the private tennis club's licensed premises; ~~and as noted on the private tennis club's floorplan;~~

(6) (F) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

(19) "Private college sports stadium" means an applicant for a private club or licensed private club licensee that operates a college or university stadium or coliseum for Division I, II, or III and involves a college public or private or university that is a member of the National Collegiate Athletic Association, or its successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may sell alcoholic liquors when conducting or temporarily hosting non-collegiate sporting events. This license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All alcohol sales shall take place within the confines of the college stadium: *Provided*, That any outside area approved for alcohol sales shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the alcohol sales area is closed in order to prevent entry and access by the general public. Further the applicant shall:

(A) Have at least 1,000 members;

(B) Maintain an open-air or closed-air stadium or coliseum venue primarily used for sporting events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also weddings, reunions, conferences, meetings, or other events where parties shall reserve the college stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or greater than a private club restaurant, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private college stadium's floorplan and could be used for contracted-for temporary non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private college sports stadium's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private college sports stadium's licensed premises and as noted on the private college sports stadium's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

~~(p)~~ (20) "Private professional sports stadium" means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when ~~such~~ the events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may not sell alcoholic liquors when conducting or hosting non-professional sporting events, and further the applicant shall:

~~(1)~~ (A) Have at least 1,000 members;

~~(2)~~ (B) Maintain an open-air or closed-air stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions, conferences, meetings, or other events where parties ~~must~~ reserve the stadium venue in advance of the event;

~~(3)~~ (C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

~~(4)~~ (D) Own or lease, control, operate, and use acreage amounting to at least three contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted- for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

~~(5)~~ (E) List the entire property from ~~subdivision (4) paragraph (D) of this subsection~~ subdivision and all adjoining buildings and structures on the private professional sports stadium's floorplan ~~which would comprise~~ comprising the licensed premises, ~~which would~~ and be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises

whether these activities were conducted in a building or structure or outdoors while on the private professional sports stadium's licensed premises; ~~and as noted on the private professional sports stadium's floorplan;~~

~~(6)~~ (F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Meet and be subject to all other private club requirements; and

~~(8)~~ (H) Use an age verification system approved by the commissioner.

~~(9)~~ (21) "Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, retailers who sell West Virginia-made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant, and all ~~business~~ businesses that are members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

~~(1)~~ (A) Have at least 100 members;

~~(2)~~ (B) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by



the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(3) (C) Have one or more members operating who maintain, at any one time, \$1,000 of fresh food inventory capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(4) (D) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted-for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

(5) (E) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

(6) (F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(7) (G) Have at least two separate and unrelated vendors applying for the license and certifying that all vendors in the association have agreed to the liability responsibility associated with a private farmers market license;

~~(8)~~ (H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

~~(9)~~ (I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

~~(10)~~ (J) Provide a copy of a written agreement between all the vendors of the association that is executed by all vendors stating that each vendor is jointly and severally liable for any violations of this chapter committed during the event;

~~(11)~~ (K) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members, patrons, and guests ages, to verify whether a member, patron, or guest is intoxicated and to provide for the public health and safety of members, patrons, and guests;

~~(12)~~ (L) Use an age verification system approved by the commissioner; and

~~(13)~~ (M) Meet and be subject to all other private club requirements.

~~(14)~~ (22) "Private wedding venue or barn" means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

~~(1)~~ (A) Has at least 25 members;

~~(2)~~ (B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties ~~must~~ reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

~~(3)~~ (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises ~~and that~~ is capable of serving freshly prepared food, or may engage a food

caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(4) (D) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that, the property is not less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

~~(5)~~ (E) Lists the entire property from ~~subdivision (4)~~ paragraph (D) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises, ~~which~~ and would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private wedding venue or barn's licensed premises; ~~and as noted on the private wedding venue or barn's floorplan;~~

~~(6)~~ (F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(7)~~ (G) Meets and is subject to all other private club requirements; and

~~(8)~~ (H) Uses an age verification system approved by the commissioner.

~~(s)~~ (23) "Private multi-sport complex" means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities,

reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(1) (A) Has at least 100 members;

(2) (B) Maintains an open-air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties ~~must~~ reserve the parts of the sports complex in advance of the sporting or other event;

(3) (C) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private ~~professional sports stadium~~ multi-sport complex. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

(4) (D) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) (E) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private multi-sport complex's floorplan and could be used for contracted-for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

(6) (F) Lists the entire property from ~~subdivision (5)~~ paragraph (E) of this ~~subsection~~ subdivision and all adjoining buildings and structures on the private multi-sport complex's floorplan which would comprise the licensed premises, which would be authorized

for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private multi-sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

~~(7)~~ (G) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

~~(8)~~ (H) Meets and is subject to all other private club requirements; and

~~(9)~~ (I) Uses an age verification system approved by the commissioner.

The Department of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation, or public authority operating any park or airport may lease, as lessor, a building or portion thereof or other limited premises in any park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

#### **§60-7-6. Annual license fee; partial fee; and reactivation fee.**

(a) The annual license fee for a license issued under the provisions of this article to a fraternal or veterans' organization or a nonprofit social club is \$750.

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section is \$1,000 if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club restaurant, private hotel, or private resort hotel to be licensed as a private caterer as defined in §60-7-2 of this code; \$500 if the private club is a private bakery; \$1,500 if the

private club is a private wedding venue or barn or a private cigar shop; \$2,000 if the private club is a private nine-hole golf course, private farmers market, private food truck, private college sports stadium, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; \$2,500 if the private club bar or private club restaurant has 1,000 or more members; \$4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, the private resort hotel may designate areas within the licensed premises for the lawful sale, service, and consumption of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas is \$7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas is \$12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas shall be \$17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas is \$22,500. A private resort hotel that obtained the license and paid the \$22,500 annual license fee may, upon application to and approval of the commissioner, designate additional areas for a period not to exceed seven days for an additional fee of \$150 per day, per designated area.

(c) The fee for any license issued following January 1 of any year that expires on June 30 of that year is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional \$150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

(e) The commissioner shall pay the fees to the State Treasurer ~~and credited to~~ for deposit into the General Revenue Fund of the state.

(f) The Legislature finds that the hospitality industry has been particularly damaged by the COVID-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article. Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows;

(1) License fees for the license period beginning July 1, 2021, shall be reduced to one third of the rate set forth in subsections (a) and (b) of this section;

(2) License fees for the license period beginning July 1, 2022, shall be two thirds of the rate set forth in subsections (a) and (b) of this section; and

(3) License fees for the license period beginning July 1, 2023, and beyond, shall be as set forth in subsections (a) and (b) of this section.

**§60-7-8f. Private delivery license for a licensed private club restaurant, private manufacturer club, or a third party; requirements; limitations; third party license fee; private cocktail delivery permit; and requirements.**

(a) A licensed private club restaurant or private manufacturer club licensed to sell liquor for on-premises consumption may apply for a private delivery license permitting the order, sale, and delivery of liquor and a nonalcoholic mixer or beverage in a sealed craft cocktail growler, when separately licensed for craft cocktail growler sales. The order, sale, and delivery of a sealed craft cocktail growler is permitted for off-premises consumption when completed by the licensee to a person purchasing the craft cocktail growler through a telephone, a mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a licensed private club restaurant or private manufacturer club to obtain a private delivery license. The

order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted by a third party who obtains a license under this section when a private club restaurant or private manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone orders, a mobile ordering application, or a web-based software program. The private delivery license nonprorated, nonrefundable annual fee is \$200 for each third party entity, with no limit on the number of drivers and vehicles.

(c) The private delivery license application shall comply with licensure requirements in this article and shall require any information required by the commissioner; *Provided*, That the license application may not require a third party applicant to furnish information pursuant to §60-7-12 of this code.

(d) *Sale Requirements.* —

(1) The craft cocktail growler purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or a meal, and craft cocktail growler by the licensed private club restaurant, private manufacturer club, or third party private delivery licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for nonintoxicating beer or nonintoxicating craft beer.

(3) "Prepared food or a meal" for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked,



boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for each order of food or meal; *Provided*, That the entire delivery order may not contain any combination of craft cocktail growlers of more than 128 fluid ounces total; and

(5) A third party private delivery licensee shall not have a pecuniary interest in a private club restaurant or private manufacturer club licensee, as set forth in this article. A third party private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. ~~The convenience fee charged by the third party private delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where a craft cocktail growler is ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Craft Cocktail Growler Delivery Requirements.* —

(1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21 years of age or older. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or the private club restaurant or private manufacturing club shall hold a private cocktail delivery permit for each vehicle delivering a craft cocktail growler pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third party private delivery licensee, a private club restaurant, or private manufacturer club may occur in the county or contiguous counties where the licensed private club restaurant or private manufacturer club is located;

(5) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to addresses located in West Virginia. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall account for and pay all sales and municipal taxes;

(6) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to any other licensee;

(7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for personal use, and not for resale; and

(8) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall not deliver and leave the prepared food or a meal, and a sealed craft cocktail growler at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person may only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal and a

craft cocktail growler delivery, subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as application, a stored scanned image of the purchasing person's legal identification;~~

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information~~ and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall retain records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) The third party private delivery licensee or the private club restaurant or private manufacturing club shall hold a valid private cocktail delivery permit under subsection (g) of this section for each vehicle used for delivery: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(g) *Private Cocktail Delivery Permit.* —

(1) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and a sealed craft cocktail growler, subject to the requirements of this article.

(2) A third party private delivery licensee, a private club restaurant, or private manufacturer club licensee shall provide

vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The third party private delivery licensee, the private club restaurant, or the private manufacturers club licensed by this section are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

### **§60-7-17. Repealer.**

[Repealed.]

## **ARTICLE 8. SALE OF WINES.**

**§60-8-6c. Winery and farm winery license to sell wine growlers and provide complimentary samples prior to purchasing a wine growler.**

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of wine and its industry in this state to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed winery or farm winery with its principal place of business and manufacture located in this state to have certain abilities to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of wine.* — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may, when licensed under this section, offer only wine manufactured by the licensed winery or farm winery for retail sale to customers from the winery or farm winery's licensed premises for consumption off of the licensed premises only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal consumption, and not for resale. A licensed winery or farm winery may not sell, give, or furnish wine for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section or unless separately licensed as a private wine restaurant or a private manufacturer club.

(c) *Complimentary samples.* — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may offer complimentary samples of wine as set forth in §60-4-3b of this code.

(d) *Retail sales.* — Every licensed winery or farm winery under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting wine growler sales and is subject to all applicable requirements and penalties in this article.

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

(f) *Advertising.* — A winery or farm winery under this section may advertise a particular brand or brands of wine produced by the licensed winery or farm winery and the price of the wine subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(g) *Wine Growler defined.* — For purposes of this section and section §60-8-6d of the code, "wine growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-premises sales only of wine for personal consumption, and not for resale. The wine served and sold in a sealed wine growler may include ice or water mixed with the wine to create a frozen alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers shall be sanitized daily and shall be under control and served by the licensee from the secure area. Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. For purpose of this article, a secure seal means using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of wine growler to form a seal that ~~must~~ shall be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

(h) *Wine Growler requirements.* — A winery or farm winery licensed under this section shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this section shall sanitize, fill, securely seal,

and label any wine growler prior to its sale. A licensed winery or farm winery under this section may refill a wine growler subject to the requirements of this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(i) *Wine Growler labeling.* — A winery or farm winery licensed under this section selling wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning requirements.

(j) *Wine Growler sanitation.* — A licensed winery or farm winery authorized under this section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and county health requirements prior to its filling and sealing. In addition, the licensed winery or farm winery shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under this article.

(k) *Fee.* — There is no additional fee for a licensed winery or farm winery authorized under this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

(l) *Limitations on licensees.* — To be authorized under this section, a licensed winery or farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or farm winery's principal place of business and manufacture located in the State of West Virginia. A licensed winery or farm winery authorized under this section is subject to the applicable penalties under this article for violations of this section.

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

**§60-8-6e. Private wine delivery license for a licensed Class A wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.**

(a) A Class A wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a Class A wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted by a third party licensee when sold by a Class A wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program for off-premises consumption. The private wine delivery license non-prorated, nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.



(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements.* —

(1) The wine purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of prepared food or a meal, and sealed wine by the licensee or third-party licensee.

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) "Prepared food or a meal" for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of no more than 384 fluid ounces of wine per delivery order; and

(5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine as provided in this section. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to prepared food or a meal. The convenience fee charged by the third-party private wine delivery licensee to the purchasing person may be no greater than ~~five dollars~~ \$20 per delivery order where wine is ordered by the purchasing person. For any third-party private wine delivery licensee also licensed for nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale,

and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed ~~five dollars.~~ \$20.

(e) *Private Wine Delivery Requirements.* —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class A wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or the Class A wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The third-party private wine delivery licensee shall submit certification of the training to the commissioner;

(3) The third party private wine delivery licensee or Class A wine licensee shall hold a retail transportation permit for each vehicle delivering sealed wine per subsection (g) of this section: *Provided,* That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) Delivery of food or a meal, and sealed wine orders by a third-party private wine delivery licensee or Class A wine licensee may occur in the county or contiguous counties where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class A wine licensee may only deliver prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party private wine delivery licensee or Class A wine licensee shall account for and pay all sales and municipal taxes;

(6) The third-party private wine delivery licensee or Class A wine licensee may not deliver prepared food or a meal, and sealed wine to any other wine licensees;

(7) Deliveries of food or a meal, and sealed wine are only for personal use, and not for resale; and

(8) The third-party private wine delivery licensee or Class A wine licensee shall not deliver and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal, and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification;~~

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information~~ and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner, and the third-party private wine delivery licensee and Class A wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class A wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit per subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit.* —

(1) A Class A wine licensee or a third-party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and sealed wine.

(2) A Class A wine licensee or a third-party private wine delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The licensee or the third-party private wine delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

**§60-8-6f. Private wine delivery license for a licensed Class B wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.**

(a) A Class B wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles, cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone order, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for a Class B wine licensee to obtain a private wine delivery license. The order, sale, and delivery process shall meet the requirements of this section, and subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of the ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption by a third party licensee when sold by a Class B wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program. The private wine delivery license non-prorated, nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements.* —

(1) The wine purchase may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed wine by the licensee or third-party private wine delivery licensee.

(2) Any purchasing person must be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed wine bottles, cans, or growlers shall not be in excess of 384 fluid ounces of wine; and

(5) A third-party private wine delivery licensee shall not have a pecuniary interest in a Class B wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to food only. ~~The convenience fee charged by the third-party private wine delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed five dollars.~~

(e) *Private Wine Delivery Requirements.* —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class B wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or Class B wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and certification. The third-party private wine delivery licensee or Class B wine licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or Class B wine licensee must hold a retail transportation permit for each vehicle delivering sealed wine as required by subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine orders by a third-party private wine delivery licensee or Class B wine licensee in the county where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine to addresses located in West Virginia with all sales and municipal taxes accounted for and paid;

(6) A third-party private wine delivery licensee or Class B wine licensee may not deliver food and sealed wine to any other wine licensees;

(7) Deliveries of food and sealed wine are only for personal use, and not for resale; and

(8) A third-party private wine delivery licensee or Class B wine licensee shall not deliver and leave food and sealed wine at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person shall only permit the person who placed the order through a telephone, a mobile ordering application, or web-based software to accept the food and wine

delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification;~~

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information~~ and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ must include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The third-party private wine delivery licensee or Class B wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class B wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit under subsection (g) of this section.

*(g) Private Wine Retail Transportation Permit. —*

(1) A Class B wine licensee or third party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of food and wine.

(2) A Class B wine licensee or third party private wine delivery licensee shall provide vehicle and driver information requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.



(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The licensee or third-party private wine delivery licensee are each responsible for any violations committed by their employees or agents under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.**

#### **§61-8-27. Unlawful admission of children to dance house, etc.; penalty.**

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under

the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, ~~on~~ upon conviction thereof, shall be punished by a fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private bakery, private cigar shop, private caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private food truck, private nine-hole golf course, private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private college sports stadium or coliseum, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 et seq. of this code and in compliance with §60-7-2(f)(115), §60-7-2(h)(42), §60-7-2(i)(8), §60-7-2(j)(7), §60-7-2(k)(84), §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(78), §60-7-2(o)(8), §60-7-2(p)(87), §60-7-2(q)(128), §60-7-2(r)(8), §60-7-2(s)(97), §60-7-2(6)(iv), §60-7-2(7)(D), §60-7-2(8)(I), §60-7-2(10)(L), §60-7-2(11)(D), §60-7-2(12)(H), §60-7-2(13)(6), §60-7-2(14)(H), §60-7-2(15)(H), §60-7-2(16)(G), §60-7-2(17)(G), §60-7-2(18)(H), §60-7-2(19)(H), §60-7-2(20)(H), §60-7-2(21)(L), §60-7-2(22)(H), §60-7-2(23)(H), §60-7-8c(b)(14), §60-7-8d, and §60-8-32a of this code; or (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner; and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan, by using a mandatory carding or identification program by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer are asked and required to provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4848) was reported by the Clerk and adopted:

On page seventy, section six-f, line forty-two, after the word "dollars." by adding the following: The convenience fee charged by the third-party private wine delivery licensee to the purchasing person shall be no greater than \$20 per delivery order where wine is ordered by the purchasing person. For any third-party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed \$20.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed House Bill 4848, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 4848 pass?"

On the passage of the bill, the yeas were: Beach, Boley, Brown, Caputo, Clements, Geffert, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Blair (Mr. President)—26.

The nays were: Azinger, Baldwin, Grady, Karnes, Martin, Roberts, Smith, and Woodrum—8.

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. 4848) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

**Eng. House Bill 4848**—A Bill to repeal §60-4-23 of the Code of West Virginia, 1931, as amended; to repeal §60-7-17 of said code; to amend said code by adding thereto a new section, designated §11-16-5a, to amend and reenact §11-16-6d, §11-16-6f, and §11-16-8 of said code; to amend said code by adding thereto a new section designated §60-1-3a; to further amend said code by adding thereto a new section, designated § 60-3-26; to amend and reenact §60-3A-3a, §60-3A-3b, §60-3A-8, and §60-3A-17 of said code; to amend and reenact §60-4-22 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2, §60-7-6, and 60-7-8f of said code; to amend and reenact §60-8-6c, §60-8-6e, and §60-8-6f of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements; clarifying that licenses are not required to place nonintoxicating beer, wine, and liquor in a bag after purchase; removing requirement that servers at a sampling have specific knowledge of the West Virginia product being sampled; providing for modification of the 300 foot requirement to 200 feet with the option for a college, university, or church to provide a written waiver; directing the Commissioner of the Alcoholic Beverage Control Administration to discontinue the state's acquisition of alcoholic liquors manufactured in the Russian Federation or by any person or entity located therein; establishing duration of the ban; authorizing the commissioner, at the Governor's direction, to sell or auction alcoholic liquors made in the Russian Federation or under the authority of a business located within the federation with the proceeds going to charitable organizations assisting the people of Ukraine; increasing the maximum convenience fee charge for delivery of nonintoxicating beer and alcoholic liquors to \$20; removing delivery provisions requiring storage of a scanned image of legal identification but requiring review of legal identification for nonintoxicating beer and alcoholic liquors; increasing the markup to private clubs from 110 percent to 112.5 percent; clarifying licensure requirements for nonintoxicating beer and alcoholic liquors; clarifying licensure requirements for wholesale representatives; removing prohibition against an elected official or his or her relative being employed as a wholesale representative; repealing an exotic entertainment; revising the blood alcohol chart; creating a license for a private

bakery to produce confections with alcohol added, setting forth license requirements and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-premises consumption, setting forth license requirements and setting a license fee; creating a license for a private college sports stadium for alcohol sales in certain areas of Division I, II, or III sports stadiums, setting forth license requirements, and setting a license fee; allowing private multi-sport complex to also serve nonintoxicating beer and nonintoxicating craft beer from a golf cart; creating a license for a private food truck to conduct food and alcohol sales at various locations where permitted by a county or municipality, setting forth license requirements and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resort hotels to utilize in-room mini bars for limited nonintoxicating beer and alcoholic liquor sales to adults 21 years of age or over, and setting forth requirements; removing language automatically repealing inconsistent code language; authorizing wine growler sales where wine may be mixed with ice and water by the licensee to produce a frozen alcoholic beverage for sale by the licensee in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance house or other places of entertainment for certain private clubs with an age verification system.

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

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the ninth order of business.

**Eng. House Bill 2300**, Including Family Court Judges in the Judges' Retirement System.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary

committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 2910**, To modify the allowable number of magistrate judges per county.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

**Eng. House Bill 3073**, Relating to the West Virginia Emergency School Food Act.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Education committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4001**, Generally relating to broadband.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Economic Development committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4002**, Creating the Certified Sites and Development Readiness Program.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4012**, Prohibiting the showing of proof of a COVID-19 vaccination.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4025**, Providing exemption to severance tax for severing rare earth elements and other critical minerals.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4105**, Relating to service employees with National Association for Pupil Transportation Certifications.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Education committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4111**, Relating to the prescriptive authority of advance practice registered nurses.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4252**, To reduce copay cap on insulin and devices.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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. House Bill 4307**, Increase some benefits payable from Crime Victims Compensation Fund.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4340**, Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4344**, Relating to foster care.



On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4353**, Relating to On Cycle Elections - Voter Turnout Act.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4377**, To update the involuntary commitment process.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4393**, To increase the managed care tax if the managed care organization receives a rate increase.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4408**, Relating to contracts for construction of recreational facilities in state parks and forests.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4439**, Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. House Bill 4450**, Removing the \$0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. House Bill 4463**, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4502**, Establishing the BUILD WV Act.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. House Bill 4522**, Relating to the expungement of criminal records.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. House Bill 4571**, Modifying foundation allowance to account for transportation by electric powered buses.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4600**, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4607**, To remove opioid treatment programs from requiring a certificate of need.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4613**, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. House Bill 4627**, To provide for no more than two licensed laboratories for medical cannabis testing in this state.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4667**, Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4668**, Relating to air bag fraud.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4688**, Relating to Emergency Medical Services Retirement System Act.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, 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 4756**, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Pensions committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. House Bill 4827**, Relating to the promotion and development of public-use vertiports.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. House Bill 4845**, Establishing the Katherine Johnson Academy.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

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

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. House Joint Resolution 104**, Providing Term Limits for certain Constitutional Officers.

On second reading, coming up out of regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the resolution was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 3:25 p.m., the Senate recessed until 4:30 p.m. today.

The Senate reconvened at 4:57 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the eighth order of business.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 4008**, Relating to Higher Education Policy Commission funding formula.

On third reading, coming up in deferred order, was read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4008 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4008) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4008**—A Bill to amend and reenact §18B-1-1f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1B-4 of said code, all relating to

powers and duties of the Higher Education Policy Commission generally; establishing additional criteria for a state college or university to be considered exempt from the requirement that the commission approve the establishment of new programs on their own campuses for programs incentivized within the funding formula established herein; directing the Higher Education Policy Commission, in conjunction with the West Virginia Council for Community and Technical College Education, to propose rules to establish a funding formula model governing its appropriation request to the Legislature regarding distribution of general revenue to the state's institutions of higher education; setting forth parameters for the formula and minimum requirements for the rule; revising and removing certain related commission powers and duties; requiring interim chancellor to meet all criteria required of the chancellor; clarifying the commission and council's responsibilities, in conjunction with the West Virginia Network, to support systemwide technology needs; revising provisions for rulemaking regarding transfers of credits and obtaining academic credit or advanced placement standing based on experience; authorizing commission to promulgate rules, and exercise powers and duties, governing student loans, scholarships, state aid as provided in Chapter 18C of the code; removing requirements to provide education about certain disease; and making non-substantive technical cleanup corrections and clarifying changes.

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

Action as to Engrossed Committee Substitute for House Bill 4008 having been concluded, the Senate proceeded to the consideration of

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

On third reading, coming up in deferred order, with the unreported Finance committee amendment pending, and with the right having been granted on March 9, 2022, for further amendments to be received on third reading, was read a third time.



At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the bill was withdrawn.

Engrossed Committee Substitute for House Bill 4020 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo and Romano—2.

Absent: None.

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

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the bill was withdrawn.

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

Action as to Engrossed Committee Substitute for House Bill 4020 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4087**, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

On third reading, coming up in deferred order, was read a third time.

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

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

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

**CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.**

**ARTICLE 11. FIRE COMMISSION.**

**§15A-11-5. Promulgation of rules and statewide building code.**

(a) The State Fire Commission shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to safeguard life and property and to ensure the quality of construction of all structures erected or renovated throughout this state through the adoption of a State Building Code. The rule may include provisions regarding building construction, renovation, and all other aspects as related to the construction and mechanical operations of a structure. The rule shall include building energy codes. The rules shall be in accordance with standard safe practices so embodied in widely recognized standards of good practice for building construction and all aspects related thereto and have force and effect in those counties and municipalities adopting the State Building Code: *Provided*, That each county or municipality may adopt the code to the extent that it is only prospective and not retroactive in its application; *Provided, however*, That buildings or structures utilized primarily for agricultural purposes shall be exempt from the provisions of the State Building Code, the State Fire Code, and any county or municipal building code or ordinance that is or may be adopted, such as the ICC International Property Maintenance Code.

(b) The State Fire Commission may establish advisory boards as it considers appropriate to encourage representative participation in subsequent rulemaking from groups or individuals with an interest in any aspect of the State Building Code or related construction or renovation practices.

(c) For the purpose of this section, the term "building code" is intended to include all aspects of safe building construction and

mechanical operations and all safety aspects related thereto. Whenever any other state law, county, or municipal ordinance, or regulation of any agency thereof is more stringent or imposes a higher standard than is required by the State Building Code, the provisions of the state law, county or municipal ordinance, or regulation of any agency thereof governs if they are not inconsistent with the laws of West Virginia and are not contrary to recognized standards and good engineering practices. In any question, the decision of the State Fire Commission determines the relative priority of any such state law, county or municipal ordinance, or regulation of any agency thereof, and determines compliance with State Building Code by officials of the state, counties, municipalities, and political subdivisions of the state.

(d) Enforcement of the provisions of the State Building Code is the responsibility of the respective local jurisdiction. Also, any county or municipality may enter into an agreement with any other county or municipality to provide inspection and enforcement services: *Provided*, That any county or municipality may adopt the State Building Code with or without adopting the BOCA National Property Maintenance Code. If a county adopts a property maintenance code or ordinance including, but not limited to, the ICC International Property Maintenance Code, such code or ordinance shall exempt all property used for agricultural purposes or otherwise cause such property to be exempted from any such code or ordinance from enforcement. Any such code that may be or is adopted by any county shall be and is unenforceable as to agricultural property.

(e) After the State Fire Commission has promulgated rules as provided in this section, each county or municipality intending to adopt the State Building Code shall notify the State Fire Marshal of its adoption.

(f) The State Fire Commission may conduct public meetings in each county or municipality adopting the State Building Code to explain the provisions of the rules.

(g) The provisions of the State Building Code relating to the construction, repair, alteration, restoration, and movement of

structures are not mandatory for existing buildings and structures identified and classified by the State Register of Historic Places under the provisions of §29-1-8 of this code or the National Register of Historic Places, pursuant to 16 U.S.C. § 470a. Prior to renovations regarding the application of the State Building Code, in relation to historical preservation of structures identified as such, the authority having jurisdiction shall consult with the Division of Culture and History, State Historic Preservation Office. The final decision is vested in the State Fire Marshal. Additions constructed on a historic building are not excluded from complying with the State Building Code.

(h) For purposes of this section, the term "agricultural purposes" has the same meaning as is set forth in §15A-11-3 of this code.

(i) The State Fire Commission shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code relating to sprinkler protection, specifically providing that buildings commencing construction after July 1, 2022, housing emergency fire, rescue, or ambulance services shall be protected throughout by approved automatic sprinkler systems: *Provided*, That emergency services buildings, not exceeding a total of 5,000 square feet in area, that house only equipment, and do not have designated sleeping areas or quarters within them, regardless when constructed or commencing construction, are exempt from this requirement.

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

### **ARTICLE 3E. FIREWORKS SAFETY.**

#### **§29-3E-7. Fireworks safety fee; administration; tax crimes; collections; remittances; deposits; distributions; rules.**

(a) In addition to the sales tax, a fireworks safety fee of 12 percent of all sales is levied on retail sales of consumer fireworks in this state. The fee shall be distributed pursuant to the provisions of this subsection. The fee computation under this subsection shall be carried to the third decimal place, and the fee rounded up to the

next whole cent whenever the third decimal place is greater than four, and rounded down to the lower whole cent whenever the third decimal place is four or less.

The State Tax Commissioner shall disburse all proceeds of the fireworks safety fee into the State Treasury each month in the following manner:

(1) Seventy-five percent shall be deposited into a special account in the State Treasury, designated the Veterans' Facility Support Fund established by the provisions of §9A-1-11 of this code for expenditure on veterans' programs.

(2) Twenty-five percent shall be deposited into a special account in the State Treasury, designated the Fire Protection Fund ~~established in §33-3-33 of this code and~~ shall be allocated and distributed in accordance with that section to each volunteer fire company or department on an equal share basis by the State Treasurer according to the requirements of §33-3-33 of this code.

(b) A person who purchases consumer fireworks in a retail transaction shall pay to the retailer the amount of the fee levied by this section, which fee is added to and constitutes a part of the sale price, and is collectible by the retailer who shall account to the state for all fees paid by a purchaser. If the retailer fails to collect the fee or fails to account to the state for the fees paid by a purchaser, then the retailer is liable for the payment of the fee to the state.

(c) A retailer shall remit to the State Tax Commissioner no later than 30 days after the end of each preceding month all moneys collected for such preceding month, pursuant to the requirements of this section, and shall report such collections on forms and in the manner prescribed by the State Tax Commissioner.

(d) All moneys so remitted, net of refunds and adjustments, shall be paid by the State Tax Commissioner into the funds specified in this section.

(e) Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth §11-9-1 *et seq.* of this code applies to the fees imposed pursuant to this article, with like effect as if that

act were applicable only to the fees imposed by this article and were set forth in extenso in this article.

(f) The State Tax Commissioner shall propose legislative rules and may promulgate such emergency rules as are necessary to implement the provisions of this article.

### CHAPTER 33. INSURANCE.

#### ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

##### **§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.**

(a) (1) For the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed an additional premium tax equal to one percent of taxable premiums for fire insurance and casualty insurance policies. For purposes of this section, casualty insurance does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) All moneys collected from this additional tax shall be received by the commissioner and paid by him or her into a special account in the State Treasury, designated the Municipal Pensions and Protection Fund, to be allocated as follows: ~~Provided, That on or after January 1, 2010, the commissioner shall pay~~

(A) Ten percent of the amount collected ~~to~~ shall be deposited in the Teachers Retirement System Reserve Fund created in §18-7A-18 of this code;

(B) Twenty-five percent of the amount collected ~~to~~ shall be deposited in the Fire Protection Fund created in section 33 of this article for allocation distribution by the State Treasurer to volunteer

and part-volunteer fire companies and departments according to the requirements of §33-3-33 of this code; and

~~65% of the amount collected to the Municipal Pensions and Protection Fund: *Provided, however,* That upon notification by the Municipal Pensions Oversight Board pursuant to the provisions of §8-22-18b of this code, on or after January 1, 2010, or as soon thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds,~~

(C) Sixty-five percent of the amount collected by the commissioner shall be deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code ~~the net proceeds of this tax after appropriation thereof by the Legislature is to be~~ distributed in accordance with the provisions of this section, except for distribution from proceeds pursuant to §8-22-8a(d) §8-22-18a(d) of this code.

(b) *Municipal Pensions Security Fund allocation and distribution* —

(1) Before August 1 of each year, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund is established shall report to the ~~State Treasurer~~ Municipal Pensions Oversight Board the average monthly number of members who worked at least 100 hours per month and the average monthly number of retired members of municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System during the preceding fiscal year. ~~*Provided, That beginning in the year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a. These reports received by the oversight board shall be provided*~~ The reports received by the Municipal Pensions Oversight Board shall be provided annually to the State Treasurer by September 1.

(2) ~~Before September 1 of each calendar year, the State Treasurer, or the Municipal Pensions Oversight Board once in operation, shall allocate and authorize for distribution the revenues in the Municipal Pensions and Protection Fund which were~~

~~collected during the preceding calendar year for the purposes set forth in this section. Before September 1 of each calendar year, and after the Municipal Pensions Oversight Board has notified the Treasurer and commissioner pursuant to §8-22-18b of this code, the Municipal Pensions Oversight Board shall allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which were collected during the preceding calendar year for the purposes set forth in this section. In any year the actuarial report required by §8-22-20 of this code indicates no actuarial deficiency in the municipal policemen's or firemen's pension and relief fund, no revenues may be allocated from the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund to that fund. The revenues from the Municipal Pensions and Protection Security Fund shall then be allocated to all other pension and relief funds which have an actuarial deficiency.~~

~~(3) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If the municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down one hundred percent of their allocations.~~

~~(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection Fund allocated to volunteer and part volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part volunteer fire companies and departments~~



~~within the state which meet the eligibility requirements established in §8-15-8a of this code.~~

~~(e) (1) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from~~

(3) The Municipal Pensions Oversight Board shall allocate and distribute the growth in any moneys collected pursuant to a pro rata share of the tax imposed by this section and earnings and interest thereon there shall be allocated and authorized for distribution to each municipal policemen's or municipal firemen's pension and relief fund, a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average number of police officers and firefighters who worked at least 100 hours per month during the preceding fiscal year and average monthly number of retired police officers and firefighters during the preceding fiscal year. For the purposes of this subsection, the growth in moneys collected from earnings the tax collected pursuant to this section is determined by subtracting the amount of the tax collected during the fiscal year ending June 30, 1996, from the tax collected during the fiscal year for which the allocation is being made and interest thereon. All moneys received by municipal pension and relief funds under this section may be expended only for those purposes described in §8-22-16 through §8-22-28 §8-22-28a of this code.

~~(2) Each volunteer fire company or department shall receive an equal share of the revenues allocated for volunteer and part-volunteer fire companies and departments.~~

~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of this subsection, each municipal fire department composed of full time paid members and volunteers and part-volunteer fire companies and departments shall receive a share equal to the share distributed to volunteer fire~~

~~companies under subdivision (2) of this subsection reduced by an amount equal to the share multiplied by the ratio of the number of full-time paid fire department members who are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System to the total number of members of the fire department.~~

~~(d) (4) The allocation and distribution of revenues provided in this section are subject to the provisions of §8-22-20, §8-15-8a, and §8-15-8b of said chapter this code.~~

~~(e) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal Pensions and Protection Fund were miscalculated and errors were made in amounts transferred, resulting in overpayments and underpayments to the relief and pension funds and to the Teachers Retirement System, and that the relief and pension funds and the Teachers Retirement System were not at fault for any of the overpayments and underpayments. The Legislature hereby further finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to recover any of the overpayments would be unjust and create economic hardship for the entities that received overpayments. No entity, including, without limitation, the Municipal Pension Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement System or the state any overpayments received from the Municipal Pensions and Protection Fund and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to this subsection, and to use the amount transferred to remit the amounts due to the pension and relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction of any amounts due and no entity, including, without limitation, the Municipal Pension~~

~~Oversight Board and any pension or relief fund, may seek to recover any further amounts.~~

(c) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If a municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down 100 percent of their allocations.

**~~§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; Public Employees Insurance Agency and municipal pension plans; special fund created; Fire Protection Fund; allocation of proceeds. effective date.~~**

~~(a)(1) For the purpose of providing additional revenue for volunteer fire departments, part volunteer fire departments and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection.~~

~~(2) After June 30, 2005, through December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments, part volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed~~

~~on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.~~

(a) For the purposes of this section:

(1) "Full-time paid members" means the members of a fire department who are compensated to provide services to the department on a full-time basis and are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System.

(2) The "policy surcharge" refers to the surcharge on certain insurance policies imposed by subsection (b) of this section.

(3) "Volunteer fire departments" or "departments" includes volunteer and part-volunteer fire departments and companies, as described in §18-15-1 et seq. of this code.

~~(3) (b) After December 31, 2005, December 31, 2022, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.055% one percent of the taxable premium for each such policy. The policy surcharge is separate from and in addition to the tax imposed by §33-3-14d of this code.~~

(4) (c) For purposes of this section, casualty insurance ~~may~~ does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may is not be subject to premium taxes, agent commissions, or any other assessment against premiums.

~~(b)~~ (d) The policy surcharge imposed by this section shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year. All money from the policy surcharge shall be collected by the commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subsection (f) of this section.

~~(c)~~ (e) Any person failing or refusing to collect and remit to the commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the commissioner.

~~(d)~~ (f) Fire Protection Fund allocation and distribution. —

(1) ~~All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the state Treasury, designated the Fire Protection Fund. The State Treasurer's Office shall distribute the net proceeds of this portion of the tax~~ the policy surcharge, the amount deposited into the Fire Protection Fund pursuant to §29-3E-7 of this code, the amount deposited into the Fire Protection Fund pursuant to §33-3-14d of this code, and the interest thereon on a quarterly basis, after appropriation by the Legislature. shall be distributed quarterly The distributions shall occur on the first day of the months of January, April, July, and October to each eligible volunteer fire ~~company~~ or department, ~~on an equal share basis by the state Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of~~ as provided in this subsection.

~~(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse one half of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~

~~(B) The remaining portion of moneys collected shall be transferred into the fund in the state Treasury of the Public Employees Insurance Agency into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.~~

~~(3) After December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~

(4) (2) Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the State Treasurer:

(A) The names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet met the eligibility requirements established in §8-15-8a of this code during the preceding quarter; and

(B) The number of volunteer firefighters and the number of full-time paid members providing services to each volunteer and part-volunteer department during the preceding quarter.

(3) Each eligible volunteer fire department shall receive an equal share of the amount of proceeds to be distributed each quarter: *Provided*, That each part-volunteer department's share will be reduced by a percentage amount equal to the percentage of the members of the fire department who are full-time paid members of

the department, according to the report described in subdivision (2) of this subsection.

(e) (g) The allocation, distribution, and use of revenues provided in the Fire Protection Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.

## **CHAPTER 37. REAL PROPERTY.**

### **ARTICLE 6. LANDLORD AND TENANT.**

#### **§37-6-5a. Recovery residences.**

(a) The purpose of this section is to create one pilot program in Cabell County to study the uniqueness of recovery residences as they relate to landlord-tenant law and determine an equitable resolution when circumstances arise which bring about an unanticipated cessation of an individual's participation in a recovery residence's program.

(b) For the purposes of this section:

(1) "Recovery residence" has the meaning ascribed in §16-59-1(4) of this code.

(2) "Residence agreement" means an agreement between an individual residing in a recovery residence and the recovery residence.

(3) "Resident" means a person residing in and receiving services from a recovery residence.

(c) A recovery residence in the pilot county may immediately discharge a resident without filing a petition for summary relief for wrongful occupation of residential rental property for any of the following reasons:

(1) The use, possession, or distribution of alcohol, any controlled substance, or prescription medication for which the resident does not have a valid prescription;

(2) Sexual misconduct;

(3) Any crime of violence against a person or threat of crime of violence against a person; or

(4) Any conduct which jeopardizes the safety of another resident.

(d) If a recovery residence in the pilot county seeks to discharge a resident for a reason not enumerated in subdivisions (1) through (4), subsection (c) of this section, the resident is entitled to the due process and protections afforded a "tenant" as that term is defined in §37-6A-1 of this code; the recovery residence shall be treated as a "landlord" as that term is defined in §37-6A-1 of this code; and the recovery residence shall be required to proceed against the resident under §55-3A-1 of this code with the filing of a petition for summary relief seeking removal of the resident for wrongful occupation of residential rental property.

(e) If a resident is discharged, evicted, or otherwise removed from a recovery residence in the pilot county prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or services, the recovery residence shall issue a refund of the rent or fee to the discharged resident in an amount prorated, on a per diem basis, to account for the remainder of that time period.

(f) If requested by the resident, a recovery residence in the pilot county shall first apply any refund required by subsection (e) of this section to costs related to placing the resident in a higher level care facility or transferring the resident to another recovery residence: *Provided*, That if the resident does not request to be placed in a higher level care facility or does not request to be transferred to another recovery residence, within 72 hours of a resident's discharge, eviction, or removal, the recovery residence shall issue any refund due to a resident: *Provided, however*, That if the rent or fee moneys were paid by a third party on behalf of the resident, any refund required by subsection (e) of this section shall be issued directly to the third-party payor within 72 hours of a resident's discharge, eviction, or removal.



(g) If a resident was transported by the recovery residence in the pilot county from any location outside the state of West Virginia and is discharged, evicted, or otherwise removed from the recovery residence, the recovery residence shall provide transportation to the location from which the resident was initially transported to the discharged, evicted, or otherwise removed resident, at the expense of the recovery residence.

(h) If the resident is discharged, evicted, or otherwise removed prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or service, the recovery residence in the pilot county shall report non-identifying resident information regarding the reason for the early discharge, eviction, or removal of the resident to the West Virginia Department of Health and Human Resources, Office of Drug Control Policy.

## **ARTICLE 6A. RESIDENTIAL RENTAL SECURITY DEPOSITS.**

### **§37-6A-5. Landlord's noncompliance.**

(a) If a landlord fails to comply with any of the provisions of this article, and ~~such~~ the noncompliance is willful or not in good faith, the tenant is entitled to a judgment for:

(1) The amount of any unreturned security deposit; and

(2) Damages for annoyance or inconvenience resulting from the landlord's nonconformance equal to one and a half times the amount wrongfully withheld, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to any amount awarded to the tenant pursuant to this subsection to be credited against any rent due to the landlord: Provided, That if an individual is residing in a recovery residence in the pilot county established under the provisions of §37-6-5a, the recovery residence is required to comply with the provisions of this article, and if the recovery residence's noncompliance is willful or not in good faith, the court shall also award reasonable attorney's fees.

(b) Jurisdiction for any civil action brought pursuant to this article shall be in magistrate ~~court~~ or circuit court in the county where the residential rental premises or units are located.

(c) This section does not limit rights or remedies available to a landlord or tenant under any other law.

## **CHAPTER 55. ACTIONS, SUITS, AND ARBITRATION; JUDICIAL SALE.**

### **ARTICLE 3A. REMEDIES FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.**

#### **§55-3A-1. Petition for summary relief for wrongful occupation of residential rental property.**

(a) A person desiring to remove a tenant, including a resident of a recovery residence in the pilot county established under the provisions of §37-6-5a who is discharged for a reason other than those enumerated in §37-6-5a(c)(1) through (4) of this code, from residential rental property may apply for ~~such~~ relief to the magistrate ~~court~~ or ~~the~~ circuit court of the county in which ~~such~~ the property is located, by verified petition, setting forth the following:

(1) That he or she is the owner or agent of the owner and as such has a right to recover possession of the property;

(2) A brief description of the property sufficient to identify it;

(3) That the tenant is wrongfully occupying ~~such~~ the property in that the tenant is in arrears in the payment of rent, has breached a warranty or a leasehold covenant, or has deliberately or negligently damaged the property or knowingly permitted another person to do so, and describing such arrearage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) Previous to the filing of the petition the person shall request from the court the time and place at which the petitioner shall be heard. The court shall fix a time for ~~such~~ the hearing, which time

shall not be less than five nor more than 10 judicial days following ~~such~~ the request.

(c) Immediately upon being apprised of the time and place for the hearing, the petitioner shall ~~cause~~ have a notice of the ~~same to be~~ hearing served upon the tenant in accordance with the provisions of Rule 4 of the West Virginia Rules of Civil Procedure or by certified mail, return receipt requested. ~~Such~~ The notice shall inform the tenant that any defense to the petition ~~must~~ shall be submitted in writing to the petitioner within five days of the receipt by the tenant of the notice, and in no case later than the fifth day next preceding the date of hearing. Upon receipt of the return of service or the return receipt as the case may be, evidencing service upon the tenant, the petitioner shall file with the court his or her petition and such proof of service.

Engrossed Committee Substitute for House Bill 4087, as just amended, was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4087) passed.

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

**Eng. Com. Sub. for House Bill 4087**—A Bill to amend and reenact §15A-11-5, §29-3E-7, §33-3-14d, §33-3-33, §37-6A-5, and §55-3A-1 of the Code of West Virginia, 1931, as amended; and amend the Code of West Virginia, 1931, as amended, by adding

thereto a new section, designated §37-6-5a; relating to requiring the State Fire Commission to propose rules relating to sprinkler protection, providing that buildings commencing construction after July 1, 2022, housing emergency fire, rescue, or ambulance services shall be protected throughout by approved automatic sprinkler systems; and exempting emergency services buildings meeting certain criteria that only house equipment and do not have sleeping areas or quarters within them from the requirement; all relating generally to residents of recovery residences; creating one pilot program in Cabell County relating to recovery residences as they relate to landlord-tenant law; defining terms; providing that a resident of a recovery residence in the pilot county may be immediately discharged in certain circumstances; establishing procedures for removing recovery resident in the pilot county; establishing refund process for fees for residency or services paid to a recovery residence in the pilot county; requiring return transportation be provided to an individual transported to a recovery residence in the pilot county from outside the state of West Virginia; requiring the reporting of certain information to West Virginia Department of Health and Human Resources; requiring award of reasonable attorney's fees against recovery residence in the pilot county in certain instances; and requiring recovery residence in the pilot county file a petition for summary relief for wrongful occupation of residential rental property in certain circumstances; all relating generally to the distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments; defining terms; providing the method of allocation and distribution for proceeds of the fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; increasing certain policy surcharge; establishing effective date for policy surcharge increase; requiring the State Fire Marshal provide certain information to the State Treasurer; and clarifying the requirements for distribution of funds in the Fire Protection Fund.

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

Action as to Engrossed Committee Substitute for House Bill 4087 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4112**, Provide consumers a choice for pharmacy services.

On third reading, coming up in deferred order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Thursday, March 10, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk:

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

## **ARTICLE 51. PHARMACY AUDIT INTEGRITY ACT.**

### **§33-51-3. Definitions.**

For purposes of this article:

"340B entity" means an entity participating in the federal 340B drug discount program, as described in 42 U.S.C. § 256b, including its pharmacy or pharmacies, or any pharmacy or pharmacies, contracted with the participating entity to dispense drugs purchased through such program.

"Affiliate" means a pharmacy, pharmacist, or pharmacy technician which, either directly or indirectly through one or more intermediaries: (A) Has an investment or ownership interest in a pharmacy benefits manager licensed under this chapter; (B) shares common ownership with a pharmacy benefits manager licensed under this chapter; or (C) has an investor or ownership interest holder which is a pharmacy benefits manager licensed under this article.

"Auditing entity" means a person or company that performs a pharmacy audit, including a ~~covered entity~~, pharmacy benefits manager, managed care organization, or third-party administrator.

"Business day" means any day of the week excluding Saturday, Sunday, and any legal holiday as set forth in §2-2-1 of this code.

"Claim level information" means data submitted by a pharmacy, or required by a ~~payer~~ payor, or claims processor to adjudicate a claim.

~~"Covered entity" means a contract holder or policy holder providing pharmacy benefits to a covered individual under a health insurance policy pursuant to a contract administered by a pharmacy benefits manager and may include a health benefit plan.~~

"Covered individual" means a member, participant, enrollee, or beneficiary of a ~~covered entity~~ health benefit plan who is provided ~~health coverage~~ health care service coverage by a ~~covered entity~~ health benefit plan, including a dependent or other person provided health coverage through the policy or contract of a covered individual.

"Extrapolation" means the practice of inferring a frequency of dollar amount of overpayments, underpayments, nonvalid claims, or other errors on any portion of claims submitted, based on the frequency of dollar amount of overpayments, underpayments, nonvalid claims, or other errors actually measured in a sample of claims.

"Defined cost sharing" means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health plan.

"Health benefit plan" or "health plan" means a policy, contract, certificate, or agreement entered into, offered, or issued by a ~~health carrier~~ health care payor to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Health care payor" or "payor" means a health insurance company, a health maintenance organization, a hospital, medical,

or dental corporation, a health care corporation, an entity that provides, administers, or manages a self-funded health benefit plan, including a governmental plan, or any other payor that provides prescription drug coverages, including a workers' compensation insurer. Health care payor does not include an insurer that provides coverage under a policy of casualty or property insurance.

"Health care provider" has the same meaning as defined in §33-41-2 of this code.

"Health insurance policy" means a policy, subscriber contract, certificate, or plan that provides prescription drug coverage. The term includes both comprehensive and limited benefit health insurance policies.

"Insurance commissioner" or "commissioner" has the same meaning as defined in §33-1-5 of this code.

"Network" means a pharmacy or group of pharmacies that agree to provide prescription services to covered individuals on behalf of a ~~covered entity or group of covered entities~~ health benefit plan in exchange for payment for its services by a pharmacy benefits manager or pharmacy services administration organization. The term includes a pharmacy that generally dispenses outpatient prescriptions to covered individuals or dispenses particular types of prescriptions, provides pharmacy services to particular types of covered individuals or dispenses prescriptions in particular health care settings, including networks of specialty, institutional or long-term care facilities.

"Maximum allowable cost" means the per unit amount that a pharmacy benefits manager reimburses a pharmacist for a prescription drug, excluding dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any.

"National average drug acquisition cost" means the monthly survey of retail pharmacies conducted by the federal Centers for Medicare and Medicaid Services to determine average acquisition cost for Medicaid covered outpatient drugs.

"Nonproprietary drug" means a drug containing any quantity of any controlled substance or any drug which is required by any applicable federal or state law to be dispensed only by prescription.

"Pharmacist" means an individual licensed by the West Virginia Board of Pharmacy to engage in the practice of pharmacy.

"Pharmacy" means any place within this state where drugs are dispensed and pharmacist care is provided.

"Pharmacy audit" means an audit, conducted ~~on-site~~ by or on behalf of an auditing entity of any records of a pharmacy for prescription or nonproprietary drugs dispensed by a pharmacy to a covered individual.

"Pharmacy benefits management" means the performance of any of the following:

(1) The procurement of prescription drugs at a negotiated contracted rate for dispensation within the state of West Virginia to covered individuals;

(2) The administration or management of prescription drug benefits provided by a ~~covered entity~~ health benefit plan for the benefit of covered individuals;

(3) The administration of pharmacy benefits, including:

(A) Operating a mail-service pharmacy;

(B) Claims processing;

(C) Managing a retail pharmacy network;

(D) Paying claims to a pharmacy for prescription drugs dispensed to covered individuals via retail or mail-order pharmacy;

(E) Developing and managing a clinical formulary including utilization management and quality assurance programs;

(F) Rebate contracting administration; and



(G) Managing a patient compliance, therapeutic intervention, and generic substitution program.

"Pharmacy benefits manager" means a person, business, or other entity that performs pharmacy benefits management for ~~covered entities~~ health benefit plans;

"Pharmacy record" means any record stored electronically or as a hard copy by a pharmacy that relates to the provision of prescription or nonproprietary drugs or pharmacy services or other component of pharmacist care that is included in the practice of pharmacy.

"Pharmacy services administration organization" means any entity that contracts with a pharmacy to assist with ~~third-party payer~~ payor interactions and that may provide a variety of other administrative services, including contracting with pharmacy benefits managers on behalf of pharmacies and managing pharmacies' claims payments from ~~third-party payers~~ payors.

"Point-of-sale fee" means all or a portion of a drug reimbursement to a pharmacy or other dispenser withheld at the time of adjudication of a claim for any reason.

"Rebate" means any and all payments that accrue to a pharmacy benefits manager or its health plan client, directly or indirectly, from a pharmaceutical manufacturer, including, but not limited to, discounts, administration fees, credits, incentives, or penalties associated directly or indirectly in any way with claims administered on behalf of a health plan client. The term "rebate" does not include any discount or payment that may be provided to or made to any 340B entity through such program.

"Retroactive fee" means all or a portion of a drug reimbursement to a pharmacy or other dispenser recouped or reduced following adjudication of a claim for any reason, except as otherwise permissible as described in this article.

"Specialty drug" means a drug used to treat chronic and complex, or rare medical conditions and requiring special handling or administration, provider care coordination, or patient education

that cannot be provided by a non-specialty pharmacy or pharmacist.

~~"Third party" means any insurer, health benefit plan for employees which provides a pharmacy benefits plan, a participating public agency which provides a system of health insurance for public employees, their dependents and retirees, or any other insurer or organization that provides health coverage, benefits, or coverage of prescription drugs as part of workers' compensation insurance in accordance with state or federal law. The term does not include an insurer that provides coverage under a policy of casualty or property insurance.~~

### **§33-51-8. Licensure of pharmacy benefit managers.**

(a) A person or organization may not establish or operate as a pharmacy benefits manager in the state of West Virginia without first obtaining a license from the Insurance Commissioner pursuant to this section: *Provided*, That a pharmacy benefit manager registered pursuant to ~~§33-51-7~~ of this code may continue to do business in the state until the Insurance Commissioner has completed the legislative rule as set forth in ~~§33-55-10~~ §33-51-10 of this code: *Provided, however*, That additionally the pharmacy benefit manager shall submit an application within six months of completion of the final rule. The Insurance Commissioner shall make an application form available on its publicly accessible internet website that includes a request for the following information:

(1) The identity, address, and telephone number of the applicant;

(2) The name, business address, and telephone number of the contact person for the applicant;

(3) When applicable, the federal employer identification number for the applicant; and

(4) Any other information the Insurance Commissioner considers necessary and appropriate to establish the qualifications to receive a license as a pharmacy benefit manager to complete the

licensure process, as set forth by legislative rule promulgated by the Insurance Commissioner pursuant to §33-51-10 of this code.

(b) *Term and fee.* —

(1) The term of licensure shall be two years from the date of issuance.

(2) The Insurance Commissioner shall determine the amount of the initial application fee and the renewal application fee for the registration. The fee shall be submitted by the applicant with an application for registration. An initial application fee is nonrefundable. A renewal application fee shall be returned if the renewal of the registration is not granted.

(3) The amount of the initial application fees and renewal application fees must be sufficient to fund the Insurance Commissioner's duties in relation to his/her responsibilities under this section, but a single fee may not exceed \$10,000.

(4) Each application for a license, and subsequent renewal for a license, shall be accompanied by evidence of financial responsibility in an amount of \$1 million.

(c) *Licensure.* —

(1) The Insurance Commissioner shall propose legislative rules, in accordance with §33-51-10 of this code, establishing the licensing, fees, application, financial standards, and reporting requirements of pharmacy benefit managers.

(2) Upon receipt of a completed application, evidence of financial responsibility, and fee, the Insurance Commissioner shall make a review of each applicant and shall issue a license if the applicant is qualified in accordance with the provisions of this section and the rules promulgated by the Insurance Commissioner pursuant to this section. The commissioner may require additional information or submissions from an applicant and may obtain any documents or information reasonably necessary to verify the information contained in the application.

(3) The license may be in paper or electronic form, is nontransferable, and shall prominently list the expiration date of the license.

(d) *Network adequacy.* —

(1) A pharmacy benefit manager's network shall be reasonably adequate, shall provide for convenient patient access to pharmacies within a reasonable distance from a patient's residence and shall not be comprised only of mail-order benefits but must have a mix of mail-order benefits and physical stores in this state.

(2) A pharmacy benefit manager shall provide a pharmacy benefit manager's network report describing the pharmacy benefit manager's network and the mix of mail-order to physical stores in this state in a time and manner required by rule issued by the Insurance Commissioner pursuant to this section. A pharmacy benefit manager's network report shall include a detailed description of any separate, sub-networks for specialty drugs.

(3) Failure to provide a timely report may result in the suspension or revocation of a pharmacy benefit manager's license by the Insurance Commissioner.

(4) A pharmacy benefit manager may not require a pharmacy or pharmacist, as a condition for participating in the pharmacy benefit manager's network, to obtain or maintain accreditation, certification, or credentialing that is inconsistent with, more stringent than, or in addition to state requirements for licensure or other relevant federal or state standards.

(e) *Enforcement.* —

(1) The Insurance Commissioner shall enforce this section and may examine or audit the books and records of a pharmacy benefit manager providing pharmacy benefits management to determine if the pharmacy benefit manager is in compliance with this section: *Provided*, That any information or data acquired during the examination or audit is considered proprietary and confidential and exempt from disclosure under the West Virginia Freedom of Information Act pursuant to §29B-1-4(a)(1) of this code.

(2) The Insurance Commissioner may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code regulating pharmacy benefit managers in a manner consistent with this chapter. Rules adopted pursuant to this section shall set forth penalties or fines, including, without limitation, monetary fines, suspension of licensure, and revocation of licensure for violations of this chapter and the rules adopted pursuant to this section.

~~(f) *Applicability.*—~~

~~This section is applicable to any contract or health benefit plan issued, renewed, recertified, amended, or extended on or after July 1, 2019.~~

**§33-51-9. Regulation of pharmacy benefit managers.**

(a) A pharmacy, a pharmacist, and a pharmacy technician shall have the right to provide a covered individual with information related to lower cost alternatives and cost share for the covered individual to assist health care consumers in making informed decisions. Neither a pharmacy, a pharmacist, nor a pharmacy technician may be penalized by a pharmacy benefit manager for discussing information in this section or for selling a lower cost alternative to a covered individual, if one is available, without using a health insurance policy.

(b) A pharmacy benefit manager may not collect from a pharmacy, a pharmacist, or a pharmacy technician a cost share charged to a covered individual that exceeds the total submitted charges by the pharmacy or pharmacist to the pharmacy benefit manager.

~~(c) A pharmacy benefit manager may only directly or indirectly charge or hold a pharmacy, a pharmacist, or a pharmacy technician responsible for a fee related to the adjudication of a claim if:~~

~~(1) The total amount of the fee is identified, reported, and specifically explained for each line item on the remittance advice of the adjudicated claim; or~~

~~(2) The total amount of the fee is apparent at the point of sale and not adjusted between the point of sale and the issuance of the remittance advice.~~

~~(d)~~ (c) A pharmacy benefit manager, ~~or any other third party,~~ that reimburses a 340B entity for drugs that are subject to an agreement under 42 U.S.C. § 256b shall not reimburse the 340B entity for pharmacy-dispensed drugs at a rate lower than that paid for the same drug to pharmacies similar in prescription volume that are not 340B entities, and shall not assess any fee, charge-back, or other adjustment upon the 340B entity on the basis that the 340B entity participates in the program set forth in 42 U.S.C. §256b. For purposes of this subsection, the term "other adjustment" includes placing any additional requirements, restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or fees to the 340B entity that are not placed upon other pharmacies that do not participate in the 340B program, including affiliate pharmacies of the pharmacy benefit manager, and further includes but is not limited to requiring a claim for a drug to include a modifier or be processed or resubmitted to indicate that the drug is a 340B drug. Provided, That nothing in this subsection shall be construed to prohibit the Medicaid program or a Medicaid managed care organization as described in 42 U.S.C. § 1396b(m) from preventing duplicate discounts as described in 42 U.S.C. 256b(a)(5)(A)(i). The provisions of this subsection are applicable to the West Virginia Public Employees Insurance Agency.

~~(e)~~ (d) With respect to a patient eligible to receive drugs subject to an agreement under 42 U.S.C. § 256b, a pharmacy benefit manager, ~~or any other third party that makes payment for such drugs,~~ shall not discriminate against a 340B entity in a manner that prevents or interferes with the patient's choice to receive such drugs from the 340B entity: *Provided, That for purposes of this section, "third party" does not include* apply to the state Medicaid program when Medicaid is providing reimbursement for covered outpatient drugs, as that term is defined in 42 U.S.C. §1396r-8(k), on a fee-for-service basis: Provided, however, That "third party" does include this subsection does apply to a Medicaid-managed care organization as described in 42 U.S.C. § 1396b(m). For purposes

of this subsection, it shall be considered a discriminatory practice that prevents or interferes with a patient's choice to receive drugs at a 340B entity if a pharmacy benefit manager places additional requirements, restrictions or unnecessary burdens upon a 340B entity that results in administrative costs or fees to the 340B entity that are not placed upon other pharmacies that do not participate in the 340B program, including affiliate pharmacies of the pharmacy benefit manager or any other third-party, and further includes but is not limited to requiring a claim for a drug to include a modifier or be processed or resubmitted to indicate that the drug is a 340B drug. *Provided* further, That nothing in this subsection shall be construed to prohibit the Medicaid program or a Medicaid managed care organization as described in 42 U.S.C. § 1396b(m) from preventing duplicate discounts as described in 42 U.S.C. 256b(a)(5)(A)(i). The provisions of this subsection are applicable to the West Virginia Public Employees Insurance Agency.

~~(f)~~ (e) A pharmacy benefit manager may not reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the national average drug acquisition cost for the prescription drug or pharmacy service at the time the drug is administered or dispensed, plus a professional dispensing fee of \$10.49: *Provided*, That if the national average drug acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy benefit manager may not reimburse in an amount that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus a professional dispensing fee of \$10.49.

~~(g)~~ (f) A pharmacy benefit manager may not reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the amount the pharmacy benefit manager reimburses itself or an affiliate for the same prescription drug or pharmacy service.

~~(h)~~ (g) The commissioner may order reimbursement to an insured, pharmacy, or dispenser who has incurred a monetary loss as a result of a violation of this article or legislative rules implemented pursuant to this article.

~~(i)~~(h) (1) Any methodologies utilized by a pharmacy benefits manager in connection with reimbursement shall be filed with the commissioner at the time of initial licensure and at any time thereafter that the methodology is changed by the pharmacy benefit manager for use in determining maximum allowable cost appeals. The methodologies are not subject to disclosure and shall be treated as confidential and exempt from disclosure under the West Virginia Freedom of Information Act §29B-1-4(a)(1) of this code. The filed methodologies shall comply with the provisions of §33-51-9(e) of this code, and a pharmacy benefits manager shall not enter into a contract with a pharmacy that provides for reimbursement methodology not permissible under the provisions of §33-51-9(e) of this code.

(2) For purposes of complying with the provisions of §33-51-9(e) of this code, A pharmacy benefits manager shall utilize the most recently published monthly national average drug acquisition cost as a point of reference for the ingredient drug product component of a pharmacy's reimbursement for drugs appearing on the national average drug acquisition cost list; and,

~~(j)~~(i) A pharmacy benefits manager may not:

(1) Discriminate in reimbursement, assess any fees or adjustments, or exclude a pharmacy from the pharmacy benefit manager's network on the basis that the pharmacy dispenses drugs subject to an agreement under 42 U.S.C. § 256b; or

(2) Engage in any practice that:

(A) In any way bases pharmacy reimbursement for a drug on patient outcomes, scores, or metrics. This does not prohibit pharmacy reimbursement for pharmacy care, including dispensing fees from being based on patient outcomes, scores, or metrics so long as the patient outcomes, scores, or metrics are disclosed to and agreed to by the pharmacy in advance;

(B) Includes imposing a point-of-sale fee or retroactive fee; or

(C) Derives any revenue from a pharmacy or insured in connection with performing pharmacy benefits management



services: *Provided*, That this may not be construed to prohibit pharmacy benefits managers from ~~receiving~~ processing deductibles or copayments as have been approved by a covered individual's health benefit plan.

~~(k)~~(j) A pharmacy benefits manager shall offer a health plan the option of charging such health plan the same price for a prescription drug as it pays a pharmacy for the prescription drug: *Provided*, That a pharmacy benefits manager shall charge a health benefit plan administered by or on behalf of the state or a political subdivision of the state, the same price for a prescription drug as it pays a pharmacy for the prescription drug.

~~(k)~~(k) A covered individual's defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to at least 100% percent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Any rebate over and above the defined cost sharing would then be passed on to the health plan to reduce premiums. Nothing precludes an insurer from decreasing a covered individual's defined cost sharing by an amount greater than what is previously stated. The commissioner may propose a legislative rule or by policy effectuate the provisions of this subsection. ~~Notwithstanding any other effective date to the contrary, the amendments to this article enacted during the 2021 regular legislative session shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after January 1, 2022.~~

~~(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2022. This section applies to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after the effective date of this section.~~

### **§33-51-11. Freedom of consumer choice for pharmacy.**

(a) A pharmacy benefits manager ~~or health benefit plan~~, may not:

(1) Prohibit or limit any covered individual from selecting a pharmacy or pharmacist of his or her choice who has agreed to participate in the health benefit plan according to the terms offered by the ~~insurer~~ health benefit plan;

(2) Deny a pharmacy or pharmacist the right to participate as a contract provider under the policy or plan if the pharmacy or pharmacist agrees to provide pharmacy services, including, but not limited to, prescription drugs, that meet the terms and requirements set forth by the ~~insurer under the policy or~~ health benefit plan and agrees to the terms of reimbursement set forth by the insurer;

(3) Impose upon a pharmacy or pharmacist, as a condition of participation in a health benefit plan network, any course of study, accreditation, certification, or credentialing that is inconsistent with, more stringent than, or in addition to state requirements for licensure or certification as provided for in the §30-5-1 et seq. and legislative rules of the Board of Pharmacy.

~~(3)~~(4) Impose upon a beneficiary of pharmacy services under a health benefit plan any copayment, fee, or condition that is not equally imposed upon all beneficiaries in the same benefit category, class, or copayment level under the health benefit plan when receiving services from a contract provider;

~~(4)~~ (5) Impose a monetary advantage or penalty under a health benefit plan that would affect a beneficiary's choice among those pharmacies or pharmacists who have agreed to participate in the plan according to the terms offered by the insurer. Monetary advantage or penalty includes higher copayment, a reduction in reimbursement for services, or promotion of one participating pharmacy over another by these methods;

~~(5)~~ (6) Reduce allowable reimbursement for pharmacy services to a beneficiary under a health benefit plan because the beneficiary selects a pharmacy of his or her choice, so long as that pharmacy has enrolled with the health benefit plan under the terms offered to all pharmacies in the plan coverage area;

(7) Prohibit or otherwise limit a beneficiary's access to prescription drugs from a pharmacy or pharmacist enrolled with the health benefit plan under the terms offered to all pharmacies in the plan coverage area by unreasonably designating the covered prescription drug as a specialty drug. Any beneficiary or pharmacy impacted by an alleged violation of this subsection may file a complaint with the Insurance Commissioner, who shall, in consultation with the West Virginia Board of Pharmacy, make a determination as to whether the covered prescription drug meets the definition of a specialty drug;

(8) Limit a beneficiary's access to specialty drugs;

~~(6)~~ (9) Require a beneficiary, as a condition of payment or reimbursement, to purchase pharmacy services, including prescription drugs, exclusively through a mail-order pharmacy; or

~~(7)~~ (10) Impose upon a beneficiary any copayment, amount of reimbursement, number of days of a drug supply for which reimbursement will be allowed, or any other payment or condition relating to purchasing pharmacy services from any pharmacy, including prescription drugs, that is are more costly or more restrictive than that which would be imposed upon the beneficiary if such services were purchased from a mail-order pharmacy or any other pharmacy that is willing to provide the same services or products for the same cost and copayment as any mail order service.

(b) If a health benefit plan providing reimbursement to West Virginia residents for prescription drugs restricts pharmacy participation, the ~~entity providing the~~ health benefit plan shall notify, in writing, all pharmacies within the geographical coverage area of the health benefit plan, and offer to the pharmacies the opportunity to participate in the health benefit plan at least 60 days prior to the effective date of the plan. All pharmacies in the geographical coverage area of the plan shall be eligible to participate under identical reimbursement terms for providing pharmacy services, including prescription drugs. Participating pharmacies shall be entitled to 30 business days effective date notice for any subsequent contract amendment or provider manual

change by a health benefit plan or a pharmacy benefit manager. The ~~entity providing the~~ health benefit plan shall, through reasonable means, on a timely basis and on regular intervals, inform the beneficiaries of the plan of the names and locations of pharmacies that are participating in the plan as providers of pharmacy services and prescription drugs. Additionally, participating pharmacies shall be entitled to announce their participation to their customers through a means acceptable to the pharmacy and the ~~entity providing the~~ health benefit plans. The pharmacy notification provisions of this section shall not apply when an individual or group is enrolled, but when the plan enters a particular county of the state.

(c) The Insurance Commissioner shall not approve any pharmacy benefits manager or health benefit plan providing pharmaceutical services which do not conform to this section.

(d) Any covered individual or pharmacy injured by a violation of this section may maintain a cause of action to enjoin the continuance of any such violation.

(e) This section shall apply to all pharmacy benefits managers and health benefit plans providing pharmaceutical services benefits, including prescription drugs, to any resident of West Virginia. ~~For purposes of this section, "health benefit plan" means any entity or program that provides reimbursement for pharmaceutical services. This section shall also apply to insurance companies and health maintenance organizations that provide or administer coverages and benefits for prescription drugs.~~ This section shall not apply to any entity that has its own facility, employs or contracts with physicians, pharmacists, nurses, and other health care personnel, and that dispenses prescription drugs from its own pharmacy to its employees and dependents enrolled in its health benefit plan; but this section shall apply to an entity otherwise excluded that contracts with an outside pharmacy or group of pharmacies to provide prescription drugs and services.

**§33-51-~~12~~13. Effective date.**

Notwithstanding any other effective date to the contrary, the amendments to this article enacted during the 2022 regular legislative session shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after January 1, 2023.

Following discussion,

The question being on the adoption of the Health and Human Resources committee amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4112, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4112 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo and Romano—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4112) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub for House Bill 4112**—A Bill to amend and reenact §33-51-3, §33-51-8, §33-51-9, and §33-51-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-51-13, all relating to the regulation of pharmacy benefit managers; defining terms; updating terminology; prohibiting a pharmacy benefit manager from limiting a consumer's access to prescription drugs through the designation of specialty drugs; prohibiting a pharmacy benefit manager from placing certain requirements or restrictions on a pharmacist or pharmacy; updating requirements placed upon 340B entities; clarifying how drug acquisition cost is to be calculated; requiring pharmacy benefit managers to disclose any sub-networks for specialty drugs to the Insurance Commissioner; prohibiting a pharmacy benefit manager from limiting network access; providing clarification regarding assessment of fees related to adjudication of claims; providing clarification regarding criteria for requirements of methodologies; requiring notice of contract changes; and providing an effective date.

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

Action as to Engrossed Committee Substitute for House Bill 4112 having been concluded, the Senate proceeded to the consideration of

**Eng. House Bill 4288**, Relating to expanding the practice of auricular acudetox to professions approved by the acupuncturist board.

On third reading, coming up in deferred order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: Tarr and Woelfel—2.

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. 4288) passed with its title.

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

Action as to Engrossed House Bill 4288 having been concluded, the Senate proceeded to the consideration of

**Eng. House Bill 4355**, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

On third reading, coming up in deferred order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Thursday, March 10, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the bill was withdrawn.

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

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

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED  
AT STATE INSTITUTIONS OF HIGHER EDUCATION.**

**§18B-10-14. Bookstores.**

(a) Definitions: The following words when used in this section have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) "Digital Courseware" means a system of educational content and software designed to support the delivery of all or part of a particular course. The term does not include a learning management platform or any other software system designed to provide support for courses generally;

(2) "Course material" means a textbook, supplemental material, or open educational resource; and

(3) "Open Education Resource Materials" has the meaning assigned in §10-1-14a of this code.

~~(a)~~ (b) Each governing board may establish and operate a bookstore at the institutions under its jurisdiction to sell course materials, educational materials, books, stationery, and other school and office supplies generally carried in college bookstores.

~~(b)~~ (c) The prices to be charged may not be less than the prices fixed by any fair trade agreements and shall, in all cases, include in addition to the purchase price paid by the bookstore, a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage, and other operating expenses.

~~(c)~~ (d) Each governing board shall establish, or if already established, continue, an educational materials affordability committee consisting of faculty, students, administrators and bookstore representatives and the committee shall make recommendations to the governing board to:

(1) ~~Ensure that~~ Encourage bookstores operated at institutions under its jurisdiction minimize the costs to students of purchasing educational materials;

(2) ~~Ensure~~ Encourage course instructors to select appropriate, high quality course educational materials; ~~are selected by course instructors~~

(3) Encourage and incentivize the use of previous or older versions of basic educational materials to the extent those older versions are available and less costly to students and remain



relevant, high quality educational materials with up-to-date information and content;

(4) Require the repurchase and resale of educational materials on an institutional basis;

(5) ~~Provide for~~ Encourage the use of certain basic educational materials for a reasonable number of years;

(6) Encourage ~~and incentivize~~ the use of emerging technologies, such as electronic textbooks, online textbooks, print-on-demand services, and other open resource materials; and

(7) Prohibit employees from profiteering by requiring the purchase of one-time use materials (such as worksheets) or receiving payment or other consideration as an inducement to require students to purchase ~~particular textbooks~~ course materials.

~~(d) The Legislature recognizes that in 2004, the Congress of the United States commissioned the United States Government Accountability Office to study the high prices of college textbooks. Upon completion of the study, the Legislative Oversight Commission on Education Accountability shall obtain the results and any related reports produced by the office.~~

(e) An employee of a governing board:

(1) May not:

(A) Receive a payment, loan, subscription, advance, deposit of money, service, benefit or thing of value, present or promised, as an inducement for requiring students to purchase a specific ~~textbook~~ course material for coursework or instruction; or

(B) Require for any course a ~~textbook~~ course material that includes his or her own writing or work if the ~~textbook~~ course material incorporates either detachable worksheets or workbook-style pages intended to be written on or removed from the ~~textbook~~ course material. This provision does not prohibit an employee from requiring as a supplement to a ~~textbook~~ course materials any

workbook or similar material which is published independently from the ~~textbook~~ course material; and

(2) May receive:

(A) Sample copies, instructor's copies and instructional material which are not to be sold; and

(B) Royalties or other compensation from sales of ~~textbooks~~ course materials that include the employee's own writing or work.

(f) A governing board shall provide to students a listing of ~~textbooks~~ course materials required or assigned for any course offered at the institution.

(1) The listing shall be prominently posted:

(A) In a central location at the institution;

(B) In any campus bookstore; and

(C) On the institution's website.

(2) The list shall include for each textbook the International Standard Book Number (ISBN), the edition number and any other relevant information.

(3) The list shall include whether the course material is an open educational resource material, and whether all educational materials required for the course or course section are generally available at no cost and without limitation to all students enrolled in the course or course section.

(4) The list shall include any associated fee or charge, such as a technology cost, library use cost, or printing or publication fee.

(5) If the student will be charged for the course material or for access to digital courseware for a course by the institution or another entity on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term, the list shall include the disclosures required under subsections (g)-(j) of this section.

~~(3)~~ (6) An institution shall post a ~~book~~ course material to the listing when the adoption process is complete and, for course materials that comes at a cost to the student, when the ~~textbook~~ course material is designated for order by the bookstore.

(g) An institution shall disclose to a student enrolled at the institution as provided by this section any charges for course materials or access to digital courseware assessed by the institution or another entity to the student on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term, regardless of how the charge is assessed on an opt-in, opt-out, or compulsory basis. This subsection does not apply to a charge assessed for a purchase initiated by the student separately from the enrollment process at the institution, such as the purchase of course materials at a bookstore that may be charged to the student's account at the institution.

(h) If the required course materials or digital courseware have not been selected prior to a student's enrollment in a course or course section such that the requirements of subsection (g) are not met, or if a change to the course materials or digital courseware required would cause an increased charge to the student, the institution shall:

(1) Provide individual notice to each student affected of the new or increased charges, including all of the information required under subsection (g);

(2) Provide each student affected with the opportunity to withdraw from the course or course section, or change to a different course or course section, without penalty; and

(3) Only assess the new or increased charge to a student if that student affirmatively opts in to accepting the charge for that specific course or course section.

(i) For a charge described by subsection (g) that is assessed based on the cost of required or recommended course materials or

access to digital courseware for a certain course or course section in which the student is enrolled, the institution shall:

(1) In the listing required under subsection (f), state or provide an internet website link to:

(A) The full amount of the charge;

(B) If the charge is for a course material in a primarily electronic format or for access to digital courseware, the terms under which the publisher of the course material or digital courseware collects and uses student data obtained through a student's use of the course material or digital courseware; and

(C) Any provision that allows the student to opt in or opt out of the charge or the collection or use of the student's data; and

(2) Itemize the charge separately from any other charges assessed for the course or course section in the institution's billing to the student.

(j) For a charge described by subsection (g) that is assessed on the basis of the number of semester credit hours or the equivalent or the number of courses in which the student is enrolled or on any other basis not described by subsection (i), the institution shall:

(1) Include the amount of the charge in the institution's tuition or fees under §18B-10-1 of this code;

(2) In a prominent location in any written or electronic agreement authorizing the charge, disclose:

(A) If the charge is for course materials in a primarily electronic format or for access to digital courseware, the terms under which the publisher of the course material or digital courseware collects and uses student data obtained through a student's use of the course material or digital courseware; and

(B) Any provision that allows the student to opt in or opt out of the charge or the collection or use of the student's data; and

(3) Not assess the charge to a student for a course or course section for which all required educational materials are generally available at no cost in at least one form to the student, such as:

(A) An open educational resource material;

(B) Digital materials available at no cost through a multi-user license held by the institution's library; or

(C) Other lawfully made materials available to the public at no cost and without limitation to all students enrolled in the course or course section.

(k) An institution may enter into an agreement between the institution and an entity under which the institution assesses on the entity's behalf or allows the entity to assess a charge described by subsection (g) to students enrolled at the institution only if:

(1) The institution's educational materials affordability committee established under subsection (d) determines the agreement to be consistent with the goals enumerated in subsection (d);

(2) The governing board of the institution adopts a policy that provides that:

(A) The institution's refund policy would apply with respect to the charges assessed to a student if the student withdraws from the course or course section; and

(B) A student may opt out of the charge at any time during a period beginning no later than when the student enrolls in the course or course section or takes any other action triggering the assessment of the charge, and ending no earlier than the last day to withdraw from the course without penalty;

(3) The agreement does not provide for a penalty or charge added to price of materials provided under the agreement based on failing to meet a target or quota for a number or percentage of:

(A) Students to whom the charge is assessed; or

(B) Courses or course sections for which the charge is assessed; and

(4) The agreement prohibits the entity from engaging in, or authorizing third parties to engage in, the sale, disclosure, licensing, use, retention, or other exploitation of any data collected under the agreement, including but not limited to personally identifiable information, location data, anonymized data, and any materials derived therefrom, except as expressly authorized, in each case, in the agreement: *Provided*, That this subsection shall not apply to the disclosure of information to a government entity or scholarship entity in order to be reimbursed for the distribution of course materials to a student using financial aid subsidies for course materials.

(l) An agreement authorized under subsection (k) is a public record under chapter 29B of this code.

(m) An institution may not deny, or enter into an agreement with another entity that would permit the entity to deny, a student access to educational materials for which the student has been, or would otherwise be, automatically charged under subsection (g) based on the student's refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of any data pertaining to the student that would be obtained through the student's use of the educational materials.

~~(g)~~ (n) All moneys derived from the operation of the bookstore shall be paid into a special revenue fund as provided in §12-2-2 of this code. Subject to the approval of the Governor, each governing board periodically shall change the amount of the revolving fund necessary for the proper and efficient operation of each bookstore.

~~(h)~~ (o) Moneys derived from the operation of the bookstore shall be used first to replenish the stock of goods and to pay the costs of operating and maintaining the bookstore. Notwithstanding any other provision of this section, any institution that has contracted with a private entity for bookstore operation shall deposit into an appropriate account all revenue generated by the

operation and enuring to the benefit of the institution. The institution shall use the funds for nonathletic scholarships.

~~(i)~~ (p) Each governing board shall promulgate a rule in accordance with the provisions of §18B-1-6 of this code to implement the provisions of this section

~~(j)~~ (q) This section applies to ~~textbook~~ course material sales and bookstores supported by an institution's auxiliary services and those operated by a private contractor.

(r) This section may not be construed to affect any authority granted to a faculty member by an institution to select course materials for courses taught by the faculty member.

~~(k) "Educational Materials" means textbooks and other supplementary course materials that come at a cost to the student, regardless of format.~~

Engrossed House Bill 4355, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Maynard—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4355) 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 4355**—A Bill to amend and reenact §18B-10-14 of the Code of West Virginia, 1931, as amended, relating to

higher education course materials and digital courseware; defining terms; modifying requirements for recommendations by an educational materials affordability committee to the higher education institution governing board; removing obsolete language; changing the term textbook to course material; modifying information that is required to be included in the listing of course materials required or assigned for any course offered at an institution; requiring institution to disclose to a student enrolled at the institution any charges for course materials or access to digital courseware assessed by the institution or another entity to the student on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term; imposing requirements on institutions in instances where the required course materials or digital courseware has not been selected prior to a student's enrollment or if a change to the course materials or digital courseware required would cause an increased charge to the student; imposing requirements on institutions in instances where certain charges are assessed based on the cost of required or recommended course material or access to digital courseware for a certain course or course section in which the student is enrolled; imposing requirements on institutions in instances where certain charges are assessed on the basis of the number of semester credit hours or the equivalent or the number of courses in which the student is enrolled or on certain other basis; allowing an institution to enter into an agreement between the institution and an entity under which the institution assesses on the entity's behalf or allows the entity to assess a charge; allows an institution to enter into an agreement between the institution and an entity under which the institution assesses on the entity's behalf or allows the entity to assess a certain described charge to students enrolled at the institution under certain conditions; making the agreement a public record; prohibiting an institution from denying or entering into an agreement with another entity that would permit the entity to deny, a student access to certain educational materials on the student's refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of any data pertaining to the student that would be obtained through the student's use of the educational materials; and providing that section cannot be construed to affect any authority granted to a



faculty member by an institution to select course materials for courses taught by the faculty member.

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

Action as to Engrossed House Bill 4355 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4511**, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

On third reading, coming up in deferred order, was read a third time and put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4511) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4511**—A Bill to amend and reenact §36-8-1, §36-8-2, §36-8-8, §36-8-10, §36-8-13, §36-8-15, §36-8-25, and §36-8-33 of the Code of West Virginia, 1931, as amended, all relating generally to unclaimed property and escheatment of said property to the state; defining terms; setting forth presumption of abandonment period for virtual currency;

setting forth the presumption of abandonment period for demand, savings, or time deposits; requiring the holder of virtual currency to liquidate said currency prior to remittance to the state; providing that the owner of abandoned virtual currency has no recourse against the holder or state for gain in value after liquidation; providing that the administrator shall reimburse the holder of a safety deposit box for the cost of opening said box upon remittance to the administrator using administrative funds in the Unclaimed Property Fund; authorizing the administrator to invest the moneys in the Unclaimed Property Fund and allowing earnings to accrue to said fund; eliminating obsolete language related to previous transfers of moneys from the Unclaimed Property Fund; discontinuing an annual transfer from the Unclaimed Property Trust Fund to the Prepaid Trust Escrow Fund and instead providing for an annual transfer from the Unclaimed Property Trust Fund to the Jumpstart Savings Trust Fund; authorizing the administrator to waive the requirement that an apparent owner file a claim with the administrator in certain circumstances; permitting the administrator to disclose the monetary value and nature or type of a property to a person who is reasonably believed to be the property's apparent owner or a person authorized to receive the property on the owner's behalf; and requiring the administrator to publish a report including certain unclaimed property data for the most recently concluded fiscal year.

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

Action as to Engrossed Committee Substitute for House Bill 4511 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4634**, Relating to occupational licensing or other authorization to practice.

On third reading, coming up in deferred order, with the right having been granted on yesterday, Thursday, March 10, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Lindsay, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page four, section four, after line eleven, by inserting two new subdivisions, designated subdivision (3) and subdivision (4), to read as follows:

(3) The person qualifies for employment under the E-Verify program administered by the United States Department of Homeland Security and the United States Social Security Administration;

(4) The person can show proof he or she passed a drug and alcohol test within the previous 12 months that meets the requirements set out in §21-1D-2, *et seq.* of this code.;

And,

By renumbering the remaining subdivisions.

Following discussion,

The question being on the adoption of Senator Lindsay's amendments to the bill, and on this question, Senator Baldwin demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Plymale, Romano, Stollings, Sypolt, and Woelfel—12.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

Absent: None.

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

On motion of Senator Romano, the following amendment to the bill (Eng. Com. Sub. for H. B. 4634) was next reported by the Clerk:

On page five, section nine, lines one through three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection (a), to read as follows:

(a) An occupational license or other authorization to practice issued pursuant to this article may only be issued to a person who holds a valid occupational license or other authorization in another state which has entered into a licensing compact or reciprocity agreement with this state or otherwise expressly provides for such reciprocity by the laws of that state.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Baldwin demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Nelson, Plymale, Romano, Stollings, Stover, Takubo, Weld, and Woelfel—15.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Tarr, Trump, Woodrum, and Blair (Mr. President)—19.

Absent: None.

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

On motion of Senator Romano, the following amendment to the bill (Eng. Com. Sub. for H. B. 4634) was next reported by the Clerk:

On page three, section three, line fourteen, after the word "code" by changing the semicolon to a colon and inserting the following proviso: *Provided*, That notwithstanding any provision of code to the contrary, the board shall request and the Tax Commissioner shall provide confirmation of whether the applicant for issuance of an occupational license has filed a resident tax return for the most recent year without disclosure of any other information.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Baldwin demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, and Woelfel—14.

The nays were: Azinger, Boley, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—20.

Absent: None.

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

Engrossed Committee Substitute for House Bill 4634 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Plymale, Romano, Stollings, Weld, and Woelfel—12.

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. 4634) passed with its title.

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

Action as to Engrossed Committee Substitute for House Bill 4634 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4636**, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

On third reading, coming up in deferred order, was read a third time and put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4636) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4636**—A Bill to amend and reenact §8-13-5 and §8-13-13 of the Code of West Virginia, 1931, as amended, all relating to providing that municipal business and

occupation taxes, as well as municipal rates, fees, and charges that are owed to a municipality that are postmarked after the due date are late and subject to late fees or penalties; clarifying that municipal business and occupation taxes, as well as municipal rates, fees, and charges that are owed to a municipality are considered to be remitted on time when the date on which the payment is postmarked is on or before the due date; and clarifying that municipalities may not impose a late fee or penalty for those municipal taxes or municipal rates, fees, and charges owed to them if the payment is postmarked on or before the due date.

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

Action as to Engrossed House Bill 4636 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4662**, Relating to licensure of Head Start facilities in this state.

On third reading, coming up in deferred order, was read a third time and put upon its passage.

Senator Martin requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate, as he has some contracts with Head Start.

The Chair replied that any impact on Senator Martin would be as a member of a class of persons and that he would be required to vote.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4662) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4662**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-115a, relating to licensure of Head Start facilities in this state; permitting deemed licensee to request to utilize West Virginia for Clearance Access Registry and Employment Screening program; and requiring rulemaking.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4662) takes effect from passage.

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

Action as to Engrossed Committee Substitute for House Bill 4662 having been concluded, the Senate proceeded to the consideration of

**Eng. House Bill 4829**, Modifying definitions of certain school cafeteria personnel.



On third reading, coming up in deferred order, was read a third time.

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

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

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

## **CHAPTER 6C. PUBLIC EMPLOYEES.**

### **ARTICLE 2. WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE PROCEDURE.**

#### **§6C-2-1. Purpose.**

(a) The purpose of this article is to provide a procedure for the resolution of employment grievances raised by the public employees of the State of West Virginia, except as otherwise excluded in this article.

(b) Resolving grievances in a fair, efficient, cost-effective, and consistent manner will maintain good employee morale, enhance employee job performance, and better serve the citizens of the State of West Virginia.

(c) Nothing in this article prohibits the informal disposition of grievances by stipulation or settlement agreed to in writing by the parties, nor the exercise of any hearing right provided in chapter 18 or 18A of this code. Parties to grievances shall at all times act in good faith and make every possible effort to resolve disputes at the lowest level of the grievance procedure.

~~(d) Effective July 1, 2007, any reference in this code to the education grievance procedure, the state grievance procedure, article twenty nine, chapter eighteen of this code or article six a, chapter twenty nine of this code, or any subsection thereof, shall~~

~~be considered to refer to the appropriate grievance procedure pursuant to this article.~~

### **§6C-2-2. Definitions.**

For the purpose of this article and §6C-3-1 *et seq.* of this code:

(a) "Board" means the West Virginia Public Employees Grievance Board created in §6C-3-1 *et seq.* of this code.

(b) "Chief administrator" means, in the appropriate context, the commissioner, chancellor, director, president, secretary, or head of any state department, board, commission, agency, state institution of higher education, commission or council, the state superintendent, the county superintendent, the executive director of a regional educational service agency, or the director of a multicounty vocational center who is vested with the authority to resolve a grievance. A "chief administrator" includes a designee, with the authority delegated by the chief administrator, appointed to handle any aspect of the grievance procedure as established by this article.

(c) "Days" means working days exclusive of Saturday, Sunday, official holidays, and any day in which the employee's workplace is legally closed under the authority of the chief administrator due to weather or other cause provided for by statute, rule, policy, or practice.

(d) "Discrimination" means any differences in the treatment of similarly situated employees, unless the differences are related to the actual job responsibilities of the employees or are agreed to in writing by the employees.

(e)(1) "Employee" means any person hired for permanent employment by an employer for a probationary, full- or part-time position.

(2) A substitute education employee is considered an "employee" only on matters related to days worked or when there is a violation, misapplication, or misinterpretation of a statute, policy, rule, or written agreement relating to the substitute.

(3) "Employee" does not mean a member of the West Virginia State Police employed pursuant to §15-2-1 *et seq.* of this code, but does include civilian employees hired by the superintendent of the State Police. "Employee" does not mean an employee of a constitutional officer unless he or she is covered under the civil service system, an employee of the Legislature, or a patient or inmate employed by a state institution.

(f) "Employee organization" means an employee advocacy organization with employee members that has filed with the board the name, address, chief officer, and membership criteria of the organization.

(g) "Employer" means a state agency, department, board, commission, college, university, institution, State Board of Education, Department of Education, county board of education, regional educational service agency, or multicounty vocational center, or agent thereof, using the services of an employee as defined in this section.

(h) "Favoritism" means unfair treatment of an employee as demonstrated by preferential, exceptional, or advantageous treatment of a similarly situated employee unless the treatment is related to the actual job responsibilities of the employee or is agreed to in writing by the employee.

(i)(1) "Grievance" means a claim by an employee alleging a violation, a misapplication, or a misinterpretation of the statutes, policies, rules, or written agreements applicable to the employee including:

(i) (A) Any violation, misapplication, or misinterpretation regarding compensation, hours, terms and conditions of employment, employment status, or discrimination;

(ii) (B) Any discriminatory or otherwise aggrieved application of unwritten policies or practices of his or her employer;

(iii) (C) Any specifically identified incident of harassment;

(iv) (D) Any specifically identified incident of favoritism; or

(v) (E) Any action, policy, or practice constituting a substantial detriment to or interference with the effective job performance of the employee or the health and safety of the employee.

(2) "Grievance" does not mean:

(A) Any pension matter or other issue relating to public employees insurance in accordance with §5-16-1 *et seq.* of this code retirement or any other matter in which the authority to act is not vested with the employer;

(B) Actions taken by the employer related to declared states of preparedness or states of emergency; or

(C) Any matter relating to the protected classes set forth in §5-11-1 *et seq.* of this code.

(j) "Grievance proceeding", "proceeding", or the plural means a conference, level one hearing, mediation, private mediation, private arbitration, or level three hearing, or any combination, unless the context clearly indicates otherwise.

(k) "Grievant" means an employee or group of similarly situated employees filing a grievance.

(l) "Harassment" means repeated or continual disturbance, irritation, or annoyance of an employee that is contrary to the behavior expected by law, policy, and profession.

(m) "Party" or the plural, means the grievant, intervenor, employer, and the Director of the Division of Personnel or his or her designee, for state government employee grievances. The Division of Personnel shall not be a party to grievances involving higher education employees or Department of Transportation employees.

(n) "Representative" means any employee organization, fellow employee, attorney, or other person designated by the grievant or intervenor as his or her representative and may not include a supervisor who evaluates the grievant.

(o) "Reprisal" means the retaliation of an employer toward a grievant, witness, representative, or any other participant in the grievance procedure either for an alleged injury itself or any lawful attempt to redress it.

### **§6C-2-3. Grievance procedure generally.**

(a) ~~Time limits~~ *Filing.* —

(1) ~~An employee~~ Each grievant shall file a grievance form, signed by the grievant and notarized within the time limits specified in this article. If more than one grievant is a party to the grievance, each grievant must submit a signed and notarized form initiating the grievance: *Provided*, That each may submit a signed and notarized signature page appended to the grievance form. Failure to properly sign and notarize the form will result in immediate dismissal of a grievance, without prejudice. Within five days of receipt of an order of dismissal of a grievance without prejudice, the employee may refile the grievance, in accordance with this article and applicable rules of procedure, if the initial grievance was timely filed.

(2) The specified time limits may be extended to a date certain by mutual written agreement ~~and shall~~ or the grievance evaluator, mediator, or administrative law judge at the request of any party. The specified time limits shall be extended for cause whenever an agency representative or a grievant is not working because of accident, sickness, death in the immediate family, or other cause for which the agency representative or grievant has approved leave from employment. Grievant representatives who file on behalf of one or more grievants shall provide, as part of the grievance form, the name of each employee and his or her work location for each employee being represented.

(b) *Default.* —

(1) The grievant or the employer prevails by default if a required response is not made by the grievant or the employer within the time limits established in this article, unless the employer or grievant is prevented from doing so directly as a result

of injury, illness, or a justified delay not caused by negligence or intent to delay the grievance process.

(2) Within 10 days of the default, the grievant or employer may file with the chief administrator a written notice of intent to proceed directly to the next level or to enforce the default. If the chief administrator objects to the default, then the chief administrator may, within five days of the filing of the notice of intent, request a hearing before an administrative law judge for the purpose of stating a defense to the default, as permitted by subdivision (1) of this subsection, or showing that the remedy requested by the prevailing grievant is contrary to law or contrary to proper and available remedies. ~~In making a determination regarding the remedy, the~~ The administrative law judge shall determine whether the remedy is proper, available, and not contrary to law.

(3) If the administrative law judge finds that the grievant or the employer has a defense to the default as permitted by subdivision (1) of this subsection or that the remedy is contrary to law or not proper or available at law, the administrative law judge may deny the default or modify the remedy to be granted to comply with the law or otherwise make the grievant whole.

(c) *Defenses and limitations.* —

(1) ~~*Untimeliness.* — Any assertion that the filing of the grievance at level one was untimely shall be made at or before level two.~~ *Timeliness.* — A grievance must be filed within the time frames established in §6C-2-4 of this code. If the level one evaluator determines that the grievance was not timely filed, he or she shall issue an order dismissing the grievance. The grievant may appeal the dismissal to level three, and an administrative law judge shall review the order. If the administrative law judge overturns the order of dismissal, he or she shall issue an order stating with particularity the facts and the law found to be in error in the order below, and the grievance will be returned to level one for disposition. An administrative law judge will decide an appeal of a dismissal for untimeliness within 30 days. If the grievance proceeds directly to level three, the administrative law judge shall

make a determination of timeliness prior to proceeding with the level three hearing.

(2) Motion to dismiss. — Any party may, at any time, file a motion to dismiss asserting that the board lacks jurisdiction under §6C-2-2(i) of this code, or that grievant has otherwise failed to state a claim under this article upon which relief may be granted, the grievance was not timely filed, or a remedy wholly unavailable to the grievant is requested. Upon filing of such a motion, the chief administrator or administrative law judge shall hold in abeyance all other proceedings, and must, within 10 days of receipt of such filing, issue a ruling on the motion or schedule the motion for a hearing. In no event shall a motion to dismiss be held in abeyance while other proceedings take place.

~~(2)~~ (3) *Back pay.* — When ~~it~~ backpay is a proper remedy, ~~back pay~~ it may only be granted for one year prior to the filing of a grievance unless the grievant shows, by a preponderance of the evidence, that the employer acted in bad faith ~~in concealing or fraudulently concealed~~ the facts giving rise to the claim for back pay, in which case an 18-month limitation on back pay applies.

~~(3)~~ (4) *Statutory defense.* — If a party intends to assert the application of any statute, policy, rule, or written agreement as a defense at any level, then a copy of the materials shall be forwarded to all parties.

(d) *Withdrawal and reinstatement of grievance.* — An employee may withdraw a grievance at any time by filing a written notice of withdrawal with the chief administrator or the administrative law judge. The grievance may not be reinstated by the grievant unless it would be timely upon reinstatement and reinstatement is granted by the chief administrator or the administrative law judge. If more than one employee is named as a grievant, the withdrawal of one employee does not prejudice the rights of any other employee named in the grievance.

(e) *Consolidation and groups of similarly situated employees.*

---

(1) Grievances may be consolidated at any level by agreement of all parties or at the discretion of the chief administrator or administrative law judge: Provided, That a grievance that has been dismissed under the provisions of subdivision (1) or (2) of this section may not be revived or consolidated with another grievance.

(2) Class actions are not permitted. However, a grievance may be filed by one or more employees on behalf of a group of similarly situated employees. Any similarly situated employee shall complete a grievance form stating his or her intent to join the group of similarly situated employees. Only one employee filing a grievance on behalf of similarly situated employees shall be required to participate in the conference or level one hearing.

(f) *Intervention.* — Upon a timely request, any employee may intervene and become a party to a grievance at any level when the employee demonstrates that the disposition of the action may substantially and adversely affect his or her rights or property and that his or her interest is not adequately represented by the existing parties.

(g) *Representation and disciplinary action.* —

(1) An employee may designate and shall provide the contact information for the individual or organization of the representative who may be present at any step of the procedure as well as at any meeting that is held with the employee for the purpose of discussing or considering disciplinary action.

(2) An employee may not be compelled to testify against himself or herself in a disciplinary grievance hearing.

(h) *Reprisal.* — No reprisal or retaliation of any kind may be taken by an employer against a grievant or any other participant in a grievance proceeding by reason of his or her participation. Reprisal or retaliation constitutes a grievance and any person held responsible is subject to disciplinary action for insubordination.

(i) *Improper classification.* — A supervisor or administrator responsible for a willful act of bad faith toward an employee or



who intentionally works an employee out of classification may be subject to disciplinary action, including demotion or discharge.

(j) *Forms.* — The board shall create the forms for filing grievances, giving notice, taking appeals, making reports, and recommendations, and all other necessary documents and provide them to chief administrators to make available to any employee upon request.

(k) *Discovery.* — The parties are entitled to copies of all material submitted to the chief administrator or the administrative law judge by any party.

(l) *Notice.* — Reasonable notice of a proceeding shall be sent at least five days prior to the proceeding to all parties and their representatives and shall include the date, time, and place of the proceeding. If an employer causes a proceeding to be postponed without adequate notice to employees who are scheduled to appear during their normal workday, the employees may not suffer any loss in pay for work time lost.

(m) *Record.* — Conferences are not required to be recorded, but all documents admitted and the decision, agreement, or report become part of the record. All the testimony at a level one and level three hearing shall be recorded by mechanical means and a copy of the recording provided to any party upon request. The board is responsible for paying for and promptly providing a certified transcript of a level three hearing to the court for a mandamus or appellate proceeding.

(n) *Grievance decisions and reports.* —

(1) Any party may propose findings of fact and conclusions of law within 20 days of an arbitration or a level three hearing.

(2) A decision, agreement, or report shall be dated, in writing, setting forth the reasons for the decision or outcome and transmitted to the parties and, in a private arbitration, to the board, within the time limits prescribed. If the grievance is not resolved, the written decision or report shall include the address and procedure to appeal to the next level.

(o) *Scheduling.* — All proceedings shall be scheduled during regular work hours in a convenient location accessible to all parties in accommodation to the parties' normal operations and work schedules. By agreement of the parties, a proceeding may be scheduled at any time or any place. Disagreements shall be decided by the administrative law judge.

(p) *Attendance and preparation.* —

(1) The grievant, witnesses, and an employee representative shall be granted reasonable and necessary time off during working hours to attend grievance proceedings without loss of pay and without charge to annual or compensatory leave credits.

(2) In addition to actual time spent attending grievance proceedings, the grievant and an employee representative shall be granted time off during working hours, not to exceed four hours per grievance, for the preparation of the grievance without loss of pay and without charge to annual or compensatory leave credits. However, the first responsibility of any employee is the work assigned to the employee. An employee may not allow grievance preparation and representation activities to seriously affect the overall productivity of the employee.

(3) The grievant and an employee representative shall have access to the employer's equipment for purposes of preparing grievance documents subject to the reasonable rules of the employer governing the use of the equipment for nonwork purposes.

(4) Disagreements regarding preparation time shall be decided by the administrative law judge.

(q) *Grievance files.* —

(1) All grievance forms decisions, agreements, and reports shall be kept in a file separate from the personnel file of the employee and may not become a part of the personnel file, but shall remain confidential except by mutual written agreement of the parties.

(2) The grievant may file a written request to have ~~the grievant's~~ his or her identity removed from any files kept by the employer one year following the conclusion of the grievance.

(r) *Number of grievances.* — The number of grievances filed against an employer by an employee is not, per se, an indication of the employer's or the employee's job performance.

(s) *Procedures and rules.* — The board shall prescribe rules and procedures in compliance with this article, §6C-3-1 *et seq.* of this code, and the state Administrative Procedures Act under chapter 29A of this code for all proceedings relating to the grievance procedure.

#### **§6C-2-4. Grievance procedural levels.**

(a) *Level one: Chief administrator.* —

(1) Within 15 days following the occurrence of the event upon which the grievance is based, or within 15 days of the date upon which the event became known to the employee, or within fifteen days of the most recent occurrence of a continuing practice giving rise to a grievance, an employee may file a written grievance with the chief administrator stating the nature of the grievance and the relief requested and request either a conference or a hearing. The employee shall also file a copy of the grievance with the board. State government employees using the services of the Division of Personnel shall further file a copy of the grievance with the Director of the Division of Personnel.

(2) *Conference.* — The chief administrator shall hold a conference within ~~ten~~ 20 days of receiving the grievance. A conference is a private, informal meeting between the grievant and the chief administrator to discuss the issues raised by the grievance, exchange information, and attempt to resolve the grievance. The chief administrator may permit other employees and witnesses to attend and participate in a conference to reach a resolution. The chief administrator shall issue a written decision within 15 days of the conference.

(3) *Level one hearing.* — The chief administrator shall hold a level one hearing within ~~fifteen~~20 days of receiving the grievance. A level one hearing is a recorded proceeding conducted in private in which the grievant is entitled to be heard and to present evidence; the formal rules of evidence and procedure do not apply, but the parties are bound by the rules of privilege recognized by law. The parties may present and cross-examine witnesses and produce documents, but the number of witnesses, motions and other procedural matters may be limited by the chief administrator. The chief administrator shall issue a written decision within 15 days of the level one hearing.

(4) An employee may proceed directly to level three upon the agreement of the parties or when the grievant has been discharged, suspended without pay or demoted or reclassified resulting in a loss of compensation or benefits. Level one and level two proceedings are waived in these matters.

(b) Level two: Alternative dispute resolution. —

(1) Within ~~ten~~10 days of receiving an adverse written decision at level one, the grievant shall file a written request for mediation, private mediation or private arbitration.

(2) *Mediation.* — The board shall schedule the mediation between the parties within 20 days of the request. Mediation shall be conducted by an administrative law judge pursuant to standard mediation practices and board procedures at no cost to the parties. Parties may be represented and shall have the authority to resolve the dispute. The report of the mediation shall be documented in writing within 15 days. Agreements are binding and enforceable in this state by a writ of mandamus.

(3) *Private mediation.* — The parties may agree in writing to retain their choice of a private mediator and share the cost. The mediator shall schedule the mediation within 20 days of the written request and shall follow standard mediation practices and any applicable board procedures. Parties may be represented and shall have the authority to resolve the dispute. The report of the mediation shall be documented in writing within 15 days.

Agreements are binding and enforceable in this state by a writ of mandamus.

(4) *Private arbitration.* — The parties may agree, in writing, to retain their choice of a private arbitrator and share the cost. The arbitrator shall schedule the arbitration within 20 days of the written request and shall follow standard arbitration practices and any applicable board procedures. The arbitrator shall render a decision in writing to all parties, setting forth findings of fact and conclusions of law on the issues submitted within 30 days following the arbitration. An arbitration decision is binding and enforceable in this state by a writ of mandamus. The arbitrator shall inform the board, in writing, of the decision within 10 days.

(c) *Level three hearing.* —

(1) Within 10 days of receiving a written report stating that level two was unsuccessful, the grievant may file a written appeal with the employer and the board requesting a level three hearing on the grievance. State government employees who utilize the services of the Division of Personnel shall further file a copy of the grievance with the Director of the Division of Personnel.

(2) The administrative law judge shall conduct all proceedings in an impartial manner and shall ensure that all parties are accorded procedural and substantive due process.

(3) The administrative law judge shall schedule the level three hearing and any other proceedings or deadlines within ~~a reasonable time~~ 30 days of receipt of the appeal from a lower level decision in consultation with the parties. The location of the hearing and whether the hearing is to be made public are at the discretion of the administrative law judge. Hearings may be rescheduled at the request of either party or the administrative law judge for good cause shown.

(4) The administrative law judge may issue subpoenas for witnesses, limit witnesses, administer oaths, and exercise other powers granted by rule or law.

(5) Within 30 days following the hearing or the receipt of the proposed findings of fact and conclusions of law, the administrative law judge shall render a decision in writing to all parties setting forth findings of fact and conclusions of law on the issues submitted.

(6) The administrative law judge may make a determination of bad faith and, in extreme instances, allocate the cost of the hearing to the party found to be acting in bad faith. The allocation of costs shall be based on the relative ability of the party to pay the costs.

Senator Woelfel arose to a point of order that the amendment offered by Senator Trump was not germane to the bill.

Which point of order, the President ruled well taken.

Engrossed Committee Substitute for House Bill 4829 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4829 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4829) passed with its title.

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

Action as to Engrossed Committee Substitute for House Bill 4829 having been concluded,

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Maroney, 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 4004**, Relating to limiting an abortion to fifteen weeks' gestation.

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,

Michael J. Maroney,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4004) 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.

At the request of Senator Trump, as chair of the Committee on the Judiciary, 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.

Senator Trump, 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 4642**, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts.

And has amended same.

Now on second reading, having been read a first time and re-referred to the Committee on the Judiciary on March 10, 2022;

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4642) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Senator Trump, 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 4846**, Relating to flying under the influence and other aviation offenses.

And has amended same.

Now on second reading, having been read a first time and re-referred to the Committee on the Judiciary on March 10, 2022;

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



Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4846) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Phillips, unanimous consent being granted, it was ordered that the Journal show had Senator Phillips been present in the chamber on Thursday, March 10, 2022, he would have voted "yea" on the passage of Engrossed Senate Bill 531.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions on March 10, 2022:

**Senate Resolution 52:** Senator Rucker;

And,

**Senate Resolution 55:** Senator Martin.

On motion of Senator Takubo, at 6:21 p.m., the Senate adjourned until tomorrow, Saturday, March 12, 2022, at 10 a.m.

---

## SATURDAY, MARCH 12, 2022

The Senate met at 10:14 a.m.

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

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

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

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

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

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

The Clerk presented the following communications from various state agencies as required by the provisions of law:

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

Women's Commission (§29-20-6)

The Senate then proceeded to the third order of business.

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

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

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

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

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

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

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

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

And;

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

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

Engrossed Senate Bill 1, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Beach, Maroney, and Woelfel—3.

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

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Beach, Maroney, and Woelfel—3.

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

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

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

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

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

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

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

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

And,

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

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

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

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

Following discussion,

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

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

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

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

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

Absent: Beach—1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

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

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

Each precinct within any urban center shall contain not less than 300, nor more than 1,500 registered voters. Each precinct in a

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

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



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

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

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

(1) The President of the Senate and the Speaker of the House of Delegates, or designee or designees shall serve as the state's liaison, hereafter referred to as Legislative Liaisons, to the U.S. Census Bureau for purposes of Block Boundary Suggestion Project (Phase I), Voting District Project (Phase II), and Collection of Census Redistricting Plans (Phase IV), or their equivalents, of the

U.S. Census Bureau's Redistricting Data Program for the federal decennial census. The Legislature may request the Secretary of State to designate and utilize staff within his or her office to perform the technical responsibilities of this role.

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

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

~~(d)~~ (e) The Each county commission shall keep available at all times during business hours in the courthouse at a place convenient for public inspection a map or maps of the county and municipalities with the current boundaries of all precincts and magisterial districts. Each county commission shall submit current

maps and accompanying technical files to the Legislature and Secretary of State upon updating its precincts and magisterial districts. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the counties. The Secretary of State shall maintain previous maps and accompanying technical files submitted by the counties in its records. The Secretary of State shall notify the Legislature of any submissions it receives from a county commission and shall provide copies of the same to the Legislature.;

And,

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

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

maintain certain maps and files in records; requiring county commissions to include magisterial districts in publicly available maps; requiring county commissions to submit certain maps and files to the Legislature and the Secretary of State; and requiring the Secretary of State notify the Legislature and provide copies of any maps it receives from a county commission.

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

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

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

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

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

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

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

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

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

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

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

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

(2) Each county commission shall submit on an ongoing basis to the Secretary of State its updated precincts and such other information as is sufficient to participate in the Block Boundary Suggestion Project (Phase I) and Voting District Project (Phase II), or their equivalents, of the Redistricting Data Program, including any verification phases. The Secretary of State shall coordinate with all counties for the submission and verification of such information. The Secretary of State shall compile the information

submitted by the counties and shall submit and verify such information to the U.S. Census Bureau in compliance with the deadlines established by the U.S. Census Bureau for the Redistricting Data Program. The Secretary of State shall provide copies of such submission to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Delegates, and the Minority Leader of the House of Delegates.

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

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

And,

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

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

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

Engrossed Senate Bill 253, as amended, was then put upon its passage.

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

The nays were: None.



Absent: None.

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

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

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

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

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

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

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

And,

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

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

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

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

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

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

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

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

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

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

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

and requested the concurrence of the Senate in the House of Delegates amendments, as to

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

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

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

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

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

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

(a) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §60-2-16 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Alcohol Beverage Control Commission (Private Club Licensing, 175 CSR 02), is authorized; with the following amendments:

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

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

"not have been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime

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

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

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

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

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

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

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

"fraud, dishonesty, or deceit" and,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving

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

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

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

### **§64-7-2. Insurance Commission.**

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

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

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

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

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

Commission (Bail Bondsmen in Criminal Cases, 114 CSR 103), is authorized.

### **§64-7-3. Lottery Commission**

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

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

### **§64-7-4. Racing Commission.**

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

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

### **§64-7-5. Tax Department.**

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §11-1C-10 of this code, relating to the Tax Department (Valuation of Producing and

Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes, 110 CSR 01J), is not authorized.

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

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

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15-9t of this code, modified by the State Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 7, 2021, relating to the State Tax Department (Exemption for Repair, Remodeling, and Maintenance of Aircraft, 110 CSR 15L), is authorized.

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

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

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

inserting in lieu thereof the words "A bingo licensee may use only bingo equipment,";

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

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

And,

By renumbering the remaining subsections.

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

And,

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

**Eng. Com. Sub. for Senate Bill 312**—A Bill to amend and reenact §64-7-1 et. seq. of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Revenue to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to private club licensing; relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to bailment policies and procedures; relating to authorizing the Alcohol

Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to continuing education for individual insurance producers and individual insurance providers; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to the adoption of the valuation manual; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to pharmacy auditing entities and pharmacy benefit managers; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to term and universal life insurance reserve financing; relating to authorizing the Insurance Commission to promulgate a legislative rule relating to bail bondsmen in criminal cases; relating to authorizing the Lottery Commission to promulgate a legislative rule relating to the West Virginia Lottery State Lottery Rules; relating to authorizing the Lottery Commission to promulgate a legislative rule relating to West Virginia Lottery Limited Video Lottery Rule; relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; relating to authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering; relating to not authorizing the Tax Department to promulgate a legislative rule relating to the valuation of producing and reserve oil, natural gas liquids, and natural gas for ad valorem property tax purposes; relating to authorizing the Tax Department to promulgate a legislative rule relating to the West Virginia tax credit for Federal Excise Tax imposed upon small arms and ammunition manufacturers; relating to authorizing the Tax Department to promulgate a legislative rule relating to the Sales Tax Holiday; relating to authorizing the Tax Department to promulgate a legislative rule relating to the exemption for repair, remodeling, and maintenance of an aircraft; relating to authorizing the Tax Department to promulgate a legislative rule relating to vendor absorption or assumption of Sales and Use tax; and relating to authorizing the Tax Department to promulgate a legislative rule relating to on-line bingo and raffles; and relating to authorizing the Tax Department to promulgate a legislative rule to the corporation net income tax.

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

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

Following discussion,

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

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

Engrossed Committee Substitute for Senate Bill 312, as amended, was then put upon its passage.

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

The nays were: None.

Absent: None.

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

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



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

The nays were: None.

Absent: None.

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

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

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

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

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

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

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

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

And,

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

**Eng. Com. Sub. for Senate Bill 424**—A Bill to repeal §19-1-10, and §19-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto one new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; to amend and reenact §19-36-5 of said code, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee on Government and Finance and sending copy to archives and history; requiring license from state to produce industrial hemp; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on the liming material law; removing requirement that commissioner publish and distribute annual report on the law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes;

providing that agritourism business may use certain facilities for certain events without complying with fire codes.

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

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

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

The nays were: None.

Absent: None.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The nays were: None.

Absent: None.

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

plans and policy to include additional subject matter; and removing obsolete language.

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

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

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

The nays were: None.

Absent: None.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

Absent: None.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Eng. Com. Sub. for House Bill 4779**, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**House Concurrent Resolution 56**, Roy Lee Shamblin Memorial Bridge.

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

**House Concurrent Resolution 60**, Fire Chief Lee Thomas Bridge.

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

**House Concurrent Resolution 74**, Judge Les Fury Memorial Bridge.

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

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

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

**House Concurrent Resolution 89**, Hajash Brothers Memorial Bridge.

The Senate proceeded to the fourth order of business.

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

Your Committee on Confirmations has had under consideration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,

Donna J. Boley,  
*Chair.*

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

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

**Senate Executive Message 2**, dated March 8, 2022 (*shown in the Senate Journal of March 9, 2022, pages 1913 to 1915, inclusive*).

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

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

The roll was then taken; and

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Boley's motion had prevailed and that all the executive nominations

referred to in the foregoing report from the Committee on Confirmations had been confirmed.

---

Consideration of executive nominations having been concluded,

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

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

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 12th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

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

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

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

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

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

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

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

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

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

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

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

And,

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

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Dean Jeffries,  
*Chair, House Committee.*

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

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

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

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

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

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

**ARTICLE 3D. MISSING PERSONS ACT.**

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

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

- (1) The missing person's name;
- (2) The missing person's date of birth;
- (3) The missing person's address;
- (4) The missing person's identifying characteristics, including, but not limited to: Birthmarks, moles, tattoos, scars, height, weight, gender, race, current hair color, natural hair color, eye color, prosthetics, surgical implants, cosmetic implants, physical anomalies, and blood type;
- (5) A description of the clothing the missing person was believed to have been wearing when he or she went missing and any items that might be with the missing person, such as jewelry, accessories, shoes, or any other distinguishing garments or items;
- (6) The date of the last known contact with the missing person;
- (7) The missing person's driver's license and Social Security number, or any other numbers related to other forms of identification;
- (8) A recent photograph of the missing person;

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) The person is likely endangered;

(D) The person has mental or physical disabilities;

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

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

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

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

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

(A) Immediately notify the terminal operator responsible for WEAPON system entries for the law-enforcement agency and provide the operator with all relevant information collected from the missing persons complainant as soon as possible. The terminal operator will enter all information into the WEAPON system and submit the information to the West Virginia State Police communications section. If the law-enforcement agency does not have an agreement with a local terminal agency, then the law-enforcement agency will contact the West Virginia State Police terminal agency for that particular area and request that the West

Virginia State Police enter the information into the WEAPON system. Once the missing persons complaint has been entered into the WEAPON system, the West Virginia State Police communications section shall immediately notify all law-enforcement agencies within the state and surrounding region by means of the WEAPON system with all information that will promote efforts to promptly locate and safely recover the missing person. Local law-enforcement agencies that receive the notification of a missing persons ~~complaint~~ shall notify all officers to be on the lookout for the missing person or a suspected abductor; and

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

~~(e)~~(d) General requirements. —

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

(2) The lead law-enforcement agency or the West Virginia State Police shall submit any available DNA profiles that may aid in a missing persons investigation and that have not already been submitted by a medical examiner into appropriate DNA databases, including, but not limited to, NamUs.

~~(d)~~(e) Removal upon location of person. — Upon the determination that the person is no longer missing, the lead law-enforcement agency or the West Virginia State Police shall



immediately remove or request the removal of all records of the missing person from all missing persons databases.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Cell phone triangularization and tracking services;

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

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

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

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

(2) Any necessary written authorization to release the missing person's medical and dental records, including any available x-rays, to the lead law-enforcement agency. If no family or next of

kin exists or can be located, the lead law-enforcement agency may execute a written declaration, stating that an active investigation seeking to locate the missing person is being conducted and that the records are required for the exclusive purpose of furthering the investigation. The written declaration, signed by the supervising or chief officer of the law-enforcement agency, is sufficient authority for a health care practitioner to immediately release the missing person's x-rays, dental records, dental x-rays, and records of any surgical implants to the law-enforcement agency;

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

(4) Fingerprints of the missing person.

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

## **ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

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

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

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

(2) The federal law-enforcement officer is requested by a state or local law-enforcement officer to provide the officer temporary assistance when the state or local law-enforcement officer is acting within the scope of the officer's authority and jurisdiction and where exigent circumstances exist; or

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

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

(1) Federal Bureau of Investigation special agents;

(2) Drug Enforcement Administration special agents;

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

(4) United States postal service inspectors;

(5) Internal revenue service special agents;

(6) United States secret service special agents;

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

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

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

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

(11) Office of Inspector General special agents; and

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

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

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

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

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

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

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

Following discussion,

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

Engrossed House Bill 4847, as just amended, was then put upon its passage.

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

The nays were: None.

Absent: None.

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

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

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

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

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

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

The bill still being in the possession of the Senate,

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

The vote thereon having been reconsidered,

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

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

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

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

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

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

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

Absent: None.

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

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

The Senate again proceeded to the third order of business.

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

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

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

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

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

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

**§12-1C-1. DEFINITIONS.**

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

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

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

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

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

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



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

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

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

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

(B) Mitigating risk to a financial institution;

(C) Complying with legal or regulatory requirements; or

(D) Limiting liability of a financial institution.

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

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

"Treasurer" refers to the West Virginia State Treasurer.

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

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

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

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

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

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

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

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

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

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

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

(b) Following a restricted financial institution's inclusion on the restricted financial institution list, the Treasurer will remove the

institution from the list if the institution demonstrates that it has ceased all activity that boycotts energy companies.

**§12-1C-4. Sources of Information.**

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

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

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

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

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

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

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

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

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

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

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

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

**§12-1C-6. Limitation on Liability.**

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

**§12-1C-7. Exemptions.**

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

And,

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 262**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12 1C 1, §12 1C 2, §12 1C 3, §12 1C 4, §12 1C 5, §12 1C 6, and §12 1C 7, all relating generally to financial institutions engaged in boycotts of energy companies; defining terms; authorizing the State Treasurer to publish a list of financial institutions engaged in boycotts of energy companies; requiring the Treasurer to publicly post the list and submit the list to certain public officials; requiring the list to contain certain information; requiring the Treasurer to send written notice to a financial institution prior to its inclusion on the list; establishing required content of said written notice; requiring the Treasurer to remove a financial institution from the list if it presents information demonstrating that it is not engaged in a boycott of energy companies; preventing financial institutions from being compelled

to produce certain information; setting forth sources of information on which the Treasurer may rely in preparing the list; authorizing the Treasurer to exclude financial institutions on the list from the selection process for state banking contracts; authorizing the Treasurer to refuse to enter into a banking contract with a financial institution on the list; authorizing the Treasurer to require, as a term of a banking contract, an agreement by the financial institution not to engage in a boycott of energy companies; limiting liability for actions taken in compliance with the new article; and exempting the Investment Management Board from the new article.

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

Following discussion,

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

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

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

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

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

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

Absent: None.

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

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

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

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

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

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

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

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

**§64-9-1. Commissioner of Agriculture.**

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

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

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

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

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

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

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

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

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

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

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

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

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-1C-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Commissioner of Agriculture (Livestock Care Standards, 61 CSR 31), is authorized with the amendments set forth below:

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

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

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

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

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



"13.14. Any other widely accepted practices.";

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

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

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

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

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

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

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

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

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

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

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

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

On page 12, paragraph 16.2.b.7., by striking out the word "and";

On page 12, paragraph 16.2.b.8., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page twelve, after paragraph 16.2.b.8. by adding a new paragraph 16.2.b.9. to read as follows:

"16.2.b.9. Any other widely accepted practices.";

On page 12, paragraph 16.2.c.2., by striking out the word "and";

On page 12, paragraph 16.2.c.3., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 12, after paragraph 16.2.c.3., by adding a new paragraph 16.2.c.4. to read as follows:

"16.2.c.4. Any other widely accepted practices.";

On page 13, subdivision 17.3.j., by striking out the word "and";

On page 13, subdivision 17.3.k., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 13, after subdivision 17.3.k., by adding a new subdivision 17.3.l. to read as follows:

"17.3.l. Any other widely accepted practices.";

On page 14, paragraph 18.3.d.2., by striking out the word "and";

On page 14, subdivision 18.3.e., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

And,

On page 14, after subdivision 18.3.e., by adding a new subsection 18.3.f., to read as follows:

"18.3.f. Any other widely accepted practices."

(i) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §19-1-11 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Rural Rehabilitation Program, 61 CSR 33), is authorized.

(j) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §11-13DD-5 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Farm-to-Food Bank Tax Credit, 61 CSR 36), is authorized.

(k) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-35-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2021, relating to the Commissioner of Agriculture (Farmers Markets, 61 CSR 38), is authorized with the amendments set forth below:

On page 11, subdivision 8.1.d by striking out the words "holding a Food Handler's Card;

And,

On page 11, subdivision 8.1.d, after the word "completed" by inserting the words "Better Process Control School or".

(l) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-16-6 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2021, relating to the Commissioner of Agriculture (Seed Certification, 61 CSR 39), is authorized.

#### **§64-9-2. State Auditor.**

(a) The legislative rule filed in the State Register on January 3, 2022, authorized under the authority of §11-8-9 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 10, 2022, relating to the Auditor (Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body, 155 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on September 13, 2021, authorized under the authority of §12-4-14 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Auditor (Accountability Requirements for State Funds and Grants, 155 CSR 09), is authorized.

### **§64-9-3. West Virginia Board of Chiropractic Examiners.**

(a) The Legislature directs the West Virginia Board of Chiropractic Examiners to amend the legislative rule filed in the State Register on April 1, 2014, authorized under the authority of §30-16-5 of this code, relating to the West Virginia Board of Chiropractic Examiners (Fees Established by the Board, 4 CSR 06) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

"1.5. Sunset Provision. — This rule shall terminate and have no further force or effect on August 1, 2027.";

On page one, subdivision 6.2.1, after the words "in West Virginia is," by striking out "\$300", and inserting in lieu thereof "\$261";

On page one, subdivision 6.2.1.,after the words "chiropractors is," by striking out "\$150" and inserting in lieu thereof "\$130";

On page one, subdivision 6.2.2 by striking out "\$200", and inserting in lieu thereof "\$175";

On page one, subdivision 6.2.3 by striking out "\$200", and inserting in lieu thereof "\$175";

On page one, subdivision 6.2.4, after the words "articles of incorporation," by striking out "\$150", and inserting in lieu thereof "\$130";

On page one, subdivision 6.2.4., after the words "limited liability company is," by striking out "\$150", and inserting in lieu thereof "\$130";

One page one, subdivision 6.2.4., after the words "annual renewal fee of," by striking out "\$150", and inserting in lieu thereof "\$130";

On page one, subdivision 6.2.5, after the words "examination fee is," by striking out "\$150", and inserting in lieu thereof "\$130";

On page one, subdivision 6.2.5., after the words "and a fee of," by striking out "\$50" and inserting "\$45.";

On page one, subdivision 6.2.6 by striking out "\$50", and inserting in lieu thereof "\$45";

On page one, subdivision 6.2.7 by striking out "\$100", and inserting in lieu thereof "\$87";

On page one, subdivision 6.2.8 by striking out "\$50", and inserting in lieu thereof "\$45";

And,

On page one, subdivision 6.2.2 by striking out "\$250", and inserting in lieu thereof "\$218";

(b) The legislative rule filed in the State Register on July 13, 2021, authorized under the authority of §30-16-5 of this code, modified by the West Virginia Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the West Virginia Board of Chiropractic Examiners (Chiropractic Telehealth Practice, 4 CSR 09), is authorized.

#### **§64-9-4. West Virginia Contractor Licensing Board.**

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-42-5 of this code, modified by the West Virginia Contractor Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and

refiled in the State Register on December 9, 2021, relating to the West Virginia Contractor Licensing Board (Contractor Licensing Act, 28 CSR 02), is authorized with the amendment set forth below:

On page 1, subsection 3.2, after the word "public." by adding a new sentence to read as follows: "If a contractor maintains an internet website, any advertisement by the contractor may direct potential customers to the contractor's online landing page for a link to the information required by W. Va. Code §30-42-6(b)."

**§64-9-5. West Virginia Board of Examiners in Counseling.**

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensing Rule, 27 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensed Professional Counselors Fees Rule, 27 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Licensing Rule, 27 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Fees Rule, 27 CSR 09), is authorized.

#### **§64-9-6. Dangerous Wild Animal Board.**

The legislative rule filed in the State Register on April 5, 2021, authorized under the authority of §19-34-3 of this code, relating to the Dangerous Wild Animal Board (Dangerous Wild Animal, 74 CSR 01), is authorized.

#### **§64-9-7. West Virginia Board of Dentistry.**

(a) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the amendments set forth below:

On page 2, subsection 3.3, after the words "certification of the dean of the dental school" by inserting the words "or program director of a dental residency program";

On page 2, subsection 3.3, after the word "staff at that school" by inserting the words "or program";

On page 2, subsection 3.3, after the words "dental school dean" by inserting the words "or program director of a dental residency program";

On page 2, subsection 3.3, after the words "location of the dental school" by inserting the words "or program";

And,

On page 2, subsection 3.3, after the word "functions in the dental school" by inserting the words "or program".

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §31B-13-1304 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Professional Limited Liability Companies, 5 CSR 02), is authorized.

(c) The Legislature directs the West Virginia Board of Dentistry to amend the legislative rule filed in the State Register on May 1, 2014, authorized under the authority of §30-4-6 of this code, relating to the West Virginia Board of Dentistry (Fees Established by the Board, 5 CSR 03) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

"1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2027.";

On page one, subsection 2.1 by striking out "\$185.00", and inserting in lieu thereof "\$167.00";

On page one, subsection 2.2 by striking out "\$20.00", and inserting in lieu thereof "\$18.00";

On page one, subsection 2.3 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page one, subsection 2.4 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page one, subsection 2.5 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";



On page one, subsection 2.6 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page one, subsection 2.7 by striking out "\$185.00", and inserting in lieu thereof "\$167.00";

On page one, subsection 3.1 by striking out "\$300.00", and inserting in lieu thereof "\$270.00";

On page one, subsection 4.1 by striking out "\$75.00", and inserting in lieu thereof "\$68.00";

On page one, subsection 4.2 by striking out "\$20.00", and inserting in lieu thereof "\$18.00";

On page one, subsection 4.3 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page one, subsection 4.4 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page one, subsection 4.5 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page two, subsection 4.6 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 4.7 by striking out "\$75.00", and inserting in lieu thereof "\$68.00";

On page two, subsection 4.8 by striking out "\$65.00", and inserting in lieu thereof "\$59.00";

On page two, subsection 4.9 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 4.10 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 4.11 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 4.12 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page two, subsection 4.13 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 4.14 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 4.15 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 4.16 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 5.1 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 5.2 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 6.1 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page two, subsection 6.2 by striking out "\$150.00", and inserting in lieu thereof "\$135.00";

On page two, subsection 6.3 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page two, subsection 7.1 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 7.2 by striking out "\$15.00", and inserting in lieu thereof "\$14.00";

On page two, subsection 7.3 by striking out "\$900.00", and inserting in lieu thereof "\$810.00";

On page two, subsection 7.4 by striking out "\$300.00", and inserting in lieu thereof "\$270.00";

On page two, subsection 7.5 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page three, subsection 7.6 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page three, subsection 7.7 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page three, subsection 8.1 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 8.2 by striking out "\$175.00", and inserting in lieu thereof "\$158.00";

On page three, subsection 8.3 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page three, subsection 9.1 by striking out "\$1,500.00", and inserting in lieu thereof "\$1,350.00";

On page three, subsection 9.2 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 9.3 by striking out "\$1,000.00", and inserting in lieu thereof "\$900.00";

On page three, subsection 9.4 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 9.5 by striking out "\$500.00", and inserting in lieu thereof "\$450.00";

On page three, subsection 9.6 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page three, subsection 9.7 by striking out "\$250.00", and inserting in lieu thereof "\$225.00";

On page three, subsection 9.8 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page three, subsection 10.1 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page three, subsection 10.2 by striking out "\$25.00", and inserting in lieu thereof "\$23.00";

On page three, subsection 10.3 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page three, subsection 10.6 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

And,

On page three, subsection 10.7 by striking out "\$200.00", and inserting in lieu thereof "\$180.00".

(d) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Dental Corporation and Dental Practice Ownership, 5 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Continuing Education Requirements, 5 CSR 11), is authorized.

(f) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Administration of Anesthesia by Dentists, 5 CSR 12), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Expanded Duties of Dental Hygienists and Dental Assistants, 5 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Dentistry (Teledentistry, 5 CSR 16), is authorized.

#### **§64-9-8. West Virginia Board of Licensed Dietitians.**

The Legislature directs the West Virginia Board of Licensed Dietitians to amend the legislative rule filed in the State Register on March 26, 2020, authorized under the authority of §30-35-4 of this code, relating to the West Virginia Board of Licensed Dietitians (Licensure and Renewal Requirements, 31 CSR 01) with the amendments set forth below:

On page one, subsection 1.5 by striking out "March 26, 2030", and inserting in lieu thereof "August 1, 2030"

On page two, paragraph 4.1.2.1 by striking out "\$75.00", and inserting in lieu thereof "\$69.00";

On page two, paragraph 4.1.2.2 by striking out "\$75.00", and inserting in lieu thereof "\$69.00";

On page two, paragraph 4.1.2.3 by striking out "\$50.00", and inserting in lieu thereof "\$46.00";

And,

On page two, subsection 31.6.3 by striking out "\$50.00", and inserting in lieu thereof "\$46.00".

**§64-9-9. West Virginia Board of Professional Engineers.**

The Legislature directs the West Virginia Board of Professional Engineers to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-13-9 of this code, relating to the West Virginia Board of Professional Engineers (Examination, Licensure and Practice of Professional Engineers, 7 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking "April 1, 2030" and inserting in lieu thereof "August 1, 2030";

On page eighteen, by striking all of subsection 13.4, and inserting in lieu thereof a new subsection 13.4 to read as follows:

"13.4. Fee Amounts. The fees for various services provided by Board are:

Engineering Intern

Application Fee	\$23.00
Examination Fee	As charged by NCEES

Professional Engineer

Application Fee	\$72.00
Examination Fee	As charged by NCEES
Re-examination Fee	As charged by NCEES
Certificate Fee	\$23.00
Comity Application Fee	\$135.00

Certificate of Authorization

Application Fee for Sole Proprietor with no employees	\$ 0.00
Application Fee for Firm with three or fewer Professional Engineers*	\$90.00
Application Fee for Firm with four or more Engineers*	\$135.00

Two-Year Renewal Fee

Professional Engineer	\$63.00
Professional Engineer-Retired	\$27.00
COA for Sole Proprietor with no Employees	\$ 0.00
COA for Firm with three Or fewer Professional Engineers*	\$ 90.00
COA for Firm with four or more Professional Engineers*	\$450.00
Late Fee	25% of fee

Reinstatement Applications

Professional Engineer	\$167.00
COA for Sole Proprietor with No employees	0.00
COA for Firm with three or fewer engineers	\$180.00
COA for Firm with four or more Professional Engineers*	\$630.00
PE or COA Roster **	\$ 23.00
Replacement Certificates	\$ 23.00
Returned Checks	\$ 23.00

\*Regardless of the PE's state of registration or licensure

\*\*Available for free download on the Board website"

**§64-9-10. West Virginia Board of Funeral Service Examiners.**

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-6-6 of this code, modified by

the West Virginia Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2021, relating to the West Virginia Board of Funeral Service Examiners (Fee Schedule, 6 CSR 07), is authorized.

**§64-9-11. West Virginia Massage Therapy Licensure Board.**

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-37-6 of this code, modified by the West Virginia Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2021, relating to the West Virginia Massage Therapy Licensure Board (General Provisions, 194 CSR 01), is authorized with the amendment set forth below:

On page 4, subdivision 4.1.h, after the words "written medical directive" by inserting the words "prescribed by a medical doctor, doctor of osteopathy, physician assistant, or an advanced practice registered nurse".

**§64-9-12. West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.**

The Legislature directs the West Virginia Board of Medical Imaging and Radiation Therapy Technology Board of Examiners to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-23-7 of this code, relating to the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Medical Imaging Technologists, 18 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking "March 30, 2035" and inserting in lieu thereof "August 1, 2035";

On page 6, subdivision 4.7.a. by striking out "\$100.00" and inserting in lieu thereof "\$92.00";

On page 6, subdivision 4.7.b. by striking out "\$65.00" and inserting in lieu thereof "\$60.00";



On page 6, subdivision 4.7.c. by striking out "\$40.00" and inserting in lieu thereof "\$37.00";

On page 6, subdivision 4.7.f. by striking out "\$40.00" and inserting in lieu thereof "\$37.00";

On page 6, subdivision 4.7.j. by striking out "\$100.00" and inserting in lieu thereof "\$92.00";

On page 6, subdivision 4.7.k. by striking out "\$100.00" and inserting in lieu thereof "\$92.00";

On page 7, paragraph 4.8.a.1. by striking out "\$1000.00" and inserting in lieu thereof "\$920.00";

On page 7, paragraph 4.8.a.2. by striking out "\$1000.00" and inserting in lieu thereof "\$920.00";

On page 7, paragraph 4.8.a.3. by striking out "\$500.00" and inserting in lieu thereof "\$460.00";

And,

On page 7, paragraph 4.8.a.4. by striking out "\$500.00" and inserting in lieu thereof "\$460.00".

### **§64-9-13. West Virginia Board of Medicine.**

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Licensing and Disciplinary Procedures: Physicians, Podiatric Physicians and Surgeons, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 2, 2021, relating to the West Virginia Board of Medicine (Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Dispensing of Prescription Drugs by Practitioners, 11 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Continuing Education for Physicians and Podiatric Physicians, 11 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database, 11 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities, 11 CSR 11), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Registration to Practice During Declared State of Emergency, 11 CSR 14), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the Board of Medicine (Telehealth and Interstate Telehealth Registration for Physicians, Podiatric Physicians and Physician Assistants, 11 CSR 15), is authorized with the amendment set forth below:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words "based solely upon a telemedicine encounter".

#### **§64-9-14. West Virginia Board of Osteopathic Medicine.**

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Licensing Procedures for Osteopathic Physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Osteopathic Medicine (Osteopathic Physician Assistants, 24 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Practitioner Requirements for Controlled Substances Licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database, 24 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the Board of Osteopathic Medicine (Telehealth Practice and Interstate Telehealth Registration for Osteopathic Physicians and Physician Assistants, 24 CSR 10), is authorized with the amendment set forth below:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words "based solely upon a telemedicine encounter".

#### **§64-9-15. West Virginia Board of Pharmacy.**

(a) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the

West Virginia Board of Pharmacy (Licensure and Practice of Pharmacist Care, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §60A-9-6 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR 08), is authorized.

(c) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Pharmacy (Regulations Governing Pharmacists, 15 CSR 16), is authorized.

#### **§64-9-16. West Virginia Board of Psychologists.**

The Legislature directs the West Virginia Board of Psychologists to amend the legislative rule filed in the State Register on April 25, 2018, authorized under the authority of §30-21-6 of this code, relating to the West Virginia Board of Psychologists (Fees, 17 CSR 01) with the amendments set forth below:

One page one, subsection 1.5. by striking out "July 1, 2028", and inserting in lieu thereof "August 1, 2028";

On page one, subsection 2.1 by striking out "\$133.00", and inserting in lieu thereof "\$120.00";

On page one, paragraph 2.2 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page one, subdivision 2.2.1 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page one, subdivision 2.3.1 by striking out "\$450.00", and inserting in lieu thereof "\$405.00";

On page one, subdivision 2.3.2 by striking out "\$133.00", and inserting in lieu thereof "\$120.00";

On page one, subdivision 2.2.3 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page two, subdivision 2.3.4 by striking out "\$300.00", and inserting in lieu thereof "\$270.00";

Strike the entirety of page two, subsection 2.5, and renumber the remaining subsections;

On page two, subsection 2.6 by striking out "\$78.00", and inserting in lieu thereof "\$68.00";

On page two, subdivision 2.7.1 by striking out "\$450.00", and inserting in lieu thereof "\$405.00";

On page two, subdivision 2.7.2 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page two, subsection 2.8 by striking out "\$133.00", and inserting in lieu thereof "\$120.00";

On page two, subsection 2.9 by striking out "\$300.00", and inserting in lieu thereof "\$270.00";

On page two, subsection 2.11 by striking out "\$100.00", and inserting in lieu thereof "\$90.00";

On page two, subdivision 2.12.1 by striking out "\$200.00", and inserting in lieu thereof "\$180.00";

On page two, subdivision 2.12.2 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 2.13 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

On page two, subsection 2.14 by striking out "\$50.00", and inserting in lieu thereof "\$45.00";

And,

On page two, subsection 2.15 by striking out "\$200.00", and inserting in lieu thereof "\$180.00".

#### **§64-9-17. Public Service Commission.**

The legislative rule filed in the State Register on August 6, 2021, authorized under the authority of §24-2E-3 of this code, modified by the Public Service Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 24, 2021, relating to the Public Service Commission (Rules Governing the Occupancy of Customer-Provided Conduit, 150 CSR 37), is authorized.

#### **§64-9-18. West Virginia Real Estate Appraiser Licensing and Certification Board.**

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Requirements for Licensure and Certification, 190 CSR 02), is authorized with the amendments set forth below:

On page twenty-five, subdivision 10.2.a., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-five, subdivision 10.2.b., by striking out "two hundred sixty-five dollars (\$265)", and inserting in lieu thereof "\$210";

On page twenty-five, subdivision 10.2.c., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$80";

On page twenty-five, subdivision 10.2.d., following the words "temporary permit fee of" by striking out "two hundred fifty dollars (\$250)", and inserting in lieu thereof "\$200";

On page twenty-five, subdivision 10.2.d., following the words "non-residential appraisal and," and inserting in lieu thereof "\$200";

On page twenty-six, subdivision 10.2.e., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.f., by striking out "four hundred sixty-five dollars (\$465)", and inserting in lieu thereof "\$375";

On page twenty-six, subdivision 10.2.g., by striking out "three hundred fifteen dollars (\$315)", and inserting in lieu thereof "\$250";

On page twenty-six, subdivision 10.2.h., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$80";

On page twenty-six, subdivision 10.2.j., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.k., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.l., by striking out "one hundred ninety dollars (\$190)", and inserting in lieu thereof "\$150";

On page twenty-six, subdivision 10.2.m., by striking out "twenty-five dollars (\$25)", and inserting in lieu thereof "\$20";

On page twenty-six, subdivision 10.2.n., by striking out "Copy fees: fifty cents (\$.50) per page"

On page twenty-six, subdivision 10.2.n., following the words Administrative fee of, striking "fifty cents (\$.50)," and inserting in lieu thereof "\$.40"



On page twenty-six, subdivision 10.2.o., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.p., by striking out "one hundred fifty dollars (\$150)", and inserting in lieu thereof "\$120";

On page twenty-six, subdivision 10.2.q., after the words "One roster-fee of" by striking out "thirty-five dollars (\$35), and inserting in lieu thereof "\$28";

On page twenty-six, subdivision 10.2.q., after the words roster subscription fee-of" by striking out "fifty dollars (\$50)", and inserting in lieu thereof "\$40";

On page twenty-six, subdivision 10.2.r., by striking out "fifty dollars (\$50)", and inserting in lieu thereof "\$40";

On page twenty-six, subdivision 10.2.s., by striking out "fifty dollars (\$550)", and inserting in lieu thereof "\$40";

On page twenty-six, subdivision 10.2.t., by striking out "seventy-five dollars (\$75)", and inserting in lieu thereof "\$60";

And,

On page twenty-six, subdivision 10.2.u., by striking out "twenty-five dollars (\$25)", and inserting in lieu thereof "\$20".

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Renewal of Licensure or Certification, 190 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38A-2 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-

Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Requirements for Registration and Renewal of Appraisal Management Companies, 190 CSR 05), is authorized.

**§64-9-19. West Virginia Board of Examiners for Registered Professional Nurses.**

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §30-7-15a of this code, relating to the West Virginia Board of Examiners for Registered Professional Nurses (Limited Prescriptive Authority for Nurses in Advanced Practice, 19 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on August 31, 2021, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (Telehealth Practice, 19 CSR 16), is authorized with the amendments set forth below:

On page three, subdivision 3.3.2., by striking out the word "state" and inserting in lieu thereof the words "State of West Virginia";

On page three, subdivision 3.3.2., by striking out the words "location or";

On page five, subsection 5.9., by striking out the word "applicant" and inserting in lieu thereof the word "registrant";

On page five, after subsection 5.12, by renumbering the remaining subsections;

On page six, subsection 5.11., by striking out the words "apply anew" and inserting in lieu thereof the word "reapply";

On page seven, subsection 7.3., after the words "prescription if" by inserting in lieu thereof the words "the nurse";

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

On page eight, subsection 7.8., after the word "practices" by striking out the word "to" and inserting in lieu thereof the words "while treating";

On page eight, subsection 8.1, by striking out the words "of the provider's profession in the State of West Virginia pursuant to qualified advanced practice registered nurses to prescribe prescription drugs in accordance with the" and inserting in lieu thereof the words "as set forth in the";

On page eight, subsection 8.2, by striking out the words "Schedules III through V of";

On page eight, subsection 8.3, by striking out the words "based solely upon a telemedicine encounter";

On page nine, subdivision 10.2.1., by striking out the words "Shall not engage" and inserting in lieu thereof the word "Engaging";

On page nine, subdivision 10.2.1., by inserting a period after the words "this rule";

On page nine, subdivision 10.2.1., by striking out the words "or they" and inserting in lieu thereof the words "A registered nurse or advance practice registered nurse who engages in professional misconduct";

And,

On page nine, subsection 11.2., by striking out the words "the following" and inserting in lieu thereof the word "that".

**§64-9-20. Secretary of State.**

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-11 of this code, relating to the Secretary of State (Voter Registration at the Division of Motor Vehicles, 153 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-23a of this code, relating to the Secretary of State (Voter Registration List Maintenance by the Secretary of State, 153 CSR 05), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-2-12 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-3-3 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Use of Digital Signatures, 153 CSR 30), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-8-2c of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary of State (Regulation of Political Party Headquarters Finances, 153 CSR 43), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39-4-37 and §39-4-38 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Secretary

of State (Standards and Guidelines for Electronic Notarization, Remote Online Notarization, and Remote Ink Notarization, 153 CSR 45), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-4-4 of this code, relating to the Secretary of State (Real Property Electronic Recording Standards and Regulations, 153 CSR 48), is authorized with amendments set forth below:

On page 2, section 3.1, by striking out the words "as amended from time to time";

On page 3, subdivision 3.3.1, by striking out the words "as amended from time to time";

And,

On page 3, subdivision 3.3.2, by striking out the words "as amended from time to time".

#### **§64-9-21. West Virginia Board of Social Work Examiners.**

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Qualifications for the Profession of Social Work, 25 CSR 01), is authorized.

(b) The Legislature directs the West Virginia Board of Social Work Examiners to amend the legislative rule filed in the State Register on May 12, 2020, authorized under the authority of §30-30-6 of this code, relating to the West Virginia Board of Social Work Examiners (Fee Schedule, 25 CSR 03) with the amendments set forth below:

On page two, subdivision 3.1.2., by striking out "fifty dollars (\$50)", and inserting in lieu thereof "\$45";

On page two, subdivision 3.2.1., by striking out "\$100", and inserting in lieu thereof "\$90";

On page two, subdivision 3.2.2., following the words "biennial license renewal is" by striking out "eighty-five dollars (\$85)", and inserting in lieu thereof "\$76";

On page two, subdivision 3.2.2., following the words "provisional license renewal is" by striking "ninety dollars (\$90)", and inserting in lieu thereof "\$80";

On page two, subdivision 3.2.3., by striking out "fifty dollars (\$50)", and inserting in lieu thereof "\$45";

On page two, subdivision 3.2.4., by striking out "one hundred fifteen dollars (\$115)", and inserting in lieu thereof "\$104";

On page two, subdivision 3.2.5., by striking out "twenty-five dollars (\$25)", and inserting in lieu thereof "\$23";

On page two, subdivision 3.2.6., by striking out "fifty dollars (\$50)", and inserting in lieu thereof "\$45";

On page two, subdivision 3.2.7., by striking out "thirty dollars (\$30)", and inserting in lieu thereof "\$27";

On page two, subdivision 3.2.8., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$90";

On page two, subdivision 3.2.9., by striking out "fifty-five dollars (\$55)", and inserting in lieu thereof "\$50";

On page two, subdivision 3.2.10., by striking out "twenty-five dollars (\$25)", and inserting in lieu thereof "\$23";

On page three, subdivision 3.4.1., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$90";

On page three, subdivision 3.4.2., by striking out "sixty dollars (\$60)", and inserting in lieu thereof "\$54";

And,

On page three, subdivision 3.5.1., by striking out "one hundred dollars (\$100)", and inserting in lieu thereof "\$90".

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Continuing Education for Social Workers and Providers, 25 CSR 05), is authorized.

**§64-9-22. West Virginia Board of Examiners for Speech-Language Pathology and Audiology.**

The legislative rule filed in the State Register on June 9, 2021, authorized under the authority of §30-32-7 of this code, modified by the West Virginia Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2021, relating to the West Virginia Board of Speech-Language Pathology and Audiology (Licensure of Speech-Pathology and Audiology, 29 CSR 01), is authorized.

**§64-9-23. State Treasurer.**

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-4-11 of this code, relating to the Treasurer (Substitute Checks-Exceptional Items Fund, 112 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-2-2 of this code, relating to the Treasurer (Procedures for Deposit of Moneys with the State Treasurer's Office by State Agencies, 112 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for

Disbursement Accounts Through Competitive Bidding, 112 CSR 06), is authorized.

(d) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Receipt Accounts, 112 CSR 07), is authorized.

(e) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-3-1 of this code, relating to the Treasurer (Procedures for Processing Payments from the State Treasury, 112 CSR 08), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-6A-7 of this code, relating to the Treasurer (Reporting Debt, 112 CSR 10), is authorized.

(g) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedure for Fees in Collections by Charge, Credit or Debit Card or by Electronic Payment, 112 CSR 12), is authorized.

(h) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedures for Providing Services to Political Subdivisions, 112 CSR 13), is authorized.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 334**—A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules, as filed, as modified, and as amended by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Commissioner of Agriculture to



promulgate a legislative rule relating to feeding of untreated garbage to swine; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to commercial feed; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to enrichment of flour and bread law regulations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to fruits and vegetables: certification for potatoes for seedling purposes; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Rural Rehabilitation Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Farm-to-Food Bank Tax Credit; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to seed certification; authorizing the State Auditor to promulgate a legislative rule relating to the procedure for local levying bodies to apply for permission to extend time to meet as levying body; authorizing the State Auditor to promulgate a legislative rule relating to accountability requirements for state funds and grants; authorizing the West Virginia Board of Chiropractic Examiners to promulgate a legislative rule relating to fees; authorizing the West Virginia Board of Chiropractic Examiners to promulgate a legislative rule relating to chiropractic telehealth practices; authorizing the Contractor Licensing Board to promulgate a legislative rule relating to the Contractor Licensing Act; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to licensure; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselors fees; authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist licensing;

authorizing the West Virginia Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist fees; authorizing the Dangerous Wild Animal Board to promulgate a legislative rule relating to dangerous wild animals; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the West Virginia Board of Dentistry; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to fees; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the formation and approval of dental corporation and dental practice ownership; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the administration of anesthesia by dentists; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to the expanded duties of dental hygienists and dental assistants; authorizing the West Virginia Board of Dentistry to promulgate a legislative rule relating to teledentistry; authorizing the West Virginia Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the West Virginia Board of Professional Engineers to promulgate a legislative rule relating to examination, licensure, and practice of professional engineers and the fee schedule; authorizing the West Virginia Board of Funeral Service Examiners to promulgate a legislative rule relating to the fee schedule; authorizing the West Virginia Massage Therapy Licensure Board to promulgate a legislative rule relating to general provisions; authorizing the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners relating to medical imaging technologists; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures for physicians, podiatric physicians, and surgeons; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensure, practice requirements disciplinary and complaint procedures, continuing education, and physician assistants; authorizing the West Virginia

Board of Medicine to promulgate a legislative rule relating to dispensing of prescription drugs by practitioners; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatric physicians; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to practitioner requirements for accessing the West Virginia Controlled Substances Monitoring Program Database; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to registration to practice during a declared State of Emergency; authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to telehealth and interstate telehealth registration for physicians, podiatric physicians, and physician assistants; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to Osteopathic Physicians Assistants; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to practitioner requirements for controlled substances licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database; authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to telehealth practice and interstate telehealth registration for osteopathic physicians and physician assistants; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy care; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to the Controlled Substance Monitoring Program; authorizing the West Virginia Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the West Virginia Board of Psychologists to promulgate a legislative rule relating to fees; authorizing the Public Service Commission to promulgate a legislative rule relating to rules governing the occupancy of customer-provided conduit;

authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure or certification; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to the renewal of licensure and certification; authorizing the West Virginia Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for registration and renewal of appraisal management companies; authorizing the West Virginia Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; authorizing the West Virginia Board of Examiners of Registered Professional Nurses to promulgate a legislative rule relating to telehealth practice; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration at the Division of Motor Vehicles; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration list maintenance by the Secretary of State; authorizing the Secretary of State to promulgate a legislative rule relating to the combined Voter Registration and Driver Licensing Fund; authorizing the Secretary of State to promulgate a legislative rule relating to the use of digital signatures; authorizing the Secretary of State to promulgate a legislative rule relating to regulation of political party headquarters finances; authorizing the Secretary of State to promulgate a legislative rule relating to standards and guidelines for electronic notarization, remote online notarization, and remote ink notarization; authorizing the Secretary of State to promulgate a legislative rule relating to real property electronic recording standards and regulations; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to the fee schedule; authorizing the West Virginia Board of Social Work Examiners to promulgate a legislative rule relating to continuing education for social workers and providers; authorizing the West Virginia Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the State Treasurer to

promulgate a legislative rule relating to Substitute Checks-Exceptional Items Fund; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for deposit of monies with the State Treasurer's Office by state agencies; authorizing the State Treasurer to promulgate a legislative rule relating to the selection of state depositories for disbursement accounts through competitive bidding; authorizing the State Treasurer to promulgate a legislative rule relating to the selection of state depositories for receipt accounts; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for processing payments from the State Treasury; authorizing the State Treasurer to promulgate a legislative rule relating to reporting debt; authorizing the State Treasurer to promulgate a legislative rule relating to procedures for fees in collections by charge, credit, or debit card or by electronic payment; and authorizing the State Treasurer to promulgate a legislative rule relating to procedures for providing services to political subdivisions.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 334) and requested the House of Delegates to recede therefrom.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 518**, Allowing nurses licensed in another state to practice in WV.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

**§30-7-1a. Eligibility for licensure by meeting requirements which existed prior to the legislative enactments during the 2012 legislative session.**

[Repealed].

**§30-7-3. Board of examiners for registered professional nurses.**

~~The Governor shall appoint, by and with the advice and consent of the Senate, a board consisting of five members who shall constitute and be known as the West Virginia board of examiners for registered professional nurses.~~

~~Appointments hereunder shall be made by the Governor, by and with the advice and consent of the Senate, from lists submitted to the Governor by the West Virginia nurses' association. Such lists shall contain the names of at least three persons eligible for membership for each membership or vacancy to be filled and shall be submitted to the Governor on or before June 1 of each year and at such other time or times as a vacancy on the board shall exist. Appointments under the provisions of this article shall be for a term of five years each or for the unexpired term, if any, of the present members. Any member may be eligible for reappointment, but no member shall serve longer than two successive terms. Vacancies shall be filled in the same manner as is provided for appointment in the first instance. The Governor may remove any member for neglect of duty, for incompetence, or for unprofessional or dishonorable conduct.~~

~~Each member of the board hereafter appointed shall (a) be a citizen of the United States and a resident of this state, (b) be a graduate from an accredited educational program in this or any other state for the preparation of practitioners of registered professional nursing, or be a graduate from an accredited college or university with a major in the field of nursing, (c) be a graduate from an accredited college or university, (d) be a registered~~

~~professional nurse licensed in this state or eligible for licensure as such, (e) have had at least five years of experience in teaching in an educational program for the preparation of practitioners of registered professional nursing, or in a combination of such teaching and either nursing service administration or nursing education administration, and (f) have been actually engaged in registered professional nursing for at least three within the past five years preceding his or her appointment or reappointment.~~

~~Each member of the board shall receive \$50 for each day actually spent in attending meetings of the board, or of its committees, and shall also be reimbursed for actual and necessary expenses: *Provided*, That the per diem increased by this amendment shall be effective upon passage of this article.~~

(a) The West Virginia Board of Examiners for Registered Professional Nurses is renamed the West Virginia Board of Registered Nurses effective July 1, 2022. The members of the West Virginia Board of Examiners for Registered Professional Nurses shall remain as members until the new appointments are made.

(b) By July 1, 2022, the Governor, by and with the advice and consent of the Senate, shall appoint a new board as follows:

(1) One person licensed as an advanced practice registered professional nurse by the board;

(2) One person who is certified as a dialysis technician by the board;

(3) Four persons licensed as a registered professional nurse by the board and meet the following requirements:

(A) One registered professional nurse, who provides direct patient care in a long-term care facility, home health or hospice;

(B) Two registered professional nurses, who provide direct patient care in a hospital setting or acute care setting; and,

(C) One registered professional nurse, who teaches nursing; and,

(4) One citizen member who is not licensed under the provisions of this chapter and who has never performed any services as a health care professional.

(c) Organizations that represent nurses may submit to the Governor recommendations for the appointment of the licensed board members.

(d) The appointment term is four years. A member may not serve more than two consecutive terms. A member may continue to serve until his or her successor has been appointed and qualified.

(e) Each member of the board shall be a resident of this state during the appointment term.

(f) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(g) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(h) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice is disciplined in any jurisdiction.

(i) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(j) The board shall elect one of its members as president and one member as secretary who shall serve at the will and pleasure of the board.

(k) A member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(l) A simple majority of the membership serving on the board at a given time is a quorum for the transaction of business.



(m) The board shall hold at least two meetings annually. Other meetings shall be held at the call of the president or upon the written request of four members, at the time and place as designated in the call or request.

(n) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(o) A board member, when acting in good faith and without malice, shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

**§30-7-4. Organization and meetings of board; quorum; powers and duties generally; executive secretary; funds.**

~~The board shall meet at least once each year and shall elect from its members a president and a secretary. The secretary shall also act as treasurer of the board. The board may hold such other meetings during the year as it may deem necessary to transact its business. A majority, including one officer, of the board shall constitute a quorum at any meeting. The board is hereby authorized and empowered to:~~

~~(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article;~~

~~(b) Prescribe standards for educational programs preparing persons for licensure to practice registered professional nursing under this article;~~

~~(c) Provide for surveys of such educational programs at such time as it may deem necessary;~~

~~(d) Accredited such educational programs for the preparation of practitioners of registered professional nursing as shall meet the requirements of this article and of the board;~~

~~(e) Deny or withdraw accreditation of educational programs for failure to meet or maintain prescribed standards required by this article and by the board;~~

~~(f) Examine, license and renew the licenses of duly qualified applicants;~~

~~(g) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;~~

~~(h) Keep a record of all proceedings of the board;~~

~~(i) Make a biennial report to the Governor and the Legislative Oversight Commission for Health and Human Resources Accountability;~~

~~(j) Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive secretary to the board;~~

~~(k) Define the duties and fix the compensation for the executive secretary; and~~

~~(l) Employ such other persons as may be necessary to carry on the work of the board.~~

(a) The board has all the powers and duties set forth in this article, in §30-1-1 et seq. of this code and elsewhere in law, including the ability to:

(1) Hold meetings;

(2) Establish procedures for submitting, approving, and rejecting applications for a license and permit;

(3) Determine the qualifications of an applicant for a license and permit;

(4) Establish the fees charged under the provisions of this article;

(5) Issue, renew, restrict, deny, suspend, revoke, or reinstate a license and permit;

(6) Prepare, conduct, administer, and grade written, oral, or written and oral examinations for a license;

(7) Contract with third parties to administer the examinations required under the provisions of this article;

(8) Maintain records of the examinations the board, or a third party, administers, including the number of persons taking the examination and the pass and fail rate;

(9) Maintain an office and hire, discharge, establish the job requirements, and fix the compensation of employees, and contract with persons necessary to enforce the provisions of this article;

(10) Employ investigators, attorneys, hearing examiners, consultants, and other employees as may be necessary who are exempt from the classified service and who serve at the will and pleasure of the board;

(11) Delegate hiring of employees to the executive director;

(12) Investigate alleged violations of the provisions of this article and legislative rules, orders, and final decisions of the board;

(13) Conduct disciplinary hearings of persons regulated by the board;

(14) Determine disciplinary action and issue orders;

(15) Institute appropriate legal action for the enforcement of the provisions of this article;

(16) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(17) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(18) Public meeting minutes to its website within 14 days of a meeting;

(19) Propose rules in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article;

(20) Sue and be sued in its official name as an agency of this state;

(21) Approve a nursing school;

(22) Establish a nurse health program;

(23) Implement the provisions of the enhanced nurse licensure compact in accordance with §30-7B-1 et seq. of this code;

(24) Coordinate with and assist the Center for Nursing in accordance with §30-7B-1 et seq. of this code; and

(25) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

(b) All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the General Funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the General Funds of this state.

### **§30-7-6. License to practice registered professional nursing.**

~~(a) To obtain a license to practice registered professional nursing, an applicant for such license shall submit to the board written evidence, verified by oath, that he or she: (1) Is of good moral character; (2) has completed an approved four year high school course of study or the equivalent thereof, as determined by the appropriate educational agency; and (3) has completed an accredited program of registered professional nursing education and holds a diploma of a school accredited by the board.~~

~~(b) The applicant shall also be required to pass a written examination in such subjects as the board may determine. Each~~

~~written examination may be supplemented by an oral examination. Upon successfully passing such examination or examinations, the board shall issue to the applicant a license to practice registered professional nursing. The board shall determine the times and places for examinations. In the event an applicant shall have failed to pass examinations on two occasions, the applicant shall, in addition to the other requirements of this section, present to the board such other evidence of his or her qualifications as the board may prescribe.~~

~~(c) The board may, upon application, issue a license to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country if in the opinion of the board the applicant meets the qualifications required of registered professional nurses at the time of graduation.~~

~~(d) The board may, upon application and proper identification determined by the board, issue a temporary permit to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country. Such temporary permit authorizes the holder to practice registered professional nursing in this state while the temporary permit is effective. A temporary permit shall be effective for ninety days, unless the board revokes such permit prior to its expiration, and such permit may not be renewed. Any person applying for a temporary license under the provisions of this paragraph shall, with his or her application, pay to the board a nonrefundable fee of \$10.~~

~~(e) Any person holding a valid license designated as a "waiver license" may submit an application to the board for a license containing no reference to the fact that such person has theretofore been issued such "waiver license." The provisions of this section relating to examination and fees and the provisions of all other sections of this article shall apply to any application submitted to the board pursuant to the provisions of this paragraph.~~

~~(f) Any person applying for a license to practice registered professional nursing under the provisions of this article shall, with~~

~~his or her application, pay to the board a fee of \$40: *Provided*, That the fee to be paid for the year commencing July 1, 1982, shall be \$70: *Provided, however*, That the board in its discretion may, by rule or regulation, decrease either or both said license fees. In the event it shall be necessary for the board to reexamine any applicant for a license, an additional fee shall be paid to the board by the applicant for reexamination: *Provided further*, That the total of such additional fees shall in no case exceed \$100 for any one examination.~~

~~(g) Any person holding a license heretofore issued by the West Virginia state Board of Examiners for Registered Nurses and which license is valid on the date this article becomes effective shall be deemed to be duly licensed under the provisions of this article for the remainder of the period of any such license heretofore issued. Any such license heretofore issued shall also, for all purposes, be deemed to be a license issued under this article and to be subject to the provisions hereof.~~

~~(h) The board shall, upon receipt of a duly executed application for licensure and of the accompanying fee of \$70, issue a temporary permit to practice registered professional nursing to any applicant who has received a diploma from a school of nursing approved by the board pursuant to this article after the date the board last scheduled a written examination for persons eligible for licensure: *Provided*, That no such temporary permit shall be renewable nor shall any such permit be valid for any purpose subsequent to the date the board has announced the results of the first written examination given by the board following the issuance of such permit.~~

~~(i) To obtain a license to practice as an advanced practice registered nurse, an applicant must submit a written application, verified by oath, to the board together with an application fee established by the board through an authorized legislative rule. The requirements for a license to practice as an advanced practice registered nurse in this state are listed below and must be demonstrated to the board through satisfactory evidence submitted with the application for a license:~~

~~(1) The applicant must be licensed in good standing with the board as a registered professional nurse;~~

~~(2) The applicant must have satisfactorily completed a graduate level program accredited by a national accreditation body that is acceptable to the board; and~~

~~(3) The applicant must be currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist or certified nurse practitioner.~~

(a) The board may issue a license to practice registered nursing to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency;

(3) Has completed a nursing education program;

(4) Has passed an examination approved by the board;

(5) Has paid the application fee specified by rule;

(6) Has completed a criminal background check, as required by §30-1D-1 et seq. of this code; and,

(7) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may be evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or process, may be considered.

(b) A license to practice registered professional nursing issued by the board shall for all purposes be considered a license issued under this section: *Provided*, That a person holding a license shall renew the license.

**§30-7-7. License to practice advanced practice registered nursing.**

(a) The board may, upon application, issue a license to practice registered professional nursing by endorsement to any person who is not a citizen of the United States of America if such person: (1) Has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country; and (2) shall, in any such state, territory or foreign country, have passed a written examination in the English language which, in the opinion of the board, is comparable in content and scope to the type of written examination that is required in subsection

(b) of section six of this article.

(b) All other provisions of this article shall be applicable to any application for or license issued pursuant to this section.

(a) The board may issue an advanced practice registered nurse license to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Is currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner;

(3) Has paid the application fee specified by legislative rule; and

(4) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or process, may be considered.

(b) An advanced practice registered nurse license issued by the board and in good standing on the effective date of the amendments



to this section shall for all purposes be considered an advanced practice registered nurse license issued under this section: *Provided*, That a person holding an advanced practice registered nurse license shall renew the license.

(c) An applicant, who is licensed in another jurisdiction as an advanced practice registered nurse, is eligible to apply for licensure.

(d) By virtue of being a licensed advanced practice registered nurse that person is also licensed as a registered professional nurse. The board may not charge an additional fee for registered professional nurse license

### **§30-7-8. License renewal.**

~~The license of every person licensed and registered under the provisions of this article shall be annually renewed except as hereinafter provided. At such time or times as the board in its discretion may determine, the board shall mail a renewal application to every person whose license was renewed during the previous year and every such person shall fill in such application blank and return it to the board with a renewal fee of \$25 within thirty days after receipt of said renewal application: *Provided*, That the board in its discretion by rule may increase or decrease the renewal fee. Upon receipt of the application and fee, the board shall verify the accuracy of the application and, if the same be accurate, issue to the applicant a certificate of renewal for the current year. Such certificate of renewal shall entitle the holder thereof to practice registered professional nursing for the period stated on the certificate of renewal. Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment to the board of the renewal fee hereinabove provided and a reinstatement fee of \$50. Any person practicing registered professional nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of~~

~~this article desiring to retire from practice temporarily shall send a written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the inactive list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice registered professional nursing in this state. When the person desires to resume active practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.~~

(a) Persons regulated by this article shall annually or biennially, renew his or her board authorization by completing a form prescribed by the board and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a board authorization and shall charge a late fee for any renewal not paid by the due date.

(c) The board may deny an application for renewal for any reason which would justify the denial of an original application.

### **§30-7-8a. Temporary permits.**

~~(a) The board is authorized to assess a supplemental licensure fee not to exceed \$10 per license per year. The supplemental licensure fee is to be used to fund the center for nursing and to carry out its purposes as set forth in article seven b of this chapter.~~

~~(b) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine a of this code to establish the supplemental licensure fee.~~

~~(c) The board may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine a of this code for the initial fee assessment.~~

The board may issue a temporary permit to a person applying for a license under this article.

**§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.**

[Repealed.]

**§30-7-18. Nursing shortage study commission.**

(a) ~~The Legislature finds the following:~~

~~(1) Health care services are becoming complex and it is increasingly difficult for patients to access integrated services;~~

~~(2) Quality of patient care is jeopardized because of insufficient nursing staff;~~

~~(3) To ensure the adequate protection of patients in acute care settings, it is essential that qualified registered nurses and other licensed nurses be accessible and available to meet the needs of patients;~~

~~(4) In West Virginia, and across the country, concerns about an increasing nursing shortage continue to grow;~~

~~(5) A number of factors contribute to the growing shortages in qualified nursing personnel;~~

~~(6) The way care is delivered has changed dramatically over the last decade with more people being treated in outpatient settings, shorter and more intense lengths of stay in acute and long-term care settings, and the development of alternatives to nursing home care;~~

~~(7) These changes have led to a number of employment options becoming available to nurses that did not exist previously, making it difficult for employers of nurses to recruit and retain qualified nursing personnel;~~

~~(8) Severe cutbacks in the federal Medicare program, state budgetary pressures related to the Medicaid program and continued pressure from insurers to reduce their costs and to retrospectively deny payment for services rendered, have: (A) Made it extremely difficult for many providers to keep up with other employers in~~

~~salaries and benefits and to recruit and retain qualified nursing personnel; and (B) increased stresses in the work environment;~~

~~(9) The increasing reliance on temporary employment agencies to meet nursing personnel needs further complicates the situation as continuity of care is disrupted, quality of patient care is jeopardized, and costs pressures are further increased; and~~

~~(10) Because of the multifaceted nature of these problems, it is critical that all of the interested and affected parties cooperate and collaborate in the development of solutions.~~

~~(b) A nursing shortage study commission shall be created by the West Virginia board of examiners for registered professional nurses. The board shall appoint eleven 9 members to the commission. The board shall appoint:~~

~~(1) Two individuals who are One individual who is on the board of examiners for registered professional nurses; one of which is employed in a school of nursing;~~

~~(2) Two individuals that are employed as registered professional nurses in a hospital and who work primarily providing direct patient care;~~

~~(3) Two registered professional nurses who work as long-term care nurses, one of whom works in a nursing home and one of whom works for a home health agency, both of whom work primarily providing direct patient care;~~

~~(4) One nursing administrator; of a hospital in this state;~~

~~(5) One doctoral prepared nurse researcher; The Chancellor of the Higher Education Policy Commission~~

~~(6) One nursing home administrator; and The West Virginia Nurses' Association President; and,~~

~~(7) Two representatives of the public not currently or previously employed in hospital, nursing home or for a related entity. The Executive Director of the Center for Nursing.~~

(e) (b) Members of the commission are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties. ~~Six~~ 5 of the appointed members is a quorum for the purpose of conducting business. The board shall meet at least monthly. The board shall designate a chair, who is not a public official. The commission shall conduct all meetings in accordance with the open meeting law pursuant to §6-9A-1 et seq. of this code.

~~(d)~~ (c) The commission shall:

(1) Study the nursing shortage in West Virginia and ways to alleviate it, including, but not limited to:

(A) Evaluating mechanisms currently available in the state and elsewhere intended to enhance education, recruitment, and retention of nurses in the workforce and to improve quality of care;

(B) Assessing the impact of shortages in nursing personnel on access to, and the delivery of, quality patient care;

(C) Developing recommendations on strategies to reverse the growing shortage of qualified nursing personnel in the state, including:

(i) Determining what changes are needed to existing programs, current scholarship programs and funding mechanisms to better reflect and accommodate the changing health care delivery environment and to improve quality of care to meet the needs of patients;

(ii) Facilitating career advancement within nursing;

(iii) Identifying more accurately specific shortage areas in a more timely manner;

(iv) Attracting middle and high school students into nursing as a career; and

(v) Projecting a more positive and professional image of nursing.

~~(2) Report to the Legislature by February 1, 2002, its findings and recommendations on or before February 1 each year thereafter.~~

Report its findings and recommendation to the Joint Committee on Health by December 1, 2022.

(3) Terminate January 1, 2023.

**§30-7-20. Pilot program.**

[Repealed.];

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 518**—A Bill to repeal §30-7-1a, §30-7-15e, and §30-7-20 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-7-3, §30-7-4, §30-7-6, §30-7-7, §30-7-8, §30-7-8a, §30-7-20, all relating to the practice of registered nursing; updating the board membership; updating the board's powers; updating licensure requirements; updating the requirements for temporary permits; providing license requirements for license renewal; reconstituting the nursing shortage study commission; and removing outdated provisions.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 518, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Takubo—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 518) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Takubo—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 518) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

On motion of Senator Takubo, at 12:45 p.m., the Senate recessed until 2 p.m. today.

The Senate reconvened at 3:05 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 250**, Budget Bill.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill 334**, Authorizing miscellaneous agencies and boards to promulgate rules.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Foster, Kimes, and Young.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Sypolt, Rucker, and Jeffries.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 731**, Making supplementary appropriation to Department of Tourism, Tourism Workforce Development Fund.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 732**, Making supplementary appropriation to Hospital Finance Authority, Hospital Finance Authority Fund.



A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 733**, Supplementing and amending appropriation to Executive, Governor's Office.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 2733**, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

**Eng. Com. Sub. for House Bill 4059**, Clarifying that new Department of Health and Human Resources' Deputy Commissioners are exempt from civil service.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4112**, Provide consumers a choice for pharmacy services.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4285**, Relating to real estate appraiser licensing board requirements.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. House Bill 4355**, Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4373**, To exclude fentanyl test strips from the definition of drug paraphernalia.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. House Bill 4419**, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4511**, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 4563**, Provide for a license plate for auto mechanics.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4636**, Clarifying when business and occupation taxes owed to a city or municipality are considered to be remitted on time.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

**Eng. Com. Sub. for House Bill 4662**, Relating to licensure of Head Start facilities in this state.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4712**, Require the prompt enrollment in payment plans for costs, fines, forfeitures, restitution, or penalties in circuit court and magistrate court.

### **Executive Communications**

Senator Blair (Mr. President) laid before the Senate the following proclamation from His Excellency, the Governor, regarding the passage of the Budget Bill and the extension of this current legislative session, which was received and read by the Clerk:

**STATE OF WEST VIRGINIA****EXECUTIVE DEPARTMENT****Charleston****A PROCLAMATION****By the Governor**

**WHEREAS**, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January, Two Thousand Twenty-Two, such Regular Session being scheduled to conclude on the Twelfth day of March, Two Thousand Twenty-Two; and

**WHEREAS**, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the Regular Session of the Legislature for such further period as may, in his or her judgment, be necessary for the passage of the Budget Bill if the Budget Bill shall not have been finally acted upon three days before the expiration of its Regular Session; and

**WHEREAS**, the Budget Bill had not been finally acted upon by the Legislature three days before the expiration of its Regular Session, requiring under the provisions of the Constitution a proclamation be issued; and

**WHEREAS**, an extension of the Regular Session is not necessary for the passage of the Budget Bill; and

**NOW, THEREFORE, I, JIM JUSTICE**, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the Two Thousand Twenty-Two Regular Session of the Legislature for no additional period, as no additional period is necessary for the passage of the Budget Bill.

**IN WITNESS WHEREOF**, I have herunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

**DONE** at the Capitol in the City of Charleston, State of West Virginia, on this the Twelfth day of March, in the Year of our Lord, Two Thousand Twenty-Two, and in the One Hundred Fifty-Ninth Year of the State.



**By the Governor**

A handwritten signature in blue ink, reading "Jim Justice".

**GOVERNOR**

A handwritten signature in blue ink, reading "Mac Warner".

**SECRETARY OF STATE**

The Senate proceeded to the sixth order of business.

### **Petitions**

Senator Caputo presented a petition from the West Virginia Coalition for Truth in History and 475 West Virginia residents, opposing Engrossed Senate Bill 498 (*Creating Anti-Racism Act of 2022*).

Referred to the Committee on Education.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 62**, Requesting Joint Legislative Oversight Commission on State Water Resources study and evaluate quality of water services in WV.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. House Bill 2300**, Including Family Court Judges in the Judges' Retirement System.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Nelson, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES  
RETIREMENT ACT.**

**§5-10-14. Service credit; retroactive provisions.**

(a) The board of trustees shall credit each member with the prior service and contributing service to which he or she is entitled based upon rules adopted by the board of trustees and based upon the following:

(1) In no event may less than ten days of service rendered by a member in any calendar month be credited as a month of service: *Provided*, That for employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who have been or are employed during regular sessions or during the interim between regular sessions in seven consecutive calendar years, service credit of one month shall be awarded for each ten days employed in the interim between regular sessions, which interim days shall be cumulatively calculated so that any ten days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit;

(2) Except for hourly employees, and those persons who first become members of the retirement system on or after July 1, 2015, ten or more months of service credit earned in any calendar year shall be credited as a year of service: *Provided*, That no more than one year of service may be credited to any member for all service rendered by him or her in any calendar year and no days may be carried over by a member from one calendar year to another

calendar year where the member has received a full-year credit for that year; and

(3) Service may be credited to a member who was employed by a political subdivision if his or her employment occurred within a period of thirty years immediately preceding the date the political subdivision became a participating public employer.

(b) The board of trustees shall grant service credit to employees of boards of health, the Clerk of the House of Delegates and the Clerk of the State Senate or to any former and present member of the State Teachers Retirement System who have been contributing members in the Public Employees Retirement System for more than three years, for service previously credited by the State Teachers Retirement System and shall require the transfer of the member's accumulated contributions to the system and shall also require a deposit, with reinstatement interest as set forth in the board's Rule, Refund, Reinstatement, Retroactive Service, Loan and Correction of Error Interest Factors, 162 C. S. R. 7, of any withdrawals of contributions any time prior to the member's retirement. Repayment of withdrawals shall be as directed by the Board of Trustees.

(c) Court reporters who are acting in an official capacity, although paid by funds other than the county commission or State Auditor, may receive prior service credit for time served in that capacity.

(d) Active members who previously worked in Comprehensive Employment and Training Act (CETA) may receive service credit for time served in that capacity: *Provided*, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within one hundred twenty days following the termination of the member's CETA employment; (2) the board must receive evidence that establishes to a reasonable degree of certainty as determined by the board that the member previously worked in CETA; and (3) the member shall pay to the board an amount equal to the employer



and employee contribution plus interest at the amount set by the board for the amount of service credit sought pursuant to this subsection: *Provided, however*, That the maximum service credit that may be obtained under the provisions of this subsection is two years: *Provided further*, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: *And provided further*, That the board shall exercise due diligence to notify affected employees of the provisions of this subsection.

(e) (1) Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions shall receive service credit for the time served in that capacity in accordance with the following: For purposes of this section, the term "regular session" means day one through day sixty of a sixty-day legislative session or day one through day thirty of a thirty-day legislative session. Employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions and who have been or are employed during regular sessions or during the interim time between regular sessions in seven consecutive calendar years, as certified by the clerk of the house in which the employee served, shall receive service credit of six months for all regular sessions served, as certified by the clerk of the house in which the employee served, or shall receive service credit of three months for each regular thirty-day session served prior to 1971: *Provided*, That employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions and who have been or are employed during the regular sessions in thirteen consecutive calendar years as either temporary employees or full-time employees or a combination thereof, as certified by the clerk of the house in which the employee served, shall receive a service credit of twelve months for each regular session served, as certified by the clerk of the house in which the employee served: *Provided*,

*however*, That the amendments made to this subsection during the 2002 regular session of the Legislature only apply to employees of the Legislature who are employed by the Legislature as either temporary employees or full-time employees as of January 1, 2002, or who become employed by the Legislature as temporary or full-time employees for the first time after January 1, 2002. Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature during the interim time between regular sessions shall receive service credit of one month for each ten days served during the interim between regular sessions, which interim days shall be cumulatively calculated so that any ten days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit: *Provided further*, That no more than one year of service may be credited to any temporary legislative employee for all service rendered by that employee in any calendar year and no days may be carried over by a temporary legislative employee from one calendar year to another calendar year where the member has received a full year credit for that year. Service credit awarded for legislative employment pursuant to this section shall be used for the purpose of calculating that member's retirement annuity, pursuant to section twenty-two of this article, and determining eligibility as it relates to credited service, notwithstanding any other provision of this section. Certification of employment for a complete legislative session and for interim days shall be determined by the clerk of the house in which the employee served, based upon employment records. Service of fifty-five days of a regular session constitutes an absolute presumption of service for a complete legislative session and service of twenty-seven days of a thirty-day regular session occurring prior to 1971 constitutes an absolute presumption of service for a complete legislative session. Once a legislative employee has been employed during regular sessions for seven consecutive years or has become a full-time employee of the Legislature, that employee shall receive the service credit provided in this section for all regular and interim sessions and interim days worked by that employee, as certified by the clerk of the house in which the employee served, regardless of when the session or interim legislative employment occurred: *And provided further*,

That regular session legislative employment for seven consecutive years may be served in either or both houses of the Legislature.

(2) For purposes of this section, employees of the Joint Committee on Government and Finance are entitled to the same benefits as employees of the House of Delegates or the Senate: *Provided*, That for joint committee employees whose terms of employment are otherwise classified as temporary, employment in preparation for regular sessions, certified by the legislative manager as required by the Legislature for its regular sessions, shall be considered the same as employment during regular sessions to meet service credit requirements for sessions served.

(f) Any employee may purchase retroactive service credit for periods of employment in which contributions were not deducted from the employee's pay. In the purchase of service credit for employment prior to 1989 in any department, including the Legislature, which operated from the General Revenue Fund and which was not expressly excluded from budget appropriations in which blanket appropriations were made for the state's share of public employees' retirement coverage in the years prior to 1989, the employee shall pay the employee's share. Other employees shall pay the state's share and the employee's share to purchase retroactive service credit. Where an employee purchases service credit for employment which occurred after 1988, that employee shall pay for the employee's share and the employer shall pay its share for the purchase of retroactive service credit: *Provided*, That no legislative employee and no current or former member of the Legislature may be required to pay any interest or penalty upon the purchase of retroactive service credit in accordance with the provisions of this section where the employee was not eligible to become a member during the years for which he or she is purchasing retroactive credit or had the employee attempted to contribute to the system during the years for which he or she is purchasing retroactive service credit and the contributions would have been refused by the board: *Provided, however*, That a current legislative employee purchasing retroactive credit under this section shall do so within twenty-four months of beginning contributions to the retirement system as a legislative employee or

no later than December 31, 2016, whichever occurs later: *Provided further*, That once a legislative employee becomes a member of the retirement system, he or she may purchase retroactive service credit for any time he or she was employed by the Legislature and did not receive service credit. Any service credit purchased shall be credited as six months for each sixty-day session worked, three months for each thirty-day session worked or twelve months for each sixty-day session for legislative employees who have been employed during regular sessions in thirteen consecutive calendar years, as certified by the clerk of the house in which the employee served, and credit for interim employment as provided in this subsection: *And provided further*, That this legislative service credit shall also be used for months of service in order to meet the sixty-month requirement for the payments of a temporary legislative employee member's retirement annuity: *And provided further*, That no legislative employee may be required to pay for any service credit beyond the actual time he or she worked regardless of the service credit which is credited to him or her pursuant to this section: *And provided further*, That any legislative employee may request a recalculation of his or her credited service to comply with the provisions of this section at any time.

(g) (1) Notwithstanding any provision to the contrary, the seven consecutive calendar years requirement and the thirteen consecutive calendar years requirement and the service credit requirements set forth in this section shall be applied retroactively to all periods of legislative employment prior to the passage of this section, including any periods of legislative employment occurring before the seven consecutive and thirteen consecutive calendar years referenced in this section: *Provided*, That the employee has not retired prior to the effective date of the amendments made to this section in the 2002 regular session of the Legislature.

(2) The requirement of seven consecutive years and the requirement of thirteen consecutive years apply retroactively to all legislative employment prior to the effective date of the 2006 amendments to this section.

(h) The board of trustees shall grant service credit to any former or present member of the State Police Death, Disability and

Retirement Fund who has been a contributing member of this system for more than three years for service previously credited by the State Police Death, Disability and Retirement Fund if the member transfers all of his or her contributions to the State Police Death, Disability and Retirement Fund to the system created in this article, including repayment of any amounts withdrawn any time from the State Police Death, Disability and Retirement Fund by the member seeking the transfer allowed in this subsection: *Provided*, That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Public Employees Retirement System during the period of his or her membership in the State Police Death, Disability and Retirement Fund, excluding contributions on lump sum payment for annual leave, plus interest at a rate determined by the board.

(i) The provisions of section twenty-two-h of this article are not applicable to the amendments made to this section during the 2006 regular session.

(j) The board of trustees shall grant service credit to any judge who elects to transfer service from the judges' retirement system to the public employees retirement system and shall require the transfer to the member's employee contributions to the system: *Provided*, That there shall be added by the member to the amount transferred pursuant to this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the public employees retirement system during the period of his or her membership in the judges' retirement system, plus interest at the actuarial interest rate assumption as approved by the board, compounded per annum.

## **ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.**

### **§51-9-1a. Definitions.**

(a) Notwithstanding any provision of this code contrary, as used in this article, the term "judge", "judge of any court of record",

or "judge of any court of record of this state" means, refers to, and includes judges of the several family courts, circuit courts, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals. ~~For purposes of this article, the terms do not mean, refer to, or include family court judges.~~

(b) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of section 415 of the Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(c) "Beneficiary" means any person, except a member, who is entitled to an annuity or other benefit payable by the retirement system.

(d) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

(e) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

(f) "Final average salary" means the average of the highest 36 consecutive months' compensation received by the member as a judge of any court of record of this state.

~~(f)~~ (g) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

~~(g)~~ (h) "Member" means a judge participating in this system.

(h) (i) "Plan year" means the 12-month period commencing on July 1 of any designated year and ending the following June 30.

(i) (j) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age ~~70 and one-half~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which the member retires or otherwise separates from covered employment under this retirement system.

(j) (k) "Retirement system" or "system" means the Judges' Retirement System created and established by this article. Notwithstanding any other provision of law to the contrary, the provisions of this article are applicable only to circuit judges, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals in the manner specified in this article. No service as a family court judge may be construed to qualify a person to participate in the Judges' Retirement System or used in any manner as credit toward eligibility for retirement benefits under the Judges' Retirement System.

**§51-9-4. Required percentage contributions from salaries; any termination of required contributions prior to actual retirement disallowed; leased employees; military service credit; maximum allowable and qualified military service; qualifiable prosecutorial service.**

(a) Every person who is now serving or shall hereafter serve as a judge of any court of record of this state shall pay into the Judges' Retirement Fund six percent of the salary received by such person out of the State Treasury: *Provided*, That when a judge becomes eligible to receive benefits from such trust fund by actual retirement, no further payment by him or her shall be required, since such employee contribution, in an equal treatment sense, ceases to be required in the other retirement systems of the state, also, only after actual retirement: *Provided, however*, That on and after January 1, 1995, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund nine percent of the salary received by that person: *Provided further*, That consistent with the

salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on and after July 1, 2005, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund 10 and one-half percent of the salary received by that person: *And provided further*, That on and after July 1, 2013, except as provided in subsection (b) of this section, every person who is then serving or shall thereafter serve as a judge of any court of record in this state and who elects to participate in this retirement system shall pay into the Judges' Retirement Fund seven percent of the salary received. Any prior occurrence or practice to the contrary, in any way allowing discontinuance of required employee contributions prior to actual retirement under this retirement system, is rejected as erroneous and contrary to legislative intent and as violative of required equal treatment and is hereby nullified and discontinued fully, with the State Auditor to require such contribution in every instance hereafter, except where no contributions are required to be made under any of the provisions of this article.

(b) On and after July 1, 2014, every person who is serving or shall hereafter serve as a judge of any court of record of this state and who elects to participate in this retirement system shall contribute to the fund an amount determined by the board. This amount will be based on the annual actuarial valuation prepared by the State Actuary: *Provided*, That the contribution will be no less than seven percent or no more than ten and one-half percent of the participant's annual compensation; *Provided, however*, That on or after July 1, 2023, the contribution will be no less than three percent or no more than ten percent of the participant's annual compensation.

(c) On or after July 1, 2013, and each year thereafter, the annual actuarial valuation prepared by the State Actuary for determination of all participants' contributions and the annual actuarially required contribution prepared by the State Actuary for use by the courts of this state for legislative appropriation shall be provided to the



Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement.

(d) An individual who is a leased employee shall not be eligible to participate in the system. For purposes of this system, a "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or other similar organization. If a question arises regarding the status of an individual as a leased employee, the board has the final power to decide the question.

(e) In drawing warrants for the salary checks of judges, the State Auditor shall deduct from the amount of each such salary check six percent thereof, which amount so deducted shall be credited by the Consolidated Public Retirement Board to the trust fund: *Provided*, That on or after January 1, 1995, the amount so deducted and credited shall be nine percent of each such salary check: *Provided, however*, That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on or after July 1, 2005, the amount so deducted and credited shall be 10 and one-half percent of each such salary check: *Provided further*, That on and after July 1, 2013, except as provided in subsection (b) of this section, the amount so deducted and credited shall be seven percent of each salary check: *And provided further*, That on and after July 1, 2014, the amount so deducted and credited will be determined by the board.

(f) Any judge seeking to qualify military service to be claimed as credited service, in allowable aggregate maximum amount up to five years, shall be entitled to be awarded the same without any required payment in respect thereof to the Judges' Retirement Fund.

(g) Notwithstanding the preceding provisions of this section, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has the same meaning as in Section

414(u) of the Internal Revenue Code. The retirement board is authorized to determine all questions and make all decisions relating to this section and may promulgate rules relating to contributions, benefits and service credit pursuant to the authority granted to the retirement board in §5-10D-1 of this code to comply with Section 414(u) of the Internal Revenue Code.

(h) Any judge holding office as such on the effective date of the amendments to this article adopted by the Legislature at its 1987 regular session who seeks to qualify service as a prosecuting attorney as credited service, which service credit must have been earned prior to the year 1987, shall be required to pay into the Judges' Retirement Fund nine percent of the annual salary which was actually received by such person as prosecuting attorney during the time such prosecutorial service was rendered prior to the year 1987 and for which credited service is being sought, together with applicable interest. No judge whose term of office shall commence after the effective date of such amendments to this article shall be eligible to claim any credit for service rendered as a prosecuting attorney as eligible service for retirement benefits under this article, nor shall any time served as a prosecutor after the year 1988 be considered as eligible service for any purposes of this article.

Engrossed House Bill 2300, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 2300 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2300) passed.

On motion of Senator Nelson, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. House Bill 2300**—A Bill to amend and reenact §5-10-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §51-9-1a; and to amend and reenact §51-9-4 relating to including family court judges in the Judges' Retirement System; to change contribution levels of persons who serve of any court of record of this state and who elects to participate in this retirement system; setting an effective date; and modifying percent of participant's annual compensation.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 2910**, To modify the allowable number of magistrate judges per county.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the bill was withdrawn.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 1. COURTS AND OFFICERS.****§50-1-2. Number of magistrates.**

(a) The number of magistrates to be elected in each county of this state shall be determined in accordance with the provisions of this section.

~~(b) The number of magistrates serving in each county of the state shall comport with the numbers certified by the Supreme Court of Appeals to the ballot commissioners of each county on or before January 31, 2000, for purposes of the primary and general elections to be held in the year 2000.~~

(b) The Supreme Court of Appeals shall conduct or otherwise arrange for a caseload study of the magistrate courts of this state for the purpose of determining how many magistrates are needed in each county. Based upon the results of this study and upon consideration of county population data from the most recent decennial census, the Supreme Court of Appeals shall enter an administrative order on or before January 5, 2023, containing the Supreme Court's recommendations as to the number of magistrates who are needed in each of the state's 55 counties for the four-year terms of office to be filled by election in the year 2024. The administrative order shall allocate no more than 170 magistrates for the entire State of West Virginia, nor shall the allocation reduce the number of magistrates in any county below that in effect on the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. Attested copies of the administrative order shall be provided to the President of the West Virginia Senate, the Clerk of the Senate, the Clerk and the Speaker of the West Virginia House of Delegates, and the West Virginia Secretary of State.

~~(c)(1) The Legislature finds that there exists among the various counties large and unwarranted disparities of caseload between the magistrate courts. The Legislature further finds that the disparity causes an inequity with regard to magistrate court resources and the ability of the courts to effectively meet the needs of the citizens of this state who need to avail themselves of this judicial resource.~~

~~The Legislature further finds that the system currently in place for allocating magistrate court resources which has been in effect since the year 1991 produces certain anomalies which cause quadrennial reallocation of magistrate resources based upon said anomalies which in turn cause a waste of funds, inequitable workloads, unnecessary shifting of resources and confusion among the various counties.~~

(c) The West Virginia Legislature may, in the regular session of the Legislature, 2023, reject the allocation of magistrates recommended by the Supreme Court and allocate magistrates for the four-year terms commencing in January of 2025 and serving through December of 2028, as the Legislature may choose by enactment of a bill containing such an allocation.

(d) If the Legislature does not enact a different allocation of the magistrates to be elected in 2024 pursuant to subsection (c) of this section, then the administrative order of the Supreme Court of Appeals required by subsection (b) of this section shall become the certification to the ballot commissioners of each county in this state of the number of magistrates to be elected in each county of this state at the judicial elections to be held concurrently with the primary election in 2024.

(e) The process set forth in this section shall be repeated every four years in the first and second years immediately preceding the quadrennial election of magistrates.

#### **§50-1-2a. Addition of magistrate in Berkeley County.**

(a) The Legislature hereby finds that, according to the statistics compiled by the administrative office of the Supreme Court of Appeals of West Virginia, the caseload in the magistrate court of Berkeley County in the year 2020 was as follows:

Civil cases:           4,139

Criminal cases:     7,782

Total:               11,921

With five elected magistrates in Berkeley County, each magistrate had a caseload of 2,384 cases in 2020. This caseload per magistrate is substantially higher than the statewide average total caseload of 957 cases per magistrate and is higher than the caseload per magistrate in any other county in West Virginia in 2020.

(b) Notwithstanding any other provisions of this article to the contrary, the allowable number of magistrates serving in the county of Berkeley as of March 1, 2022, shall be increased by one, effective July 1, 2022. The initial appointment for the position shall be made in accordance with the provisions of §50-1-6 of this code.

~~(2) The office of Legislative Services is hereby directed to undertake a comprehensive study of the magistrate courts of the various counties to determine, among other things, the work performed by various personnel in the magistrate court system; how work time is spent by said employees and to report its findings no later than December 10, 2001, to the joint standing committee on the judiciary.~~

~~(3) The division of criminal justice and highway safety shall, in conjunction with the administrative office of the West Virginia Supreme Court of Appeals, compile for consideration by the Legislature statistical information and documentation regarding caseloads, cases handled per year per magistrate, cases per county, cases per circuit and provide to the President of the Senate and the Speaker of the House of Delegates no later than the first day of the 2002 regular session of the Legislature, their recommendations for improving the magistrate process, better utilization of court resources, including, but not limited to, categorizing the various types of cases heard in magistrate court and developing a new weighted formula to evaluate types of cases by the amount of time necessary to bring said cases to a resolution.~~

~~(d) Notwithstanding the other provisions of this section, the allowable number of magistrates serving the counties of Berkeley and Nicholas on March 1, 2001, shall be increased by one in each county, effective July 1, 2001. The initial appointment to the position shall be made in accordance with the provisions of section six of this article.~~

**§50-1-3. Salaries of magistrates.**

~~(a) The Legislature finds and declares that:~~

~~(1) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate the equal protection clause of the Constitution of the United States;~~

~~(2) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate section 39, article VI, of the Constitution of West Virginia;~~

~~(3) The Administrative Office of the Supreme Court of Appeals of West Virginia has stated that the utilization of a two-tiered salary schedule for magistrates is no longer an equitable and rational manner by which magistrates should be compensated for work performed;~~

~~(4) Organizing the two tiers of the salary schedule into one tier for magistrates serving less than 7,300 in population and a second tier for magistrates serving 7,300 or more in population is no longer rational and equitable given current statistical information relating to population and caseload; and~~

~~(5) That, by January 1, 2017, all magistrates should be compensated equally.~~

~~(b) The salary of each magistrate shall be paid by the state. Magistrates who serve fewer than 7,300 in population shall be paid annual salaries of \$51,125 and magistrates who serve 7,300 or more in population shall be paid annual salaries of \$57,500.~~

~~(c) For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. For the purpose of this article, the population of each county is the population as determined by the last preceding decennial census taken under the authority of the United States government.~~

~~(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 First Extraordinary Session are effective upon passage and are retroactive to January 1, 2013.~~

~~(e) On or before July 1, 2013, the Joint Committee on Government and Finance shall request a study by the National Center for State Courts, working in conjunction with the Administrative Office of the Supreme Court of Appeals of West Virginia, to review the weighted caseloads in each of the magistrate courts in this state, and present recommendations as to how the present resources and personnel in the magistrate court system could be better apportioned to equitably and timely meet the collective needs of the magistrate court system in West Virginia. Based on the findings and data generated by that study, the National Center for State Courts shall make recommendations as to the equitable redistribution of personnel and resources, by temporary or permanent reassignment, to better meet the needs and weighted loads that are demonstrated to exist in the various magistrate courts in this state. This study shall be presented to the Joint Committee on Government and Finance no later than December 1, 2014, and shall include recommendations and proposed legislation resulting from such study and shall also include a plan to continue the efficient delivery of justice by the magistrate court system and the justification for equalization of pay for all magistrates. As a part of the submitted study, the plan shall consider the reassignment of magistrates or the extension of their duties and jurisdiction to include holding court or delivering services to adjacent counties with higher caseloads, as part of their regular duties, or being on call as needed to serve other needs in other adjacent counties or within the same judicial circuit.~~

~~On or before January 15, 2015, the Supreme Court of Appeals of West Virginia shall present its recommendations to the Legislature regarding how to allocate or assign a maximum of 158 magistrates throughout this state to improve the magistrate process, and more equitably distribute the magistrate court resources to efficiently and effectively meet the needs of the citizens of this state.~~



~~(f) Notwithstanding any provision of this code to the contrary, beginning January 1, 2017, all magistrates shall be compensated equally and the annual salary of all magistrates shall be \$57,500.~~

~~(g)~~ Notwithstanding any provisions of this code to the contrary, beginning July 1, 2021, the annual salary of a magistrate shall be \$60,375, and beginning July 1, 2022, the annual salary of a magistrate shall be \$63,250.

### **§50-1-13. Temporary service within or outside of county.**

(a) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may order a magistrate to serve temporarily at locations within the county other than at the regular office or offices of the magistrate.

(b) The Chief Justice of the Supreme Court of Appeals may by order direct a magistrate to serve on a temporary basis outside the county of his or her election or appointment while giving due consideration to travel time and geographic circumstance. ~~or A~~ judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may by order direct a magistrate to serve temporarily in any other county within the judicial circuit for ~~such~~ any purposes as directed by the judge may direct. The magistrate's authority, to the extent ordered by the chief justice or judge, shall be equal to the jurisdiction and authority of a magistrate elected in the county to which the magistrate is ordered to serve. The temporary assignment may not exceed 60 days in length in any given calendar year, except with the consent of the transferred magistrate.

~~(c) A magistrate who is temporarily assigned to a county with a higher salary schedule for magistrates than the salary schedule in the county from which the magistrate was elected, shall be reimbursed for the difference of the salary in the assigned county and the lower salary which the magistrate received in the county of election, prorated for the number of days of the temporary~~

~~assignment. An assigned magistrate may not be reimbursed on a pro rata basis for less than the salary received in the county of that magistrate's election~~

~~(d)~~ (c) A magistrate serving outside the county in which he or she is elected or appointed shall be reimbursed for reasonable expenses incurred in service outside of the county, as provided by rule of the Supreme Court of Appeals.

(d) The Supreme Court of Appeals is requested to develop a rule creating a system in which magistrates shall, on a periodic alternating basis, be assigned to preside over initial appearances, petitions for domestic violence, emergency protective orders, emergency mental health petitions, emergency juvenile delinquency petitions, and applications for the issuance of search warrants arising outside normal court hours or in an emergency on a circuit-wide or other regional basis as determined by the Supreme Court of Appeals. The authority of the after-hours or emergency magistrate shall be equal to the jurisdiction and authority of a magistrate elected or appointed in any county in which he or she is directed to preside.

(e) Nothing in this section may be construed to prohibit proceedings authorized by subsection (d) of this section being held remotely as determined appropriate by the Supreme Court of Appeals.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2910, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2910 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2910) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2910**—A Bill to amend and reenact §50-1-2, 50-1-2a, and 50-1-13 of the Code of West Virginia, 1931, as amended, all relating to the allocation of magistrates serving in each county; requiring the Supreme Court of Appeals to conduct or arrange for a caseload study of the state's magistrate courts; requiring the court to enter an administrative order by January 5, 2023, containing its recommendations which allocate no more than 170 magistrates state-wide; directing that any allocation by the supreme Court not reduce the number of magistrates below the allotted number as of the effective date of the 2022 amendments to § 50-1-2 of the West Virginia code; requiring attested copies of the order be provided to the Legislature; authorizing the Legislature to reject the recommended allocation and allocate the magistrates through legislation; providing that the court's administrative order be the certification to the ballot commissioners for each county if the Legislature does not reject the allocation; requiring process be repeated every four years; increasing the number of magistrates in Berkeley County by one, effective July 1, 2022; authorizing Chief Justice of the Supreme Court of Appeals to order a magistrate to serve outside the county where elected or appointed on a temporary basis;

providing for reimbursement of reasonable expenses; requesting the court to develop a rule for assignment of magistrates to serve after hours or in an emergency on a circuit-wide or other regional basis for certain proceedings; providing for magistrates authority when presiding in these proceedings and clarifying that proceedings may be held remotely if determined appropriate by the Court.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 3073**, Relating to the West Virginia Emergency School Food Act.

On third reading, coming up in regular order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Education, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.**

**§18-5D-6. West Virginia Emergency School Food Act.**

(a) The Legislature finds and declares that:

(1) The Feed to Achieve initiative has successfully improved the availability and awareness for the need to provide nutritious food to state students and the Shared Table Initiative has facilitated a spirit of innovation and consciousness in our counties to find alternative ways to feed children in need;

(2) A periodic assessment of the needs for county students and availability of county resources would be helpful in determining

what type of resources are available and needed to reduce food insecurity for students when they are not in school;

(3) That expansion of the Shared Table Initiative to include a program to encourage county schools to locate, participate in, and initiate programs to provide meals during summers and non-school-day times when some children may not have access to healthy meals could assist in reducing food insecurity for thousands of children in this state, and therefore, creating a mechanism that is not a directive from the Legislature upon county school boards, but rather an authorization to use school resources to find innovative ways, within the means of the county school systems, to assist the communities they serve, will provide a public benefit.

(b) Any county public school system may conduct an annual countywide survey of public-school students to determine their noninstructional or nontraditional remote learning and virtual school day eating patterns and the availability of nutritious food to them when schools are closed. The West Virginia Office of Child Nutrition may assist and facilitate with this survey to determine the needs for supplemental food services in every county.

(c) Any county board may collect and compile information regarding the availability of food resources in the county during noninstructional or nontraditional remote learning days as well as include a plan that includes virtual school students and distribute this information to all students. These resources may include any public, private, religious group, or charity that will provide food to children with food insecurity.

(d) Any county school board may investigate and implement any program that may facilitate this initiative including, but not limited to, entrepreneurship programs to foster innovation in providing assistance, utilizing participation in programs as a positive discipline option, and creating mentorship programs or other opportunities to participate in the feeding program.

(e) Any county school board may provide an annual countywide or a coordinated regional training opportunity, with

assistance from the West Virginia Office of Child Nutrition, that ensures that any entity that potentially qualifies as a summer feeding site according to the county survey, is afforded the opportunity to receive training on operation of a feeding site.

(f) Any county board may provide its survey, a summary of its activities, and any findings or recommendations the county school board has related thereto, to the West Virginia Office of Child Nutrition at a date determined each year by that office.

(g) Each West Virginia public school may include in its crisis response plan, created pursuant to §18-9G-9, an assessment and plan to feed students during noninstructional or nontraditional remote learning days and public virtual school students that includes emergency situations that may require innovative ways to deliver food to student homes. Community support and resources should be utilized when creating this plan.

(h) The West Virginia Office of Child Nutrition may monitor these activities and share between counties information about innovative and successful program initiatives around the state to promote and facilitate the West Virginia Emergency School Food Act.

On motion of Senator Rucker, the following amendment to the Education committee amendment to the bill (Eng. H. B. 3073) was reported by the Clerk and adopted:

On page two, section six, line forty, by striking out "§18-9G-9" and inserting in lieu thereof "§18-9F-9".

The question now being on the adoption of the Education committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed House Bill 3073, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 3073 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3073) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

**Eng. House Bill 3073**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5D-6, relating to establishing the West Virginia Emergency School Food Act; providing findings; allowing an annual countywide survey of public school students to determine certain eating patterns and the availability of nutritious food to certain students when schools are closed; allowing the collection and compilation of information regarding the availability of food resources in the county on certain days including a plan that includes virtual school students and distribute the information to all students; allowing a county board to investigate and implement any program that may facilitate this initiative; allowing a county board to provide an annual county wide or a coordinated regional training opportunity for an entity that potentially qualifies as a summer feeding site; allowing a county board to provide its survey, a summary of its activities, and any findings or recommendations the county board has thereto, to the West Virginia Office of Child Nutrition; allowing a public school to include in its crisis response plan an assessment and plan to feed students during certain remote learning days and to public virtual school students; and allowing the West Virginia Office of Child Nutrition to monitor certain

activities and share between counties information about innovative and successful program initiatives.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4001**, Generally relating to broadband.

On third reading, coming up in regular order, with the unreported Economic Development committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Economic Development, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 1A. OFFICE OF BROADBAND.**

**§31G-1A-7. Broadband Development Fund.**

(a) The Broadband Development Fund is hereby created in the State Treasury. The fund shall be administered by the Secretary of the Department of Economic Development and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated to the fund by the Legislature, and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the purposes set forth in subsection (b) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any



balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) Monies of the Broadband Development Fund may only be expended for the following purposes:

(1) Expenses for the administration of the Office of Broadband;

(2) Line extension advancement and development projects, including expansion of existing fiber and cable networks;

(3) Major broadband project strategies, including new networks or major expansions of existing networks;

(4) GigReady incentive projects, including a state incentive for ISP and local governments and organizations to pool some of their federal American Rescue Plan Act allocations or other local funding; and

~~And~~

(5) Wireless Internet Networks, including expansions or upgrades of existing fixed wireless networks.

(c) Except funds expended for the administration of the Office of Broadband, monies of the Broadband Development Fund may only be expended for projects authorized by subsection (b) of this section that have been certified to the Joint Committee on Government and Finance by the Director of the Office of Broadband or the Secretary of the Department of Economic Development prior to making the expenditures.

(d) The Legislature of the State of West Virginia finds and declares that competition in any market, more especially in the delivery of broadband internet services is eminently desirable. The Legislature further finds that a competitive market, rather than a rate-regulated monopoly or duopoly will promote and perpetuate improvement in customer service, technical service, terms, conditions, and pricing. Accordingly, all agencies of state

government are hereby directed to first support expansion and enhancement of broadband internet services to unserved homes and businesses and second to support expansion and enhancement of competition.

(e) Telecommunications facilities purchased, installed, or funded by any grant program offered by this state shall be subject to:

(1) The provisions of 2 CFR 200 governing equipment and capital assets and any other applicable federal law, rule, or regulation; and

(2) Any state law, rule, or regulation governing the sale of government or grant-funded assets not in conflict with applicable federal law, rule, or regulation.

**§31G-1A-8. Broadband Carrier Neutral and Open Access Infrastructure Development Fund.**

(a) The Broadband Carrier Neutral and Open Access Infrastructure Development Fund is hereby created in the State Treasury. The fund shall be administered by the Secretary of the Department of Economic Development and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated to the fund by the Legislature, and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the purposes set forth in subsection (b) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General

Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) Moneys of the Broadband Carrier Neutral and Open Access Infrastructure Development Fund may only be expended for the following purposes:

(1) Expenses for the administration of the Office of Broadband; and

(2) Line extension advancement and development projects, including expansion of existing fiber and cable networks: Provided, That if a broadband project or extension is funded by 100 percent of public money, the project or extension shall be a carrier neutral and open access project.

### **ARTICLE 3. CONDUIT INSTALLATION; MICROTRENCHING.**

#### **§31G-3-5. Mapping of Disturbances in Rights of Way.**

(a) Beginning July 1, 2022, every agency of state government, every public service district, and every county commission or other political subdivision must furnish to the Department of Economic Development, in a timely manner, all information relating to:

(1) any maps which they have; or

(2) descriptions of routes (if maps are not available) which they have

for any underground disturbances in state rights of way or easements.

(b) This requirement shall not constitute a new duty to create or maintain maps for any agency of state government, public service district, county commission or other political subdivision, or any regulated public utilities or any other entity with facilities in the rights of way of this state but does require any such information in their possession to be submitted to the Department of Economic Development.

(c) If any such information in subsections (a) or (b) of this section has been previously mapped by another department, division, agency, office, or commission, such information shall not be required to be submitted by that public service district, county commission, or other political subdivision again.

(d) The Department of Economic Development shall map those disturbances and limit access to any map or related data to only those entities or persons that have signed a valid confidentiality or non-disclosure agreement. Such mapping or data shall only be accessed or reviewed for the limited purposes of:

(1) Considering possible routes for installation of telecommunications facilities or other utilities;

(2) Engineering routes for installation of telecommunications facilities or other utilities;

(3) Study of existing telecommunications facilities or other utilities; or

(4) Improving, expanding, enhancing, and attaching to telecommunications facilities or other utilities.

#### **ARTICLE 4. MAKE-READY POLE ACCESS.**

##### **§31G-4-2a. Utility Pole Rights of Way and Easement Mapping Initiative.**

(a) Beginning July 1, 2022, every pole owner must furnish to the Department of Economic Development, in a timely manner, all information which they have required to be furnished by attachers, since January 1, 2018, or from such time as necessary and available, to accurately map the locations, class, number of attachments, weight, and such other information as the Department of Economic Development deems necessary to accurately map and present the data, including but not limited to all engineering reports or other documentation.

(b) The Department of Economic Development is hereby required to utilize this information to produce a map, which is to include information, where available, delineating the following:

(1) Class of poles;

(2) Age of utility poles;

(3) Distance between poles;

(4) Weight between those spans; and

(5) What is attached in the communications space on those poles.

(c) A pole owner shall not be required to disclose the details of any electrical facilities attached to the utility pole and the Department of Economic Development shall not publish information related there to, except any information in the aggregate for that pole or the spans between multiple poles related to weight thereon.

(d) This map is to be made available by the Department of Economic Development at no cost to afford potential attachers considering projects to quickly gain information to determine feasibility of a project. The Department of Economic Development shall require a confidentiality or non-disclosure agreement to access any data mapped relating to the Utility Pole Rights of Way and Easement Mapping Initiative. The Department of Economic Development shall limit access to such maps to only those persons or entities interested in or engaging in the installation of telecommunications facilities, their vendors, engineers, consultants, or other persons a potential attacher reasonably needs to review such information.

(e) If a pole owner furnishes to a requesting telecommunications entity who has requested to the pole owner to potentially attach to its poles,

(1) the latitude and longitude of all poles within the requested geographic area.

(2) in an electronic file or other format,

(3) at no cost; and

(4) once a non-disclosure agreement is entered into between pole owner and the requesting telecommunications entity. The information thus provided by the pole owners can then be used by the requesting entity to produce a map.

If a pole owner certifies in a sworn affidavit to the Department of Economic Development that the owner has produced and made available to attachers such a map as described in this section with at least the same information included and without cost to access, then the pole owner shall not be required to share this information with the state and the department shall not be required to map those utility poles. The department shall review any such map a pole owner claims meets these requirements annually, and if the map produced by the pole owner is materially deficient and has not met the requirements set-forth herein, the pole owner will once again be required to provide the foregoing information to the department to be mapped.

## **ARTICLE 7. CONSUMER PROTECTIONS.**

### **§31G-7-1. Existing Consumer Protections.**

The Consumer Protection Division of the Office of the Attorney General is responsible for effectuating and enforcing the following consumer protections in coordination with and the assistance of the Office of Broadband and the Department of Economic Development:

(a) If a broadband service to a subscriber is interrupted for more than 24 continuous hours, such subscriber shall, upon request, receive a credit or refund from the broadband operator in an amount that represents the proportionate share of such service not received in a billing period, provided such interruption is not caused by the subscriber, power outages, or other causes for outages beyond the control of the provider;

(b) A broadband operator may not deny service, deny access, or otherwise discriminate against subscribers, channel users, or any other citizens based on age, race, religion, sex, physical handicap, political affiliation, political views or exercise of other speech protected by the 1st Amendment to the United States Constitution, or country of natural origin;

(c) A broadband operator shall provide subscribers 30 days advance written notice of any changes to rates or charges, including the expiration of any promotion or special pricing that would result in an increase in the subscribers billing or cost of service; and

(d) A broadband system operator shall inform subscribers and provide written notice to subscribers that disputes regarding interrupted or substandard service or billing issues, which are unresolved to satisfaction of the subscriber, can be filed as a complaint with the Consumer Protection Division of the WV Attorney General's Office.

### **§31G-7-2. Fees.**

(a) (1) No telecommunications provider may impose any fee, additional to the cost of service, on fixed broadband internet services which is not an election of the customer or required to be charged or assessed per connection by a government of competent jurisdiction.

(2) No telecommunications provider may require an individual customer to pay his or her pro rata share of the corporation's tax burden as an enumerate portion of their bill.

(b) No telecommunications provider may impose a fee for a residential customer to receive a paper bill or invoice for fixed broadband or cable television service.

### **§31G-7-3. Modems and other connection devices.**

(a) (1) No telecommunications provider may impose any mandate that residential customers be required to rent a modem from that provider.

(2) All residential customers are to be permitted to utilize or furnish their own modem, if the network is built upon a non-proprietary, industry standard communication protocol.

(b) If there are not commercially available modems or devices to interface with the Wide Area Network, the provider must offer the ability for a residential customer to purchase, rather than rent, that hardware.

#### **§31G-7-4. Competitive Access Infrastructure.**

(a) Competitive access infrastructure is that infrastructure and related facilities which:

(1) Offer non-discriminatory, non-exclusive access to independent service providers and other entities with reasonable costs comparable to that of the owner; and

(2) On reasonable and equal terms, including location, pricing, applicable tariffs, terms and conditions.

(b) An assertion of competitive access telecommunications facilities may be demonstrated by filing with the Public Service Commission of West Virginia that documentation necessary to demonstrate the elements of a competitive access infrastructure defined in subsection (a) of this section.

(c) Where referenced elsewhere in the Code of West Virginia, 1931 as amended, the phrase "open-access networks" shall have the same meaning as "competitive access infrastructure", as defined by this section.

#### **§31G-7-5. Credits due to a customer.**

All credits due to a customer for any reason are due to the customer at the time the condition giving rise to them commences and shall be applied to the customer's bill as soon as is practicable. Once notified, the customer has no further duty to seek credit after the condition giving rise to such a credit is resolved.



## **ARTICLE 8. ELIGIBLE TELECOMMUNICATIONS CARRIERS.**

### **§31G-8-1. Legislative Findings.**

The Legislature of the State of West Virginia finds and declares that:

(1) The certification of Eligible Telecommunications Carriers is a responsibility primarily delegated to the states.

(2) The proper utilization and oversight of disbursement of funds from the Universal Service Fund established by the federal government and managed by the Federal Communications Commission is in the public interest, convenience, and necessity.

(3) Failure to perform any obligations imposed upon an Eligible Telecommunications Carrier in connection with disbursement of funding from the Universal Service Fund is detrimental to the public interest, convenience, and necessity.

(4) Proper oversight and certification of compliance are necessary and proper for the continuing issuance of Eligible Telecommunications Status and are in the public interest.

### **§31G-8-2. Definition.**

"Eligible Telecommunications Carrier" means the status for a telecommunications carrier to be eligible for Universal Service Fund support pursuant to 47 CFR § 54.201.

### **§31G-8-3. Eligible Telecommunications Carriers Status.**

Notwithstanding any other provision of this code to the contrary, eligible Telecommunications Carriers Status shall be issued by the Public Service Commission. Issuance thereof shall not be unreasonably withheld, considering the recommendation of the Attorney General, and only if the applicant for Eligible Telecommunications Carrier status is in compliance with the following:

(a) The Attorney General shall check the Universal Service Administrative Company HUB for any commitments, assertions, and/or obligations of Eligible Telecommunications Carriers in the state of West Virginia.

(b) The Attorney General shall require certification of completion thereof and ongoing compliance therewith, under penalty of perjury prior to making a favorable recommendation to the Public Service Commission of the application to be an Eligible Telecommunications Carrier. The Attorney General shall transmit all such recommendations to the Public Service Commission.

**§31G-8-4. Misrepresentation in Certification for Eligible Telecommunications Carrier Status, penalty.**

(a) If the Attorney General finds evidence that an Eligible Telecommunications Carrier has materially misrepresented compliance in their certification referenced in §31G-8-3 of this code, notification of such misrepresentation shall be transmitted to the West Virginia Public Service Commission. The Public Service Commission shall conduct a hearing on the merits thereof and if the Eligible Telecommunications Carrier is found to be non-compliant, the Public Service Commission shall assess a fine equal to the amount of any subsidization received for which the commitment, assertion or obligation was established. Any such fine shall be limited to such proportional amount as that which was awarded to the Eligible Telecommunications Carrier for a particular area or act to be performed and shall not be construed to include all amounts awarded statewide. The Public Service Commission or Attorney General shall seek enforcement of any fine and any court of competent jurisdiction in this state shall order payment and compliance with the order of the Public Service Commission associated herewith. Funds from any fine shall be deposited into the Broadband Development Fund, less any reasonable expenses and costs of the Public Service Commission in connection therewith.

(b) When such determination has been made, the Attorney General, and any other Department, office, bureau, or agency and any political subdivision of this state, shall cause any Eligible

Telecommunications Carrier and its subsidiaries found to be non-compliant under subsection (a) of this section or failing to make the certification required thereunder, to no longer be certified as an Eligible Telecommunications Carrier and to be ineligible for any state grants, awards, procurement, leasing, licensing other than a business license issued by the Secretary of State or any business license by a political subdivision of this state, easement, right-of-way access, or purchase until such material misrepresentation is cured: *Provided*, That nothing in this section shall be construed to prevent the installation, repair, maintenance or other required work for any Carrier of Last Resort required to provide telephone service in this state: *Provided however*, That nothing in this section shall be construed to prevent an internet service provider from repairing or replacing telecommunications facilities in rights-of-way or easements that internet service provider currently has facilities situated within.

Engrossed Committee Substitute for House Bill 4001, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Jeffries, Rucker, and Sypolt—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4002**, Creating the Certified Sites and Development Readiness Program.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for House Bill 4002 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Jeffries, Rucker, and Sypolt—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4002) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 3:40 p.m. today:

**Eng. House Bill 4097**, To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

The Senate then resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4012**, Prohibiting the showing of proof of a COVID-19 vaccination.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.**

**§16-3-4b. Required exemptions to compulsory immunization against COVID-19 as a condition of employment; effective date.**

(a) A covered employer, as defined in this section, that requires as a condition of continued employment or as a condition of hiring an individual for employment, that such person receive a COVID-19 immunization or present documentation of immunization from COVID-19, shall exempt current or prospective employees from such immunization requirements upon the presentation of one of the following certifications:

(1) A certification presented to the covered employer, signed by a licensed physician ~~licensed pursuant to the provisions of §30-3-1 et seq. or §30-14-1 et seq. of this code or an~~ or a licensed advanced practice registered nurse ~~licensed pursuant to the provisions of §30-7-1 et seq. of this code~~ who has conducted an in-person examination of the employee or prospective employee, stating that the physical condition of the current or prospective employee is such that a COVID-19 immunization is

contraindicated; there exists a specific precaution to the mandated vaccine; or the current or prospective employee has developed COVID-19 antibodies from being exposed to the COVID-19 virus, or suffered from and has recovered from the COVID-19 virus; or

(2) A notarized certification executed by the employee or prospective employee that is presented to the covered employer by the current or prospective employee that he or she has sincerely held religious beliefs that prevent the current or prospective employee from taking the COVID-19 immunization.

(b) A covered employer ~~shall~~ may not be permitted to penalize or discriminate against current or prospective employees for exercising exemption rights provided in this section by practices including, but not limited to, benefits decisions, hiring, firing, or withholding bonuses, pay raises, or promotions.

(c) As used in this section, the following terms shall have the following meaning:

(~~1~~) "Covered employer" ~~shall mean~~ means:

(~~A~~) (1) The State of West Virginia, including any department, division, agency, bureau, board, commission, office, or authority thereof, or any political subdivision of the State of West Virginia including, but not limited to, any county, municipality, or school district;

(~~B~~) (2) A business entity, including without limitation any individual, firm, partnership, joint venture, association, corporation, company, estate, trust, business trust, receiver, syndicate, club, society, or other group or combination acting as a unit, engaged in any business activity in this state, including for-profit or not-for-profit activity, that has employees;

(3) "Covered employer" does not include any Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section;

(~~2~~) (4) "COVID-19" ~~shall mean~~ means the same as that term is defined in §55-19-3 of this code; or

~~(3)~~ (5) "Immunization" ~~shall mean~~ means any federally authorized immunization for COVID-19, whether fully approved or approved under an emergency use authorization.

(d) The provisions of this section are inapplicable to employees of covered employers who are required to work in Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section.

~~(d)~~ (e) Any person or entity harmed by a violation of this section may seek injunctive relief in a court of competent jurisdiction.

~~(e)~~ (f) The provisions of this section shall become effective immediately.

~~(f)~~ (g) Pursuant to §2-2-10 of this code, if any provision of this section or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the section, and to this end the provisions of this section are declared to be severable.

#### **§16-3-4c. Prohibiting proof of COVID-19 vaccination.**

(a) As used in this section:

(1) "COVID-19" has the same definition as provided in §55-19-3 of this code;

(2) "Hospital" has the same definition as provided in §16-5B-1 of this code;

(3) "Immunization" has the same definition as provided in §55-19-3 of this code;

(4) "Proof of vaccination" means physical documentation or digital storage of protected health information related to an individual's immunization or vaccination against COVID-19; and

(5) "State institution of higher education" has the same meaning as provided in §18B-1-2 of this code.

(b) A state or local governmental official, entity, department, or agency may not require proof of vaccination as a condition of entering the premises of a state or local government entity, or utilizing services provided by a state or local government entity: *Provided*, That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, the provisions of this subsection shall not apply: *Provided, however*, That this prohibition does not apply to any local government-owned facility that is leased to a private entity where the local governmental unit primarily serves as a property owner receiving rental payments.

(c) A hospital may not require proof of vaccination as a condition of entering the premises: *Provided*, That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, the provisions of this subsection shall not apply.

(d) A state institution of higher education may not require proof of vaccination as a condition of enrollment or for entering the premises: *Provided*, That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, or if the academic requirements of a particular program cannot be met without vaccination and proof thereof, the provisions of this subsection shall not apply.

Engrossed Committee Substitute for House Bill 4012, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4012 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Plymale, Romano, and Stollings—9.



Absent: Jeffries and Sypolt—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4012) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4012**—A Bill to amend and reenact §16-3-4b of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-3-4c, all relating to COVID-19 vaccination, generally prohibiting the showing of proof of a COVID-19 vaccination as a condition for entering upon the premises of any state or local governmental official, entity, department, or agency, or as a condition for entering upon the premises of a hospital or enrolling in a state institution of higher education, unless such proof is required by federal law or regulation; clarifying that a covered employer does not include any Medicare or Medicaid-certified facilities which are subject to federal regulations; clarifying that employees of otherwise covered employers who are required to work in Medicare or Medicaid-certified facilities are not subject to the prohibition; exempting from proof of vaccination prohibition students whose academic program requires vaccination against COVID-19; defining terms; and providing that sincerely held religious beliefs are an exemption to immunization.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4025**, Providing exemption to severance tax for severing rare earth elements and other critical minerals.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

On motions of Senators Smith and Tarr, the following amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

#### **§7-1-3uu. Amusement tax.**

Every county commission may levy and collect an admission or amusement tax upon any public amusement or entertainment conducted within the limits of the county for private profit or gain. The tax shall be levied upon the purchaser and added to and collected by the seller with the price of admission or other charge for the amusement or entertainment. The tax may not exceed two percent of the admission price or charge, but a tax of one cent may be levied and collected in any case.

Any ordinance imposing an amusement tax shall contain reasonable rules governing the collection of the tax by the seller and the method of his or her payment and accounting therefor to the county.

An amusement tax imposed by a county commission may not be imposed within the territory of a municipal corporation that has imposed an amusement tax under §8-13-6 of this code.

## **CHAPTER 11. TAXATION.**

### **ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.**

**§11-13A-3c. Imposition of tax on privilege of severing other natural resources.**

(a) Imposition of tax. — For the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use any other natural resource product or product not taxed under section three, three-a, three-b or four of this article, there is hereby levied and shall be collected from every person exercising this privilege an annual privilege tax.

(b) Rate and measure of tax. — The tax imposed in subsection (a) of this section shall be four percent of the gross value of the natural resource produced, as shown by the gross proceeds derived from the sale thereof by producer, except as otherwise provided in this article: *Provided*, That beginning July 1, 1993, the tax imposed by this section shall be levied and collected at the rate of four and one-half percent, and beginning July 1, 1994, the tax imposed by this section shall be levied and collected at the rate of five percent: *Provided, however*, That there is an exemption from the imposition of the tax provided for in this article for five years beginning July 1, 2022, for severing, extracting, reducing to possession and producing for sale, profit or commercial use rare earth elements and critical minerals. For the purposes of this section, "rare earth elements" (also known as rare earth metals or rare earth oxides) are only yttrium, lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, and scandium, and "critical minerals" are only aluminum, antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, germanium, graphite, hafnium, indium, iridium, lithium, magnesium, manganese, nickel, niobium, palladium, platinum, rhodium, rubidium, ruthenium, tantalum, tellurium, tin, titanium, tungsten, vanadium, zinc, and zirconium.

(c) Tax in addition to other taxes. — The tax imposed by this section shall apply to all persons severing other natural resources in this state, and shall be in addition to all other taxes imposed by law.

(d) Effective date. — This section, as amended in the year 1993, shall apply to gross proceeds derived after May 31 of such year. The language of section three of this article, as in effect on January 1, of such year, shall apply to gross proceeds derived prior to June 1 of such year and, with respect to such gross proceeds, shall be fully and completely preserved.

Following discussion,

The question being on the adoption of the amendment offered by Senators Smith and Tarr to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4025, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Brown, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Baldwin, Caputo, Geffert, and Romano—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4025) passed.

On motion of Senator Smith, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4025**—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §7-1-3uu; and to amend and reenact §11-13A-3c of said code, all relating to taxation; allowing county commissions to impose an amusement tax; providing for the imposition of the tax on the privilege of severing other natural resources; providing for an exemption from the imposition of the

severance tax for a period of 5 years beginning on July 1, 2022, for severing rare earth elements and critical minerals; and defining rare earth elements and critical minerals.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4105**, Relating to service employees with National Association for Pupil Transportation Certifications.

On third reading, coming up in regular order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

**Eng. Com. Sub. for House Bill 4111**, Relating to the prescriptive authority of advance practice registered nurses.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.****§30-3E-3. Rulemaking.**

(a) The boards shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including:

(1) The extent to which physician assistants may practice in this state;

(2) The extent to which physician assistants may pronounce death;

(3) Requirements for licenses and temporary licenses;

(4) Requirements for practice notifications;

(5) Requirements for continuing education;

(6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe, ~~including: A state formulary classifying those categories of drugs which may not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals, and general anesthetics. *Provided*, That a physician assistant or an advanced practice registered nurse may prescribe no more than a three day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug. Drugs listed under Schedule III shall be limited to a 30 day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a practice notification as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These~~

~~conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity;~~

(8) A fee schedule; and

(9) Any other rules necessary to effectuate the provisions of this article.

(b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code to ensure conformity with this article.

(c) (1) A physician assistant may not prescribe a Schedule I controlled substance as provided in §60A-1-1 *et seq.* of this code.

(2) A physician assistant may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-1-1 *et seq.* of this code.

(3) There are no other limitations on the prescribing authority of a physician assistant, except as provided in §16-54-1 *et seq.* of this code.

## **ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

### **§30-7-15a. Prescriptive authority for prescription drugs; ~~coordination with Board of Pharmacy; rule-making authority.~~**

~~(a) The board may, in its discretion, authorize an advanced practice registered nurse to prescribe prescription drugs in accordance with this article and all other applicable state and federal laws. An authorized advanced practice registered nurse may write or sign prescriptions or transmit prescriptions verbally or by other means of communication.~~

(b) The board shall promulgate legislative rules in accordance with ~~§29A-3-1 *et seq.* of this code of this code governing the eligibility and extent to which an advanced practice registered nurse may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying those categories of drugs which shall~~

~~not be prescribed by advanced practice registered nurse including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a thirty-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a collaborative agreement as set forth in §30-7-15b of this code, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a "chronic condition" is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the prescription the chronic disease being treated.~~

~~(c) The board may promulgate emergency rules to implement the provisions of this article pursuant to §29A-3-15 of this code.~~

~~(d) The board shall transmit to the Board of Pharmacy a list of all advanced practice registered nurses with prescriptive authority. The list shall include:~~

~~(1) The name of the authorized advanced practice registered nurse;~~

~~(2) The prescriber's identification number assigned by the board; and~~

~~(3) The effective date of prescriptive authority.~~

(a) (1) An advanced practice registered nurse may not prescribe a Schedule I controlled substance as provided in §60A-1-1 et seq. of this code.



(2) An advanced practice registered nurse may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-1-1 et seq. of this code.

(3) There are no other limitations on the prescribing authority of an advanced practice registered nurse, except as provided in §16-54-1 et seq. of this code.

On motion of Senator Maroney, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4111) was reported by the Clerk and adopted:

On page one, before the article heading, by inserting the following:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES  
INSURANCE ACT.**

**§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.**

(a) *Cost-sharing.* — The director shall provide under any contract or contracts entered into under the provisions of this article that the costs of any group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, or group life and accidental death insurance benefit plan or plans shall be paid by the employer and employee.

(b) *Eligible spouse and dependent coverage.* —

(1) Each employee is entitled to have his or her ~~spouse and dependents~~ included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate: *Provided*, That ~~the spouse and dependent~~ coverage is limited to excess or secondary coverage for each ~~spouse and dependent~~ who has primary coverage from any other source.

(2) Each employee is entitled to have his or her spouse included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate if his or her spouse does not have the option of obtaining primary coverage through the spouse's employer. The spouse of an employee who has the option of obtaining primary coverage through an employer that is not defined by §5-16-2 of this code is not eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article. Prior to being included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article, an employee's spouse must submit an affidavit to the Public Employees Insurance Agency certifying that the spouse does not have the option of obtaining primary coverage through an employer.

(3) The director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance, and resumption of any employee's coverage for his or her spouse and dependents.

(4) For purposes of this section: ~~the term "primary coverage" means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. For the purposes of this section;~~

(A) "Dependent" includes an eligible employee's unmarried child or stepchild under the age of 25 if that child or stepchild meets the definition of a "qualifying child" or a "qualifying relative" in

Section 152 of the Internal Revenue Code. ~~the director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance and resumption of any employee's coverage for his or her spouse and dependents;~~

(B) "Eligible spouse" means a spouse that is eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article according to this subsection.

(C) "Primary coverage" means individual or group hospital and surgical insurance coverage, individual or group major medical insurance coverage, or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder.

(c) *Continuation after termination.* — If an employee participating in the plan is terminated from employment involuntarily or in reduction of workforce, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee and the employer shall continue to contribute the employer's share of plan premiums for the coverage. An employee discharged for misconduct shall not be eligible for extended benefits under this section. Coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge of misconduct are pursued. If the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within 12 months of his or her prior termination, he or she shall not be considered a new enrollee and may not be required to again contribute his or her share of the premium cost, if he or she had already fully contributed such share during the prior period of employment.

(d) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan before July 1988.* — Except as otherwise provided in subsection (g) of this section, when an employee participating in the plan, who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before

reaching the age of 65, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: The insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her eligible spouse and dependents, the insurance coverage shall continue one additional month for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.

(e) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan after June 1988.* — Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this section, when an employee participating in the plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her eligible spouse and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining premium cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an employee who has been a participant under eligible spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this

subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

(f) *Increased retirement benefits for retired employees with accrued annual and sick leave.* — In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days' retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee's retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system: *Provided*, That for a person who first becomes a member of the Teachers Retirement System as provided in article seven-a, chapter eighteen of this code on or after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not be applied for retirement service credit. However, the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education employees.* Except as otherwise provided in subsection (l) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for 12 months, is compelled or required by law to retire before reaching the age of 65, or when such a participating employee voluntarily retires as provided by law, that employee's insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for 12 months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the University of West Virginia Board of Trustees and the board of directors of the

state college system, for individual coverage, or one additional year for each five years of teaching service for family coverage.

(h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the conditions of the "retired employee" definition in section two of this article, shall be eligible for insurance coverage under the same terms and provisions of this article. The retired employee's premium contribution for any such coverage shall be established by the finance board.

(i) *Retiree participation.* — All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter retiring are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

(j) *Surviving spouse and dependent participation.* — A surviving eligible spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any comprehensive group health insurance coverage provided under this article to which the deceased employee was entitled, and the eligible spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

(k) *Elected officials.* — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave or personal leave to elected public officials and the very nature of those positions preclude the arising or accumulation of any leave, so as to be thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.

(l) *Participation of certain former employees.* — An employee, eligible for coverage under the provisions of this article who has 20 years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for 20 years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays 105 percent of the cost of retiree coverage: *Provided*, That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

(m) *Prohibition on conversion of accrued annual and sick leave for extended coverage upon retirement for new employees who elect to participate in the plan after June 2001.* — Any employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: *Provided*, That any person who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she becomes reemployed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her reemployment.

(n) *Prohibition on conversion of accrued years of teaching service for extended coverage upon retirement for new employees who elect to participate in the plan July 2009.* — Any employee hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of teaching service toward the cost of premiums for extended insurance coverage upon his or her retirement.

(o) The amendments to this section enacted during the 2022 Regular Session of the Legislature shall become effective beginning July 1, 2023.

**§5-16-20. Expense fund.**

The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission, or department of the state which operates out of special revenue funds or federal funds or both shall pay its proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the State Employee Insurance Plan. All other employers not operating from the state General Revenue Fund shall pay their proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the Nonstate Employee Insurance Plan.

**§5-16-25. Reserve fund.**

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year and supplementing any reimbursements made to hospitals and emergency medical service providers or agencies in accordance with §5-16-30 of this code. Beginning with the fiscal year 2002 plan and for each succeeding fiscal year plan, the finance board shall maintain the actuarially recommended reserve in an amount no less than 10 percent of the projected total plan costs for that fiscal year in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article.

**§5-16-30. Hospital inpatient rates.**

(a) By July 1, 2023, the plan shall reimburse any hospital that provides inpatient care to a beneficiary covered by the plan at a rate of 110 percent of the Inpatient Prospective Payment System Diagnostic Related Group assigned amount then in effect for the federal fee for service component of the Medicare program.



(b) By July 1, 2023, the plan shall reimburse any emergency medical services provider or agency as defined in §16-4C-1 et seq. at a rate of 110 percent of the Medicare rate.

(c) Nothing in this section limits the authority of the director under §5-16-3(c) and §5-16-9 of this code, including, but not limited to, his or her authority to manage provider contracting and payments and to designate covered and noncovered services.

(d) This section does not limit the authority of the director, the plan, or the plans under §5-16-11 of this code.

(e) This section shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after July 1, 2023.

### **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4111, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4111) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the

unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Maroney, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4111**—A Bill to amend and reenact §5-16-13, §5-16-20 and §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designed §5-16-30; to amend and reenact §30-3E-3 of said code; and to amend and reenact §30-7-15a of said code, all relating to health care; providing that Public Employees Insurance Agency coverage may only be extended to employee spouses who do not have the option of obtaining primary coverage through the spouse's employer; requiring the Public Employees Insurance Agency Finance Board to supplement reimbursements with reserve funds; providing for reimbursement of hospital inpatient rates by the plan; providing for reimbursement of emergency medical service providers and agencies rates by the plan; naming of funds within the Public Employees Insurance Agency; specifying prescriptive authority of physician assistants; eliminating certain discretionary authority of the Board of Nursing; eliminating certain legislative rule-making authority of the Board of Nursing with respect to prescriptive authority of an advanced practice registered nurse; eliminating emergency rule-making authority of the Board of Nursing; eliminating requirements regarding list of advanced practice registered nurses with prescriptive authority; and specifying prescriptive authority of advance practice registered nurses.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4252**, To reduce copay cap on insulin and devices.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE, AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES  
INSURANCE ACT.**

**§5-16-7g. Coverage for prescription insulin drugs.**

(a) A policy, plan, or contract that is issued or renewed on or after ~~July 1, 2020~~ July 1, 2023, shall provide coverage for prescription insulin drugs pursuant to this section.

(b) For the purposes of this subdivision, "device" means a blood glucose test strip, glucometer, continuous glucometer, lancet, lancing device, or insulin syringe use to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include an insulin pump.

(c) For the purposes of this subdivision, "insulin pump" means a portable device that injects insulin at programmed intervals in order to regulate blood sugar levels in people with diabetes.

~~(b)~~ (d) For the purposes of this subdivision, "prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

- (1) Rapid-acting;
- (2) Short-acting;
- (3) Intermediate-acting;
- (4) Long-acting;
- (5) Pre-mixed insulin products;
- (6) Pre-mixed insulin/GLP-1 RA products; and
- (7) Concentrated human regular insulin.

~~(e)~~ (e) (1) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall may~~ not exceed ~~\$100~~ \$35 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(2) Cost sharing for a device may not exceed \$100 for a 30-day supply.

(3) Cost sharing for an insulin pump may not exceed \$250, and is limited to one insulin pump purchase every 2 years.

~~(d)~~ (f) Nothing in this section prevents the agency from reducing a covered person's cost sharing by an amount greater than the amount specified in this subsection.

~~(e)~~ (g) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) authorizing the agency's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in subsection ~~(e)~~ (e) of this section.

~~(f)~~ (h) The agency shall provide coverage for the following equipment and supplies for the treatment or management of

diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: ~~Blood~~ blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

~~(g)~~ (i) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in ~~§33-53-1(k)~~ §33-59-1(k) of this code.

~~(h)~~ (j) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

~~(i)~~ (k) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

## CHAPTER 33. INSURANCE.

### ARTICLE 59. REQUIRED COVERAGE FOR HEALTH INSURANCE.

#### §33-59-1. Cost sharing in prescription insulin drugs.

(a) *Findings.* —

(1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

(2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(3) The annual medical cost related to diabetes in West Virginia is estimated at \$2.5 billion annually;

(4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times higher than persons without diabetes;

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed \$600 per month. Similar increases in the cost of diabetic equipment and supplies, and insurance premiums, have resulted in out-of-pocket costs for many West Virginia diabetics in excess of \$1,000 per month;

(6) National reports indicate as many as one in four type 1 diabetics underuse, or ration, insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic comas, amputation, kidney damage, and even death; and

(7) It is important to enact policies to reduce the costs for West Virginians with diabetes to obtain life-saving and life-sustaining insulin.

(b) As used in this section:

(1) "Cost-sharing payment" means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person's health plan.

(2) "Covered person" means a policyholder, subscriber, participant, or other individual covered by a health plan.

(3) "Device" means a blood glucose test strip, glucometer, continuous glucometer, lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include an insulin pump.

~~(3)~~ (4) "Health plan" means any health benefit plan, as defined in §33-16-1a(h) of this code, that provides coverage for a prescription insulin drug.

(5) "Insulin pump" means a portable device that injects insulin at programmed intervals in order to regulate blood sugar levels in people with diabetes.

~~(4)~~ (6) "Pharmacy benefits manager" means an entity that engages in the administration or management of prescription drug benefits provided by an insurer for the benefit of its covered persons.

~~(5)~~ (7) "Prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes.

(c) Each health plan shall cover at least one type of insulin in all the following categories:

- (1) Rapid-acting;
- (2) Short-acting;
- (3) Intermediate-acting;
- (4) Long-acting;
- (5) Pre-mixed insulin products;
- (6) Pre-mixed insulin/GLP-1 RA products; and
- (7) Concentrated human regular insulin.

(d) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of this code which issues or renews a health insurance policy on or after ~~July 1, 2020~~ January 1, 2023, shall provide coverage ~~for prescription insulin drugs~~ pursuant to this section.

(e) (1) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall~~ may not exceed ~~\$100~~ \$35 for a 30-

day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(2) Cost sharing for a device may not exceed \$100 for a 30-day supply.

(3) Cost sharing for an insulin pump may not exceed \$250, and is limited to one insulin pump purchase every 2 years.

(f) Nothing in this section prevents an insurer from reducing a covered person's cost sharing to an amount less than the amount specified in subsection (e) of this section.

(g) No contract between an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the insurer pursuant to subsection (e) of this ~~code~~ section.

(h) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: ~~Blood~~ blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(i) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code shall include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-



management and treatment of their diabetes, including information on proper diets.

(j) All health care plans must offer an appeals process for persons who are not able to take one or more of the offered prescription insulin drugs noted in subsection (c) of this ~~code~~ section. The appeals process shall be provided to covered persons in writing and afford covered persons and their health care providers a meaningful opportunity to participate with covered persons health care providers.

(k) Diabetes self-management education shall be provided by a health care practitioner who has been appropriately trained. The Secretary of the Department of Health and Human Resources shall promulgate legislative rules to implement training requirements and procedures necessary to fulfill provisions of this subsection: ~~Provided, That any rules promulgated by the secretary shall be done after consultation with the Coalition for Diabetes Management, as established in §16-5Z-1 et seq. of this code.~~

(l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and ~~shall~~ may not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

(m) A prescription is not required to obtain a blood testing kit for ketones.

On motion of Senator Maroney, the following amendment to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 4252) was reported by the Clerk and adopted:

On page three, section seven-g, after line fifty, by inserting the following:

**§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits;**

**authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.**

(a) *Cost-sharing.* — The director shall provide under any contract or contracts entered into under the provisions of this article that the costs of any group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, or group life and accidental death insurance benefit plan or plans shall be paid by the employer and employee.

(b) *Eligible spouse and dependent coverage.* —

(1) Each employee is entitled to have his or her ~~spouse and~~ dependents included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate: *Provided*, That ~~the spouse and~~ dependent coverage is limited to excess or secondary coverage for each ~~spouse and~~ dependent who has primary coverage from any other source.

(2) Each employee is entitled to have his or her spouse included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage to which the employee is entitled to participate if his or her spouse does not have the option of obtaining primary coverage through the spouse's employer. The spouse of an employee who has the option of obtaining primary coverage through an employer that is not defined by §5-16-2 of this code is not eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article. Prior to being included in any group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article, an employee's spouse must submit an affidavit to the Public Employees Insurance Agency certifying that the spouse does not have the option of obtaining primary coverage through an employer.

(3) The director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance, and resumption of any employee's coverage for his or her spouse and dependents.

~~(4) For purposes of this section: the term "primary coverage" means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. For the purposes of this section;~~

~~(A) "Dependent" includes an eligible employee's unmarried child or stepchild under the age of 25 if that child or stepchild meets the definition of a "qualifying child" or a "qualifying relative" in Section 152 of the Internal Revenue Code. the director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance and resumption of any employee's coverage for his or her spouse and dependents;~~

(B) "Eligible spouse" means a spouse that is eligible to be included in a group hospital and surgical insurance, group major medical insurance, or group prescription drug insurance coverage authorized by this article according to this subsection.

(C) "Primary coverage" means individual or group hospital and surgical insurance coverage, individual or group major medical insurance coverage, or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder.

(c) *Continuation after termination.* — If an employee participating in the plan is terminated from employment involuntarily or in reduction of workforce, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee and the employer shall continue to contribute the employer's share of plan premiums for the coverage. An employee discharged for misconduct shall not be eligible for extended benefits under this section. Coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge

of misconduct are pursued. If the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within 12 months of his or her prior termination, he or she shall not be considered a new enrollee and may not be required to again contribute his or her share of the premium cost, if he or she had already fully contributed such share during the prior period of employment.

(d) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan before July 1988.* — Except as otherwise provided in subsection (g) of this section, when an employee participating in the plan, who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: The insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her eligible spouse and dependents, the insurance coverage shall continue one additional month for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.

(e) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan after June 1988.* — Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this section, when an employee participating in the plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods

and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her eligible spouse and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining premium cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an employee who has been a participant under eligible spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

(f) *Increased retirement benefits for retired employees with accrued annual and sick leave.* — In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days' retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee's retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system: *Provided*, That for a person who first becomes a member of the Teachers Retirement System as provided in article seven-a, chapter eighteen of this code on or after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not be applied for retirement service credit. However, the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education*

*employees.* — Except as otherwise provided in subsection (l) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for 12 months, is compelled or required by law to retire before reaching the age of 65, or when such a participating employee voluntarily retires as provided by law, that employee's insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for 12 months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the University of West Virginia Board of Trustees and the board of directors of the state college system, for individual coverage, or one additional year for each five years of teaching service for family coverage.

(h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the conditions of the "retired employee" definition in section two of this article, shall be eligible for insurance coverage under the same terms and provisions of this article. The retired employee's premium contribution for any such coverage shall be established by the finance board.

(i) *Retiree participation.* — All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter retiring are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

(j) *Surviving spouse and dependent participation.* — A surviving eligible spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any comprehensive group health insurance coverage provided under this article to which the deceased employee was entitled, and the eligible spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

(k) *Elected officials.* — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave or personal leave to elected public officials and the very nature of those positions preclude the arising or accumulation of any leave, so as to be thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.

(l) *Participation of certain former employees.* — An employee, eligible for coverage under the provisions of this article who has 20 years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for 20 years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays 105 percent of the cost of retiree coverage: *Provided*, That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

(m) *Prohibition on conversion of accrued annual and sick leave for extended coverage upon retirement for new employees who elect to participate in the plan after June 2001.* — Any employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: *Provided*, That any person who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she becomes reemployed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her reemployment.

(n) *Prohibition on conversion of accrued years of teaching service for extended coverage upon retirement for new employees who elect to participate in the plan July 2009.* — Any employee hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of teaching service toward the cost of premiums for extended insurance coverage upon his or her retirement.

(o) The amendments to this section enacted during the 2022 Regular Session of the Legislature shall become effective beginning July 1, 2023.

**§5-16-20. Expense fund.**

The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission, or department of the state which operates out of special revenue funds or federal funds or both shall pay its proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the State Employee Insurance Plan. All other employers not operating from the state General Revenue Fund shall pay their proportionate share of the administrative costs of the insurance plan or plans authorized under the provisions of this article and such fund existing within the Public Employees Insurance Agency shall be known as the Nonstate Employee Insurance Plan.

**§5-16-25. Reserve fund.**

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year and supplementing any reimbursements made to hospitals and emergency medical service providers or agencies in accordance with §5-16-30 of this code. Beginning with the fiscal year 2002 plan and for each succeeding fiscal year plan, the finance board shall maintain the actuarily recommended reserve in an amount no less than 10



percent of the projected total plan costs for that fiscal year in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article.

**§5-16-30. Hospital inpatient rates.**

(a) By July 1, 2023, the plan shall reimburse any hospital that provides inpatient care to a beneficiary covered by the plan at a rate of 110 percent of the Inpatient Prospective Payment System Diagnostic Related Group assigned amount then in effect for the federal fee for service component of the Medicare program.

(b) By July 1, 2023, the plan shall reimburse any emergency medical services provider or agency as defined in §16-4C-1 et seq. at a rate of 110 percent of the Medicare rate.

(c) Nothing in this section limits the authority of the director under §5-16-3(c) and §5-16-9 of this code, including, but not limited to, his or her authority to manage provider contracting and payments and to designate covered and noncovered services.

(d) This section does not limit the authority of the director, the plan, or the plans under §5-16-11 of this code.

(e) This section shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after July 1, 2023.

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4252, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4252 pass?"

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Azinger, Karnes, and Martin—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4252) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

On motion of Senator Maroney, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4252**—A Bill to amend and reenact §5-16-7g, §5-16-13, §5-16-20 and §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by creating a new section, designated §5-16-30; and to amend and reenact §33-59-1 of said code, all relating to health care; reducing copayments; adding coverage for devices under specified insurance plans including the Public Employees Insurance Agency; providing that Public Employees Insurance Agency coverage may only be extended to employee spouses who do not have the option of obtaining primary coverage through the spouse's employer; requiring the Public Employees Insurance Agency Finance Board to supplement reimbursements with reserve funds; providing for reimbursement of hospital inpatient rates by the plan; providing for reimbursement of emergency medical service providers and agencies rates by the plan; naming of funds within the Public Employees Insurance Agency; and permitting testing equipment to

be purchased without a prescription under specified insurance plans.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Sypolt, unanimous consent being granted, it was ordered that the Journal show had Senator Sypolt been present in the chamber in earlier proceedings today, he would have voted "yea" on the passage of Engrossed Committee Substitute for House Bill 4001, Engrossed Committee Substitute for House Bill 4002, and Engrossed Committee Substitute for House Bill 4012.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions on March 11, 2022:

**Senate Concurrent Resolution 61:** Senators Stollings and Baldwin;

**Senate Resolution 56:** Senators Phillips, Stollings, Lindsay, Rucker, and Jeffries;

And,

**Senate Resolution 57:** Senators Phillips, Lindsay, and Jeffries.

Without objection, the Senate returned to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. House Bill 4307,** Increase some benefits payable from Crime Victims Compensation Fund.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4307 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4307) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 4307**—A Bill to amend and reenact §14-2A-3 of the Code of West Virginia, 1931, as amended, relating to increasing and expanding certain benefits payable from the Crime Victims' Compensation Fund; increasing the limit on the allowable benefit for mental health counseling for secondary victims; increasing the limits on allowable benefits for certain travel and relocation expenses; and expanding the definition of "work loss" to compensate claimants, victims, and parent and legal guardians of minor victims for work missed to attend certain court proceedings.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4340**, Relating to maximizing the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for

further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 19. ANATOMICAL GIFT ACT.**

#### **§16-19-9. Who may make anatomical gift of decedent's body or part.**

(a) Unless barred by §16-19-7 or §16-19-8 of this code , an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available in the order of priority listed:

(1) A person holding a medical power of attorney or another agent of the decedent at the time of death who could have made an anatomical gift under §16-19-4 of this code immediately before the decedent's death;

(2) The spouse of the decedent, unless ~~in the six (6) months prior to the decedent's death the spouse has lived separate and apart from the decedent in a separate place of abode without cohabitation~~ an action for divorce is pending;

(3) Adult children of the decedent;

(4) The person acting as the guardian of the decedent at the time of death;

(5) An appointed health care surrogate;

(6) Parents of the decedent;

(7) Adult siblings of the decedent;

(8) Adult grandchildren of the decedent;

(9) Grandparents of the decedent; or

(10) An adult who exhibited special care and concern for the decedent; or

(11) A person authorized or obligated to dispose of the decedent's body.

(b) If there is more than one member of a class entitled to make an anatomical gift, any member of the class may make the anatomical gift unless he or she, or a person to whom the anatomical gift may pass pursuant to §16-19-11 of this code, knows of an objection by another member of the class. If an objection is known, the majority of the members of the same class must be opposed to the donation in order for the donation to be revoked. In the event of a tie vote, ~~the attending physician or advanced nurse practitioner shall appoint a health care surrogate to decide whether to make an anatomical gift of the decedent's body or part for the purpose of transplantation, therapy, research or education~~ the anatomical gift may proceed despite the objection by a member or members of a class.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class is reasonably available to make, or to object to the making, of an anatomical gift.

#### **§16-19-14. Rights and duties of procurement organization and others.**

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Division of Motor Vehicles and any donor registry it knows of for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) The Division of Motor Vehicles shall allow a procurement organization reasonable access to information in the division's records to ascertain whether an individual at or near death is a

donor. The Commissioner of the Division of Motor Vehicles shall propose legislative rules for promulgation pursuant to §29A-3-1 *et seq.* of this code to facilitate procurement agencies' access to records pursuant to this subsection.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the prospective donor expressed a contrary intent.

(d) Unless prohibited by law, at any time after a donor's death, a person to whom a decedent's part passes under §16-19-11 of this code may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in §16-19-9 of this code having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Except as provided in §16-19-22 of this code, the rights of the person to whom a part passes under §16-19-11 of this code are superior to the rights of all others. A person may accept or reject an anatomical gift, in whole or in part. Subject to the terms of the document of gift and this article, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to whom the part passes under §16-19-11 of this code shall, upon the death of the donor and before embalming, burial, or cremation, cause the part to be removed without unnecessary mutilation.

(i) Neither the physician or the physician assistant who attends the decedent at death, nor the physician or the physician assistant who determines the time of death, may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

(k) A medical examiner shall cooperate with any procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(l) A part may not be removed from the body of a decedent under a medical examiner's jurisdiction for transplantation, therapy, research, or education, nor delivered to a person for research or education, unless the part is the subject of an anatomical gift.

(m) Upon the request of a procurement organization, the medical examiner shall release to the procurement organization the name, contact information, name of the next of kin, and available medical and social history of a decedent whose body is under the medical examiner's jurisdiction. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release the post-mortem examination results to the procurement organization. The



procurement organization may not make a subsequent disclosure of the post-mortem examination results or other information received from the medical examiner unless the subsequent disclosure is relevant to transplantation, therapy, research, or education.

(n) If a hospital refers an individual whose death is imminent or who has died in a hospital to an organ procurement organization, and the organ procurement organization, in consultation with the individual's attending physician or a designee, determines based upon a medical record review and other information supplied by the individual's attending physician or a designee, that the individual may be a prospective donor; and the individual:

(1) Has not indicated in any document an intention to either limit the anatomical gifts of the individual to parts of the body which do not require a ventilator or other life-sustaining measures, or

(2) Has not indicated in any document an intention to deny making or refusing to make an anatomical gift; or

(3) Amended or revoked an anatomical gift in any document, the organ procurement organization may conduct a blood or tissue test or minimally invasive examination which is reasonably necessary to evaluate the medical suitability of a body part that is or may be the subject of an anatomical gift.

(o) Testing and examination conducted pursuant to subsection (n) shall comply with a denial or refusal to make an anatomical gift or any limitation expressed by the individual with respect to the part of the body to donate or a limitation the provision of a ventilator or other life-sustaining measures, or a revocation or amendment to an anatomical gift. The results of tests and examinations conducted pursuant to subsection (n) shall be used or disclosed only:

(1) To evaluate medical suitability for donation and to facilitate the donation process; and

(2) As otherwise required or permitted by law.

(p) A hospital may not withdraw or withhold any measures necessary to maintain the medical suitability of a body part that may be the subject of an anatomical gift until the organ procurement organization or designated requestor, as appropriate, has had the opportunity to advise the applicable persons under this article of the option to make an anatomical gift and has received or been denied authorization to proceed with recovery of the part.

(q) Subject to the individual's wishes under §16-19-11(c)(3) of this code, after an individual's death, persons who may receive anatomical gift pursuant to §16-19-11 of this code may conduct any test or examination reasonably necessary to evaluate the medical suitability of the body or part for its intended purpose.

(r) The provisions of this section may not be construed to preclude a medical examiner from performing an investigation of a decedent under the medical examiner's jurisdiction.

**§16-19-22. Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.**

(a) ~~Except as provided in subsection (e) of this section,~~ The medical examiner shall, upon request of a procurement organization, release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is in the custody of the medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release post-mortem examination results after being paid in accordance with the fee schedule established in rules to the procurement organization, ~~subject to subsection (e) of this section.~~ The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the medical examiner only if relevant to transplantation or therapy.

(b) The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose

body is under the jurisdiction of the medical examiner which the medical examiner determines may be relevant to the investigation.

(c) A person with any information requested by a medical examiner pursuant to subsection (b) of this section shall provide that information as soon as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) If the medical examiner determines that a post-mortem examination is not required or that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research or education.

~~(e) If the decedent's death is the subject of a criminal investigation, the medical examiner may not release the body or part that is the subject of an anatomical gift or the social history, medical history or post mortem examination results without the express authorization of the prosecuting attorney of the county having jurisdiction over the investigation~~

(f) If an anatomical gift of a part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the medical examiner shall consult with the procurement organization about the proposed recovery. After the consultation, the medical examiner may ~~allow~~ deny the recovery at his or her discretion. The medical examiner may attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part.

~~(g)~~ (f) If the medical examiner denies recovery of the part, he or she shall:

(1) Provide the procurement organization with a written explanation of the specific reasons for not allowing recovery of the part; and

(2) Include in the medical examiner's records the specific reasons for denying recovery of the part.

~~(h)~~ (g) If the medical examiner allows recovery of a part, the procurement organization shall, upon request, cause the physician or technician who removes the part to provide the medical examiner with a written report describing the condition of the part, a biopsy, a photograph or any other information, and observations that would assist in the post-mortem examination.

~~(i)~~ (h) A medical examiner who decides to be present at a removal procedure pursuant to subsection (f) of this section is entitled to reimbursement for the expenses associated with appearing at the recovery procedure from the procurement organization which requested his or her presence.

~~(j)~~ (i) A medical examiner performing any of the functions specified in this section shall comply with all applicable provisions of §61-12-1 *et seq.* of this code.

## CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

### ARTICLE 12. POSTMORTEM EXAMINATIONS.

#### **§61-12-3. Office of ~~eChief medical examiner~~ Chief Medical Examiner established; appointment, duties, etc., of ~~chief medical examiner~~ Chief Medical Examiner; assistants and employees; promulgation of rules.**

(a) The Office of Chief Medical Examiner is ~~hereby established~~ continued within the ~~division of health~~ Bureau of Public Health in the Department of Health and Human Resources. The office shall be directed by a ~~chief medical examiner~~ Chief Medical Examiner, who may employ pathologists, toxicologists, other forensic specialists, laboratory technicians, and other staff members as needed to fulfill the responsibilities set forth in this article.

(b) All persons employed by the ~~chief medical examiner~~ Chief Medical Examiner shall be responsible to him or her and may be discharged for any reasonable cause. The ~~chief medical examiner~~ Chief Medical Examiner shall specify the qualifications required for each position in the Office of Chief Medical Examiner; ~~and each position shall be subject to rules prescribed by the secretary of the Department of Health and Human Resources.~~

(c) The chief medical examiner shall be a physician licensed to practice medicine or osteopathic medicine in the State of West Virginia, who is a diplomat of the American ~~board of pathology~~ Board of Pathology in forensic pathology, or equivalent, and who has experience in forensic medicine. The ~~chief medical examiner~~ Chief Medical Examiner shall be appointed by the ~~director of the division of health~~ Commissioner for the Bureau of Public Health to serve a five-year term unless sooner removed, but only for cause, by the Governor or by the ~~director~~ commissioner.

(d) The ~~chief medical examiner~~ Chief Medical Examiner shall be responsible to the ~~director of the division of health~~ commissioner in all matters except that the chief medical examiner shall operate with independent authority for the purposes of:

(1) The performance of death investigations conducted pursuant to section eight of this article;

(2) The establishment of cause and manner of death; and

(3) The formulation of conclusions, opinions, or testimony in judicial proceedings.

(e) The ~~chief medical examiner~~ Chief Medical Examiner, or his or her designee, shall be available at all times for consultation as necessary for carrying out the functions of the ~~office of the chief medical examiner~~ Office of the Chief Medical Examiner.

(f) The Chief Medical Examiner shall cooperate with procurement organizations as defined in §16-19-3 of this code to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education. The Chief Medical Examiner may enter into contracts and agreements

with a procurement organization when necessary to facilitate the efficient and economical recovery of anatomical gifts, including contracts or agreements authorizing persons approved or assigned by the procurement organization to perform a specific type of duty or duties at the office of the chief medical examiner.

(~~f~~) (g) The Secretary of the Department of Health and Human Resources ~~is hereby directed to~~ shall propose legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code concerning:

(1) The proper conduct of medical examinations into the cause of death;

(2) The proper methods and procedures for postmortem inquiries conducted by county medical examiners and coroners;

(3) The examination of substances taken from human remains in order to determine the cause and manner of death; ~~and~~

(4) The training and certification of county medical examiners and coroners; and

(5) The procedures necessary to maximize the recovery of anatomical gifts for the purpose of transplantation, therapy, research, or education.

(~~g~~) (h) The ~~chief medical examiner~~ Chief Medical Examiner ~~is authorized to~~ may prescribe specific forms for record books and official papers which are necessary to the functions and responsibilities of the office of the ~~chief medical examiner~~ Chief Medical Examiner.

(~~h~~) (i) The ~~chief medical examiner~~ Chief Medical Examiner, or his or her designee, ~~is authorized to~~ may order and conduct an autopsy in accordance with the provisions of ~~this article and~~ this code. The ~~chief medical examiner~~ Chief Medical Examiner, or his or her designee, shall perform an autopsy upon the lawful request of any person authorized by the provisions of this code to request the performance of the autopsy.

(†) (j) The salary of the ~~chief medical examiner~~ Chief Medical Examiner and the salaries of all assistants and employees of the office of the ~~chief medical examiner~~ Chief Medical Examiner shall be fixed by the Legislature from funds appropriated for that purpose. The ~~chief medical examiner~~ Chief Medical Examiner shall take an oath and provide a bond as required by law. ~~Within the discretion of the director of the division of health~~ The ~~chief medical examiner~~ Chief Medical Examiner and his or her assistants shall ~~may~~ lecture or instruct in the field of legal medicine and other related subjects to the West Virginia University or Marshall ~~university~~ University School of Medicine, the West Virginia ~~school of osteopathic medicine~~ School of Osteopathic Medicine, the West Virginia ~~state police~~ State Police, other law-enforcement agencies and other interested groups.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill (Eng. Com. Sub. for H. B. 4340) and the pending Health and Human Resources committee amendment was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4105, already placed in that position.

At the request of Senator Trump, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

On motion of Senator Takubo, at 4:19 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:12 p.m.

At the request of Senator Takubo, unanimous consent being granted, Senator Takubo addressed the Senate regarding anticipated action on House messages.

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate

amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 4389**, Relating to repealing school innovation zones provisions superseded by Innovation in Education Act.

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Rucker, Weld, and Beach.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 4**, US Army SP4 Warner Ray Osborne Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 10**, US Air Force TSGT Franklin A. Bradford Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 12**, Raymond Jarrell, Jr., Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of



**Senate Concurrent Resolution 14**, US Army SSGT Elson M Kuhn Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 16**, William Gregory "Greg" White, P.E., Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 18**, US Army SSGT Fred E. Duty Memorial Highway.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 19**, US Army PVT Thomas D. Beckett, Sr., Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 20**, US Air Force LT COL Robert J. Hill Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 22**, US Army PFC Clifford O. Eckard Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 24**, USMC CPL Roger Lee Boothe Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 25**, Firefighter Marvin Layton Hughes Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 26**, US Army TEC5 William "Bill" Thurman King Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 30**, McClintic Family Veterans Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 32**, Curtis "Pap" and Millie "Mammie" Asbury Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 33**, US Army SGT Lewis M. "Mike" Totten Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 36**, USMC CPL Harry Edward Dean, Jr., Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 39**, Walker Brothers' Veteran Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 40**, Frye Brothers' Veterans Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 41**, Henry Preston Hickman Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 42**, USMC SSGT Herbert "Herbie" D. Barnes Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 48**, US Army PFC Ronald Lee Berry Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 49**, Establishing Honor Guard in each National Guard unit.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 50**, US Army T/5 John William (J.W.) Cruse Jr. Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 51**, Deputy Kenneth "Kenny" Ward Love, Sheriff Elvin Eugene "Pete" Wedge, and Jailer Ernest Ray "Ernie" Hesson Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 55**, Respectfully urging current presidential administration to open federal lease sales onshore and offshore.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the adoption as amended, of

**House Concurrent Resolution 70**, Calvin H. Shifflett Memorial Bridge.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4344**, Relating to foster care.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4340, already placed in that position.

**Eng. Com. Sub. for House Bill 4353**, Relating to On Cycle Elections - Voter Turnout Act.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

### **CHAPTER 3. ELECTIONS.**

#### **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

##### **§3-1-30. Nomination and appointment of election officials and alternates; notice of appointment; appointment to fill vacancies in election boards.**

(a) For any primary, general, or special election held throughout a county, poll clerks and election commissioners may be nominated as follows:

(1) The county executive committee for each of the two major political parties may, by a majority vote of the committee at a duly called meeting, nominate one qualified person for each team of poll clerks and one qualified person for each team of election commissioners to be appointed for the election;

(2) The appointing body shall select one qualified person as the additional election commissioner for each board of election officials;

(3) Each county executive committee shall also nominate qualified persons as alternates for at least 10 percent of the poll clerks and election commissioners to be appointed in the county and is authorized to nominate as many qualified persons as alternates as there are precincts in the county to be called upon to serve in the event any of the persons originally appointed fail to accept appointment or fail to appear for the required training or for the preparation or execution of their duties;

(4) When an executive committee nominates qualified persons as poll clerks, election commissioners, or alternates, the committee, or its chair or secretary on its behalf, shall file in writing with the appointing body, no later than the 70th day before the election, a

list of those persons nominated and the positions for which they are designated.

(b) For any municipal primary, general, or special election, the poll clerks and election commissioners may be nominated as follows:

(1) In municipalities which have municipal executive committees for the two major political parties in the municipality, each committee may nominate election officials in the manner provided for the nomination of election officials by county executive committees in subsection (a) of this section;

(2) In municipalities which do not have executive committees, the governing body shall provide by ordinance for a method of nominating election officials or shall nominate as many eligible persons as are required, giving due consideration to any recommendations made by voters of the municipality or by candidates on the ballot.

(c) The governing body responsible for appointing election officials is:

(1) The county commission for any primary, general, or special election ordered by the county commission and any joint county and municipal election;

~~(2) The board of education for any special election ordered by the board of education conducted apart from any other election;~~

~~(3) The municipal governing body for any primary, general or special municipal election ordered by the governing body.~~

(d) The qualifications for persons nominated to serve as election officials may be confirmed prior to appointment by the clerk of the county commission for any election ordered by the county commission or for any joint county and municipal election and by the official recorder of the municipality for a municipal election.

(e) The appropriate governing body shall appoint the election officials for each designated election board no later than the 49th day before the election as follows:

(1) Those eligible persons whose nominations for poll clerk and election commissioner were timely filed by the executive committees and those additional persons selected to serve as an election commissioner are to be appointed; and

(2) The governing body shall fill any positions for which no nominations were filed.

(f) At the same time as the appointment of election officials or at a subsequent meeting the governing body shall appoint persons as alternates. Provided, That no alternate may be eligible for compensation for election training unless the alternate is subsequently appointed as an election official or is instructed to attend and actually attends training as an alternate and is available to serve on election day. Alternates shall be appointed and serve as follows:

(1) Those alternates nominated by the executive committees shall be appointed;

(2) The governing body may appoint additional alternates who may be called upon to fill vacancies after all alternates designated by the executive committees have been assigned, have declined to serve or have failed to attend training; and

(3) The governing body may determine the number of persons who may be instructed to attend training as alternates.

(g) The clerk of the county commission shall appoint qualified persons to fill all vacancies existing after all previously appointed alternates have been assigned, have declined to serve, or have failed to attend training.

(h) Within seven days following appointment, the clerk of the county commission shall notify, by first-class mail, all election commissioners, poll clerks and alternates of the fact of their appointment and include with the notice a response notice form for

the appointed person to return indicating whether or not he or she agrees to serve in the specified capacity in the election.

(i) The position of any person notified of appointment who fails to return the response notice or otherwise confirm to the clerk of the county commission his or her agreement to serve within 14 days following the date of appointment is considered vacant and the clerk shall proceed to fill the vacancies according to the provisions of this section.

(j) If the governing body and the clerk of the county commission are unable to nominate a sufficient number of qualified persons agreeing to serve on a standard receiving board for each precinct, the clerk may assign members of one precinct's standard receiving board to serve simultaneously on the standard receiving board of another precinct where the polling places of both precincts are located within the same physical building or facility: *Provided*, That no more than three precincts within the same building or facility may share board members in this manner.

(k) On election day, if an appointed election official or a poll clerk working a full day fails to appear at the polling place by 45 minutes past five o'clock 5:45 a.m. on election day or, for a poll clerk working a half day, later than a time designated by the clerk of the county commission, the election officials present shall contact the office of the clerk of the county commission for assistance in filling the vacancy. The clerk shall proceed as follows:

(1) The clerk may attempt to contact the person originally appointed, may assign an alternate nominated by the same political party as the person absent if one is available or, if no alternate is available, may appoint another eligible person;

(2) If the election officials present are unable to contact the clerk within a reasonable time, they shall diligently attempt to fill the position with an eligible person of the same political party as the party that nominated the person absent until a qualified person has agreed to serve;



(3) If two teams of election officials, as defined in §3-1-29 of this code, are present at the polling place, the person appointed to fill a vacancy in the position of the additional commissioner may be of either political party.

(l) In a municipal election, the recorder or other official designated by charter or ordinance to perform election responsibilities shall perform the duties of the clerk of the county commission as provided in this section.

(m) Nothing in this section shall be construed to require any county executive committee or county commission to offer half-day shifts for poll clerks during any election.

**§3-1-31. Days and hours of elections; scheduling of local elections; extension or shortening of terms of certain elected local officials.**

(a) General elections shall be held in the several election precincts of the state on the Tuesday next after the first Monday in November of each even year. Primary and special elections shall be held on the days provided by law therefor: *Provided*, That beginning July 1, 2022, all local municipal elections may be held concurrently with a regularly scheduled statewide primary or general election. In exercising this right, a municipality may negotiate an agreement with the county commission to establish the election date, election officials, registration books to be used, and other matters pertaining to changing the municipal election to be held on the same day as a regularly scheduled statewide primary or general election: *Provided, however*, That a municipality which enters into an agreement with a county commission to hold elections at the same time as a regularly scheduled statewide primary or general election day pursuant to §8-5-5 of this code shall share in the administrative costs of holding the election, but which costs shall not exceed the municipality's pro rata share of voters registered in the municipality compared with the total voters registered in the county: *Provided further*, That the municipality shall also comply with the requirements of §8-5-5 of this code regarding an agreement with the county regarding use of county election officials in municipal elections.

(b) At every primary, general, or special election the polls shall be opened in each precinct on the day of ~~such~~ the election at ~~six-thirty o'clock~~ 6:30 in the ~~forenoon~~ morning and be closed at ~~seven-thirty o'clock~~ 7:30 in the evening.

## **ARTICLE 2. REGISTRATION OF VOTERS.**

### **§3-2-19. Maintenance of active and inactive registration records for municipal elections.**

(a) For municipal elections, the registration records of active and inactive voters shall be maintained as follows:

(1) Clerks of the county commissions shall prepare pollbooks or voter lists to be used in municipal elections when the county precinct boundaries and the municipal precinct boundaries are the same and all registrants of the precinct are entitled to vote in state, county, and municipal elections within the precinct or when the registration records of municipal voters within a county precinct are separated and maintained in a separate municipal section or book for that county precinct and can be used either alone or in combination with other pollbooks or voter lists to make up a complete set of registration records for the municipal election precinct.

~~(2) Upon request of the municipality, and if the clerk of the county commission does not object, separate municipal precinct books shall be maintained in cases where municipal or ward boundaries divide county precincts and it is impractical to use county pollbooks or voter lists or separate municipal sections of those pollbooks or voter lists. If the clerk of the county commission objects to the request of a municipality for separate municipal precinct books, the State Election Commission must determine whether the separate municipal precinct books should be maintained~~

~~(3)~~ No registration record may be removed from a municipal registration record unless the registration is lawfully transferred or canceled pursuant to the provisions of this article in both the county and the municipal registration records.

(b) Within 30 days following the entry of any annexation order or change in street names or numbers, the governing body of an incorporated municipality shall file with the clerk of the county commission a certified current official municipal boundary map and a list of streets and ranges of street numbers within the municipality to assist the clerk in determining whether a voter's address is within the boundaries of the municipality.

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

#### **§7-1-1a. Requirements for reforming, altering, or modifying a county commission; alternative forms of county government.**

(a) A county government may be reformed, altered, or modified as follows:

(1) The county commission or county council of the county may pass a resolution making application to the Legislature to reform, alter, or modify an existing form of county government in accordance with the requirements of the West Virginia Constitution and this section; or

(2) Ten percent of the registered voters of the county may sign a petition requesting reformation, alteration, or modification of the existing form of county government in accordance with the requirements of the West Virginia Constitution and this section.

(b) A county commission or county council seeking to make application to reform, alter, or modify its county government pursuant to the provisions of section 13, article IX of the West Virginia Constitution shall adopt a resolution containing the following information:

(1) The reasons for the reformation, alteration, or modification of the county commission or county government;

(2) The form of the proposed county government selected from the alternatives authorized by this section;

(3) The proposed name of the county government;

(4) When the question of reformation, alteration, or modification of the county government ~~will~~ shall be on the ballot;

(5) How and when the officers of the proposed county government ~~will~~ shall be elected or appointed, taking into consideration the following:

(A) When the election on the question of reformation, alteration, or modification of the county government ~~will~~ shall be held;

(B) The normal election cycles for county officials; and

(C) The time frames for early and absentee voting provided in 3-3-1 *et seq.* of this code; and

(6) When the new county government ~~will~~ shall become effective.

(c) Prior to the adoption of a resolution seeking to reform, alter, or modify a county commission or county council, the governing body of the county shall publish by a Class II legal advertisement in one or more newspapers of general circulation throughout the county, in compliance with the provisions of §59-3-1 *et seq.* of this code, notice of the proposed changes to the current form of county government. The publication area shall be the entire county. The notice shall summarize the proposed changes to the county government and include the date, time, and place for the meeting or meetings in which the resolution ~~will~~ shall be considered.

(d) After the publication and adoption of the resolution, the following information shall be submitted by the county to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature:

(1) A certified copy of the adopted resolution;

- (2) A copy of the required public notice;
- (3) The vote on the adoption of the resolution; and
- (4) The date the resolution was adopted.

(e) Registered voters of a county seeking to reform, alter, or modify the county commission or county council pursuant to section 13, article IX of the West Virginia Constitution shall submit a petition, signed by 10 percent of the registered voters in the county, to the county commission or county council, setting forth the information required in subsection (b) of this section. Upon receipt of the petition, the county commission or county council shall verify that the signatures on the petition are: (1) Legally registered voters of the county; and (2) equal to 10 percent of the registered voters of the county.

(f) The county commission or county council shall, within 30 days of receipt of a constitutionally defective petition, return it to the petitioners with a written statement as to why the petition is defective. The petitioners may, within 90 days of receipt of the written statement from the county commission or council and after making the necessary changes, resubmit the petition to the county commission or county council.

(g) After verifying that the signatures on the petition meet the constitutional requirements, the county commission or council shall forward the petition to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature.

(h) After receipt of a certified resolution or verified petition by the Clerk of the Senate and the Clerk of the House of Delegates, the Legislature shall determine whether all constitutional and statutory requirements have been met. If such requirements have not been met, the certified resolution or verified petition shall be returned with a written statement of the deficiencies. A certified resolution or verified petition may be revised following the

procedures set forth in this section for an original submission and then may be resubmitted to the Clerk of the Senate and the Clerk of the House of Delegates for consideration by the Legislature. The requirement that the petition be submitted prior to the 10th day of the legislative session shall not apply to resubmitted resolutions or petitions.

(i) Following passage of an act by the Legislature authorizing an election on the question of reforming, altering, or modifying a county commission or council, the question shall be placed on the ballot of the county at the next primary or general election following such passage ~~or, at the expense of the county, a special election.~~

(j) Following approval of the reformation, alteration, or modification of the county commission or council by a majority of the county's registered voters, nomination of the county commission or council members and, where authorized, the chief executive, shall be held in the next primary election or the primary election set forth in the resolution or petition to reform, alter, or modify the county commission or council. Election of the county commissioners or council members and, where authorized, the chief executive shall be held in the next general election or the general election set forth in the resolution or petition to change the form of the county commission.

(k) All elections required by this section shall be held in accordance with the provisions of §3-1-1 *et seq.* of this code.

(l) The following are guidelines for forms of county government:

(1) "*Chief executive - county commission plan*". — Under this plan:

(A) There shall be a chief executive elected by the registered voters of the county at large and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The chief executive shall have the exclusive authority to supervise, direct, and control the administration of the county government. The chief executive shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the chief executive shall be set by the Legislature;

(E) Other nonelected officers and employees shall be appointed by the chief executive subject to the approval of the county commission; and

(F) The chief executive shall not be a member of the county commission nor shall he or she hold any other elective office.

(2) "*County manager - county commission plan*". — Under this plan:

(A) There shall be a county manager appointed by the county commission and three county commissioners that may be elected at large;

(B) The commission shall be the governing body;

(C) The county manager shall have the exclusive authority to supervise, direct, and control the administration of the county government. The county manager shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county manager shall be set by the county commission;

(E) Other nonelected officers and employees shall be appointed by the county manager subject to the approval of the commission; and

(F) The county manager shall not be a member of the county commission nor shall he or she hold any other elective office.

(3) "*County administrator - county commission plan*". — Under this plan:

(A) There shall be a county administrator appointed by the county commission and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The county administrator shall have the authority to direct the administration of the county government under the supervision of the county commission. The county administrator shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county administrator shall be set by the county commission;

(E) The county administrator shall appoint or employ all subordinates and employees for whose duties or work he or she is responsible to the commission; and

(F) The county administrator shall not be a member of the county commission nor shall he or she hold any other elective office.

(4) A county council consisting of four or more members that shall be elected at large.

(5) Any form of county government adopted pursuant to section 13, article IX of the West Virginia Constitution and this section may, by the methods set forth in this section, return to the traditional county commission or change to another form of county government, as set out in this section.

(m) The purpose of this section is to establish the basic requirements for reforming, altering, or modifying a county commission or county council pursuant to section 13, article IX of the West Virginia Constitution. The structure and organization of a county government may be specified in greater detail by resolution or ordinance so long as such provisions do not conflict



with the purposes and provisions set forth in this section, §7A-1-1 *et seq.* of this code, or the Constitution.

**ARTICLE 4. PROSECUTING ATTORNEY, REWARDS,  
AND LEGAL ADVICE.**

**§7-4-1. Duties of prosecuting attorney; further duties upon  
request of Attorney General.**

(a) The prosecuting attorney shall attend to the criminal business of the state in the county in which he or she is elected and qualified and when the prosecuting attorney has information of the violation of any penal law committed within the county, the prosecuting attorney shall institute and prosecute all necessary and proper proceedings against the offender and may, in such case, issue or cause to be issued a summons for any witness the prosecuting attorney considers material. Every public officer shall give the prosecuting attorney information regarding the commission of any criminal offense committed within his or her county. The prosecuting attorney shall also attend to civil suits in the county in which the state or any department, commission, or board thereof, is interested, and to advise, attend to, bring, prosecute, or defend, as the case may be, all matters, actions, suits, and proceedings in which such county or any county board of education is interested.

(b) (1) In furtherance of a prosecuting attorney's duty to investigate and prosecute criminal offenses, a prosecuting attorney and assistant prosecuting attorneys under his or her supervision shall have the authority to arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States, or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure which occur within the office of the prosecuting attorney and committed in the presence of the prosecuting attorney or assistant prosecuting attorney.

(2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy sheriff within the geographic limitations set forth in said subdivision.

(3) Should a prosecuting attorney desire to establish a program authorizing prosecuting attorneys and assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U. S. C. §926B, the following criteria must be met:

(A) The prosecuting attorney's office shall have a written policy authorizing the prosecuting attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the office of the prosecuting attorney a requirement that the prosecuting attorney and assistant prosecuting attorneys must regularly qualify in the use of a firearm with standards therefor which are equal to or exceed those required of sheriff's deputies in the county in which the prosecuting attorney was elected or appointed;

(C) The office of the prosecuting attorney shall issue a photographic identification and certification card which identify the prosecuting attorney or assistant prosecuting attorneys as law-enforcement employees of the prosecuting attorney's office pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of the authority to participate in the program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any prosecuting attorney or assistant prosecuting attorney who participates in a program authorized by the provisions of this subsection shall be responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature to authorize prosecuting attorney's offices wishing to do so to allow prosecuting attorneys and assistant prosecuting attorneys to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(c) The prosecuting attorney shall keep his or her office open in the charge of a responsible person during the hours when polls are open during statewide general and primary ~~and special~~ ~~countywide~~ election days, and the prosecuting attorney, or the prosecuting attorney's assistant, if any, shall be available for the purpose of advising election officials. The prosecuting attorney, when requested by the Attorney General, shall perform or assist the Attorney General in performing, in the county in which the prosecuting attorney is elected, any legal duties required to be performed by the Attorney General and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of the county. The prosecuting attorney, when requested by the Attorney General, shall perform or assist the Attorney General in performing, any legal duties required to be performed by the Attorney General in any county other than that in which the prosecuting attorney is elected and for the performance of these duties in any county other than that in which the prosecuting attorney is elected, the prosecuting attorney shall be paid his or her actual expenses.

Upon the request of the Attorney General, the prosecuting attorney shall make a written report of the state and condition of the several causes in which the state is a party, pending in his or her county, and upon any matters referred to the prosecuting attorney by the Attorney General as provided by law.

#### **ARTICLE 14B. CIVIL SERVICE FOR CORRECTIONAL OFFICERS.**

**§7-14B-21. County commission of counties with a population of less than 25,000 may place correctional officers under civil service; protest and election with respect thereto.**

The county commission of any county having a population of less than 25,000 may by order entered of record provide that the provisions of this article providing civil service for correctional officers shall apply to such county on and after the effective date of this article. A copy of such order, together with a notice advising the qualified voters of such county of their right to protest the placing of correctional officers of such county under civil service, shall be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

In the event 15 percent of the qualified voters of such county protest such order, by petition duly signed by them in their own handwriting (which petition may be signed in any number of counterparts) and filed with the county clerk of such county within 60 days after publication of such copy and notice, such order shall not become effective unless and until it is ratified by a majority of the legal votes cast with respect to the question of civil service coverage for the correctional officers of such county by the qualified voters of such county at a ~~regular or special~~ primary or general election. Any such election shall be conducted and superintended and the results thereof ascertained as provided by law for ~~regular or special~~ primary or general elections, as the case may be.

Whenever the correctional officers of any county are placed under civil service pursuant to the provisions of this section, such civil service system for the correctional officers of such county shall thereupon become mandatory and all of the provisions of this article shall apply to the correctional officers of such county with like effect as if said county had a population of 25,000 or more.

## **ARTICLE 17. COUNTY FIRE BOARDS.**

### **§7-17-12. County fire service fees; petition; election; dedication; and amendment.**

(a) Every county commission which provides fire protection services has plenary power and authority to provide by ordinance for the continuance or improvement of such service, to make

regulations with respect thereto, and to impose by ordinance, upon the users of such services, reasonable fire service rates, fees, and charges to be collected in the manner specified in the ordinance.

(b) Any fees imposed under this article are dedicated to the county fire board for the purposes provided in this article.

(c) A county commission can impose by ordinance, upon the users of such service, a reasonable fire service fee, by one of two methods:

(1) Ten percent of the qualified voters shall present a petition duly signed by them in their own handwriting, and filed with the clerk of the county commission, directing that the county commission impose such a fee. The county commission shall not have a lien on any property as security for payments due under the ordinance. Any ordinance enacted under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located. In the event 30 percent of the qualified voters of the county by petition duly signed by them in their own handwriting and filed with the clerk of the county commission within 45 days after the expiration of such publication protest against such ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general ~~or special~~ election as the county commission directs. Voting thereon may not take place until after notice of the submission has been given by publication as above provided for the publication of the ordinance after it is adopted. The powers and authority hereby granted to county commissions are in addition to and supplemental to the powers and authority otherwise granted to them by other provisions of this code; or

(2) If the county fire board determines an amendment in the fee imposed in subsection (a) of this article is necessary, it may, by resolution, request the county commission for such a change. Upon receipt of the resolution from the county fire board, the county commission shall, by ballot referendum, amend the ordinance

imposing a fire fee and adopt the changes in the fee requested by the county fire board.

(A) This referendum, to determine whether it is the will of the voters of a county that an amendment to the fire fee is necessary, may be held at any regular primary or general election, or, in conjunction with any other countywide election. Any election at which the question of amending the fire fee is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The county commission shall, not less than 90 days before the election, order that the issue be placed on the ballot and referendum held at the next primary, ~~or general, or special~~ election to determine whether it is the will of the voters of the county that a fire fee be amended: *Provided*, That prior to issuing the order, the county commission shall publish the ordinance which must contain the anticipated allocation of any fees or charges and which would be enacted should the referendum succeed as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located.

(B) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be permitted to amend the fire fee in \_\_\_\_\_ County, West Virginia?

For the fee amendment.

Against the fee amendment.

(Place a cross mark in the square opposite your choice.)"

(C) If a majority of legal votes cast upon the question be for the fire fee amendment, the county commission shall, after the certification of the results of the referendum, thereafter adopt an ordinance, within 60 days of certification, establishing the fire fee amendment in the county: *Provided*, That such program shall be

implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the fire fee amendment, then the policy shall not take effect, but the question may again be submitted to a referendum at any subsequent election in the manner herein provided.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

## **ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.**

### **§7-20-7. Establishment of impact fees; levies may be used to fund existing capital improvements.**

(a) Impact fees assessed against a development project to fund capital improvements and public services may not exceed the actual proportionate share of any benefit realized by such project relative to the benefit to the resident taxpayers.

Notwithstanding any other provision of this code to the contrary, those counties that meet the requirements of §7-20-6 of this code are hereby authorized to assess, levy, collect, and administer any tax or fee as has been or may be specifically authorized by the Legislature by general law to the municipalities of this state: *Provided*, That any assessment, levy, or collection shall be delayed 60 days from its regular effective date: *Provided, however*, That in the event 15 percent of the qualified voters of the county by petition duly signed by them in their own handwriting and filed with the county commission within 45 days after any impact fee or levy is imposed by the county commission pursuant to this article, the fee or levy protested may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general ~~or special~~ election as the county commission directs. Voting thereon may not take place until after notice of the subcommission of the fee a levy on the ballot has been given by publication of Class II legal advertisement and publication area shall be the county where

such fee or levy is imposed: *Provided further*, That counties may not "double tax" by applying a given tax within any corporate boundary in which that municipality has implemented such tax. Any such taxes or fees collected under this law may be used to fund a proportionate share of the cost of existing capital improvements and public services where it is shown that all or a portion of existing capital improvements and public services were provided in anticipation of the needs of new development.

(b) In determining a proportionate share of capital improvements and public services costs, the following factors shall be considered:

(1) The need for new capital improvements and public services to serve new development based on an existing capital improvements plan that shows: (A) Any current deficiencies in existing capital improvements and services that serve existing development and the means by which any such deficiencies may be eliminated within a reasonable period of time by means other than impact fees or additional levies; and (B) any additional demands reasonably anticipated as the result of capital improvements and public services created by new development;

(2) The availability of other sources of revenue to fund capital improvements and public services, including user charges, existing taxes, intergovernmental transfers, in addition to any special tax or assessment alternatives that may exist;

(3) The cost of existing capital improvements and public services;

(4) The method by which the existing capital improvements and public services are financed;

(5) The extent to which any new development, required to pay impact fees, has contributed to the cost of existing capital improvements and public services in order to determine if any credit or offset may be due such development as a result thereof;

(6) The extent to which any new development, required to pay impact fees, is reasonably projected to contribute to the cost of the



existing capital improvements and public services in the future through user fees, debt service payments, or other necessary payments related to funding the cost of existing capital improvements and public services;

(7) The extent to which any new development is required, as a condition of approval, to construct and dedicate capital improvements and public services which may give rise to the future accrual of any credit or offsetting contribution; and

(8) The time-price differentials inherent in reasonably determining amounts paid and benefits received at various times that may give rise to the accrual of credits or offsets due new development as a result of past payments.

(c) Each county shall assess impact fees pursuant to a standard formula so as to ensure fair and similar treatment to all affected persons or projects. A county commission may provide partial or total funding from general or other nonimpact fee funding sources for capital improvements and public services directly related to new development, when such development benefits some public purpose, such as providing affordable housing and creating or retaining employment in the community.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

#### **§7-20-12. Countywide service fees.**

(a) Notwithstanding any provision of this code to the contrary, every county shall have plenary power and authority to impose a countywide service fee upon each employee and self-employed individual for each week or part of a calendar week the individual works within the county, subject to the following:

(1) No individual shall pay the fee more than once for the same week of employment within the county.

(2) The fee imposed pursuant to this section is in addition to all other fees imposed by the jurisdiction within which the individual is employed.

(3) The fee imposed pursuant to this section may not take effect until the first day of a calendar month, as set forth in the order of the county commission establishing the fee, that begins at least 30 days after a majority of the registered voters of the county voting on the question approve imposition of the service fee, in a primary or general ~~or a special~~ election held in the county.

(4) The order of the county commission shall provide for the administration, collection, and enforcement of the service fee. Employers who have employees that work in the county imposing the service fee shall withhold the fee from compensation paid to the employee and pay it over to the county as provided in the order of the county commission. Self-employed individuals shall pay the service fee to the county commission in accordance with the order establishing the fee.

(5) The terms "employed", "employee", "employer" and "self-employed" have the following meaning:

(A) "Employed" shall include an employee working for an employer so as to be subject to any federal or state employment or wage withholding requirement and a self-employed individual working as a sole proprietor or member of a firm so as to be subject to self-employment tax. An employee shall be considered employed in a calendar week so long as the employee remains on the current payroll of an employer deriving compensation for such week and the employee has not been permanently assigned to an office or place of business outside the county. A self-employed individual shall be considered employed in a calendar week so long as such individual has not permanently discontinued employment within the county.

(B) "Employee" means any individual who is employed at or physically reports to one or more locations within the county and is on the payroll of an employer, on a full-time or part-time basis

or temporary basis, in exchange for salary, wages, or other compensation.

(C) "Employer" means any person, partnership, limited partnership, limited liability company, association (unincorporated or otherwise), corporation, institution, trust, governmental body, or unit or agency, or any other entity (whether its principal activity is for-profit or not-for-profit) situated, doing business, or conducting its principal activity in the county and who employs an employee, as defined in this section.

(D) "Self employed individual" means an individual who regularly maintains an office or place of business for conducting any livelihood, job, trade, profession, occupation, business, or enterprise of any kind within the county's geographical boundaries over the course of four or more calendar weeks, which need not be consecutive, in any given calendar year.

(6) All revenues generated by the county service fee imposed pursuant to this section shall be dedicated to and shall be exclusively utilized for the purpose or purposes set forth in the referendum approved by the voters, including, but not limited to, the payment of debt service on any bonds issued pursuant to §7-20-13 of this code and any costs related to the administration, collection, and enforcement of the service fee.

(b) Any order entered by a county commission imposing a countywide service fee pursuant to this section, or increasing or decreasing a countywide service fee previously adopted pursuant to this section, shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for the publication shall be the county. The order shall not become effective until it is ratified by a majority of the lawful votes cast thereon by the qualified voters of the county at a primary or general ~~or special~~ election, as the county commission shall direct. Voting thereon shall not take place until after notice of the referendum shall have been given by publication as above provided for the publication of the order after it is adopted by the county commission. The notice of referendum shall at a minimum include: (1) The date of the referendum; (2) the amount

of countywide service fee; (3) a general description of the capital improvement or improvements included in the special infrastructure project to be financed with the service fee; (4) whether revenue bonds ~~will~~ shall be issued; and (5) if bonds are to be issued, the estimated term of the revenue bonds. The county commission may include additional information in the notice of referendum.

(c) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

## CHAPTER 8. MUNICIPAL CORPORATIONS.

### ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL PROVISIONS; CONSTRUCTION.

#### PART II. DEFINITIONS.

#### §8-1-2. Definitions of terms.

(a) For the purpose of this chapter:

(1) "Municipality" is a word of art and shall mean and include any Class I, Class II, and Class III city, and any Class IV town or village, heretofore or hereafter incorporated as a municipal corporation under the laws of this state;

(2) "City" is a word of art and shall mean, include, and be limited to any Class I, Class II, and Class III city, as classified in section three of this article (except in those instances where the context in which used clearly indicates that a particular class of city is intended), heretofore or hereafter incorporated as a municipal corporation under the laws of this state, however created and whether operating under: (i) A special legislative charter; (ii) a home rule charter framed and adopted or revised as a whole or amended under the provisions of former §8A-1-1 *et seq.* of this code, or under the provisions of §8-3-1 or §8-4-1 of this code; (iii) general law, or (iv) any combination of the foregoing; and

(3) "Town or village" is a term of art and shall, notwithstanding the provisions of §2-2-10 of this code, mean, include, and be limited to any Class IV town or village, as classified in §8-3-1 of this code, heretofore or hereafter incorporated as a municipal corporation under the laws of this state, however created and whether operating under: (i) A special legislative charter; (ii) general law; or (iii) a combination of the foregoing.

(b) For the purpose of this chapter, unless the context clearly requires a different meaning:

(1) "Governing body" shall mean the mayor and council together, the council, the board of directors, the commission, or other board or body of any municipality, by whatever name called, as the case may be, charged with the responsibility of enacting ordinances and determining the public policy of such municipality; and in certain articles dealing with intergovernmental relations shall also mean the county ~~court~~ commission of any county or governing board of other units of government referred to in said articles;

(2) "Councilmen" shall mean the members of a governing body, by whatever name such members may be called;

(3) "Mayor" shall mean the individual called mayor unless as to a particular municipality a commissioner (in a commission form of government) or the city manager (in a manager form of government) is designated or constituted by charter provision as the principal or chief executive officer or chief administrator thereof, in which event the term "mayor" shall mean as to such municipality such commissioner or city manager unless as to any particular power, authority, duty or function specified in this chapter to be exercised, discharged or fulfilled by the mayor it is provided by charter provision or ordinance that such particular power, authority, duty, or function shall be exercised, discharged, or fulfilled by the individual called mayor and not by a commissioner or city manager, in which event such particular power, authority, duty, or function shall in fact be exercised, discharged, or fulfilled in and for such municipality by the individual called mayor: *Provided*, That in the exercise and

discharge of the ex officio justice of the peace, conservator of the peace, and mayor's court functions specified in this chapter, the term "mayor" shall always mean the individual called mayor;

(4) "Recorder" shall mean the recorder, clerk, or other municipal officer, by whatever name called, charged with the responsibility of keeping the journal of the proceedings of the governing body of the municipality and other municipal records;

(5) "Treasurer" shall mean the treasurer or other municipal officer, by whatever name called, exercising the power and authority commonly exercised by a treasurer;

(6) "Administrative authority" shall mean the officer, commission, or person responsible for the conduct and management of the affairs of the municipality in accordance with the charter, general law, and the ordinances, resolutions, and orders of the governing body thereof;

(7) "Charter" shall mean, except where specific reference is made to a particular type of charter, either a special legislative charter (whether or not amended under the provisions of former §8A-1-1 *et seq.* of this code, or under article four of this chapter, and although so amended, such special legislative charter shall, for the purposes of this chapter, remain a special legislative charter), or a home rule charter framed and adopted or revised as a whole or amended by a city under the provisions of former §8A-1-1 *et seq.* of this code or under the provisions of article three or article four of this chapter;

(8) "Ordinance" shall mean the ordinances and laws enacted by the governing body of a municipality in the exercise of its legislative power, and in one or more articles of this chapter, ordinances enacted by a county ~~court~~ commission;

(9) "Inconsistent or in conflict with" shall mean that a charter or ordinance provision is repugnant to the constitution of this state or to general law because such provision: (i) Permits or authorizes that which the constitution or general law forbids or prohibits; or

(ii) forbids or prohibits that which the constitution or general law permits or authorizes;

(10) "Qualified elector," "elector," "qualified voter," or "legal voter" shall mean any individual who, at the time he or she offers to vote or at the time he or she participates in any event or activity (such as signing a petition) under the provisions of this chapter for which he or she must be a qualified elector, elector, qualified voter, or legal voter, is a resident within the corporate limits of the municipality or within the boundaries of a territory referred to in this chapter, as the case may be, and who: (i) Has been a resident of the state for one year and of the municipality or territory in question for at 60 sixty days next preceding such election or date pertinent to any such event or activity; and (ii) in the case of a regular municipal election, special municipal election, municipal public question election, or any such municipal event or activity, is duly registered on the municipal registration books set up in the office of the clerk of the county ~~court~~ commission of the county in which the municipality or the major portion of the territory thereof is located under the integration of the municipal registration of voters with the "permanent registration system" of the state, or, in the event there be no such integration of the municipal registration of voters, is duly registered in the county in which he or she resides to vote in state-county elections; or (iii) in the case of a territory election, general election, or any such territory event or activity, is duly registered in the county in which he or she resides to vote in state-county elections; and any charter provision or ordinance establishing a voting residency requirement different than that in this definition provided shall be of no force and effect; and in any case where a particular percentage of the qualified electors, electors, qualified voters, or legal voters is required under the provisions of this chapter in connection with any such event or activity as aforesaid, the percentage shall be determined on the basis of the number of qualified electors, electors, qualified voters, or legal voters, as of the time of such event or activity, unless it is impracticable to determine such percentage as of such time and it is provided by ordinance, resolution or order that the percentage shall be determined on the basis of the number of qualified electors, electors, qualified voters, or legal voters, as of the date of the last

preceding election (whether a general election, regular municipal election, or special municipal election, and whether or not they voted at such election) held in such municipality or territory, as the case may be;

(11) "Public question" shall mean any issue or proposition required to be submitted to the qualified voters of a municipality or of a territory referred to in this chapter for decision at an election, as the case may be;

(12) "Inhabitant" shall mean any individual who is a resident within the corporate limits of a municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

(13) "Resident" shall mean any individual who maintains a usual and bona fide place of abode within the corporate limits of a municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

(14) "Freeholder" shall mean any person (and in the case of an individual one who is sui juris and is not under a legal disability) owning a "freehold interest in real property";

(15) "Freehold interest in real property" shall mean any fee, life, mineral, coal, or oil or gas interest in real property, whether legal or equitable, and whether as a joint tenant or a tenant in common, but shall not include a leasehold interest (other than a mineral, coal, or oil or gas leasehold interest), a dower interest, or an interest in a right-of-way or easement, and the freehold interest of a church or other unincorporated association shall be considered as one interest and not as an individual interest of each member thereof;

(16) "County ~~court~~ commission" shall mean the governmental body created by section 22, article eight of the Constitution of this state, or any existing tribunal created in lieu of a county ~~court~~ commission;

(17) "Code" shall mean the Code of West Virginia, 1931, as heretofore and hereafter amended; and



(18) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint-stock association, or any other entity or organization of whatever character or description.

(c) The term "intergovernmental relations" is used in this chapter to mean undertakings and activities which may be undertaken or engaged in by two or more units of government acting jointly, and in certain headings in this chapter to call attention to the fact that the provisions under such headings apply to units of government in addition to municipalities.

(d) For the purpose of this chapter, unless the context clearly indicates to the contrary, words importing the masculine gender shall include both the masculine and feminine gender, and the phrase "charter-framed and adopted or revised as a whole or amended (or words of like import) under the provisions of former chapter eight-a of this code" shall include a charter-framed and adopted or revised as a whole or amended under the provisions of former article two of former chapter eight of this code.

## **ARTICLE 2. CREATION OF MUNICIPALITIES.**

### **PART II. ELECTION.**

#### **§8-2-5. Special incorporation election — Voting precincts; time for election; supplies; commissioners and clerks; notice.**

Upon receiving such a report from said enumerators, the county ~~court~~ commission shall forthwith fix a date for a special incorporation election, ~~not later than thirty days thereafter~~ to be held concurrently with the next regularly scheduled primary or general election if there are more than 90 days preceding such election, and, if not, then, at the next succeeding regularly scheduled primary or general election, and at ~~on~~ which election all qualified electors of the territory shall vote upon the question of incorporation between such hours as may be fixed by order of said ~~court~~ commission. For the purpose of holding and conducting said election, the county ~~court~~ commission shall divide the territory into one or more precincts, consisting of not more than 500 qualified voters in each precinct; shall arrange for and provide at its expense

polling places, registration books, challenges, and other election supplies as provided for by law in general elections; shall appoint three commissioners of election and two clerks from the qualified electors of said territory for each precinct so established, dividing the election officials as nearly as possible equally between those favoring incorporation and those opposed to incorporation; and shall give notice of the date and place or places of election and hours for voting by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the territory sought to be incorporated.

**ARTICLE 3. FRAMING AND ADOPTING AN ORIGINAL CHARTER FOLLOWING INCORPORATION OF A CITY; REVISING OR AMENDING A CHARTER; EXPENSES OF INCORPORATION.**

**§8-3-6. Same — ~~Special election; time~~ Time for election; notice; voting precincts; supplies; officials; certification; canvass; declaration of results; recount.**

The proposed charter shall be submitted to the qualified voters of the incorporated territory for approval or rejection at a special election ordered by the county ~~court~~ commission to be held ~~not less than thirty days nor more than ninety days following the date on which the two copies of the completed charter were filed with the clerk of the county court~~ concurrently with the next regularly scheduled primary or general election if there are more than 90 days preceding such election, and, if not, then, at the next succeeding regularly scheduled primary or general election, and at which election the officers provided for by said proposed charter and to be elected shall be voted upon in the manner provided in said proposed charter. The county ~~court~~ commission shall cause notice of the date, hours, place, and purpose of such election to be given by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the incorporated territory. The first of said publications shall be made not less than 30 days prior to the date fixed for the election. Each such notice of election shall state that upon request any qualified voter and any

freeholder of the incorporated territory may obtain a copy of the proposed charter from a designated person at a designated place.

For the purpose of holding and conducting said election, the county ~~court~~ commission shall divide the incorporated territory into one or more temporary precincts, consisting of not more than 500 qualified voters in each temporary precinct; shall arrange for and provide at its expense polling places, registration books, challenges, and other election supplies as provided for by law in general elections; and shall appoint three commissioners of election and two clerks from the qualified voters of said incorporated territory for each temporary precinct so established, subject, however, to the provisions of §8-4-11 of this code. Such election shall be held and conducted under the supervision of the commissioners and clerks of election appointed by the county ~~court~~ commission as aforesaid and shall be conducted as nearly as may be in accordance with the laws of this state governing general elections. The results of such election, both as to approval or rejection of the proposed charter and the election of officers, shall be certified as in general elections, and the returns shall be canvassed and the results declared by the county ~~court~~ commission. In the event any commissioner or clerk designated to serve in said election shall fail or refuse to serve, such vacancy may be filled in like manner as such vacancies are filled in general elections under the laws of this state governing general elections. A recount may be had, as in general elections, upon the party or parties desiring such recount providing adequate assurance to the county ~~court~~ commission that ~~he or they will~~ the party or parties shall pay all costs of such recount.

#### **ARTICLE 4. FRAMING AND ADOPTING A CHARTER OTHER THAN IMMEDIATELY FOLLOWING INCORPORATION; REVISING OR AMENDING A CHARTER; ELECTIONS AND EXPENSES.**

##### **PART II. REVISING OR AMENDING A CHARTER.**

#### **§8-4-7. Revising or amending a charter — generally.**

A special legislative charter or a charter framed and adopted or revised as a whole under the provisions of former §8A-1-1 *et seq.*, §8-3-1 *et seq.*, or §8-4-1 *et seq.* of this code, as the case may be,

may be revised as a whole in like manner as a charter may be framed and adopted under the provisions of §8-4-1 *et seq.* of this code, except that the question submitted shall be "Shall the charter be revised as a whole by representatives of the people?", but no such revision as a whole shall be made within four years of the effective date of such a charter or of the last preceding revision as a whole, whichever be later, as the case may be. A revision as a whole may also be initiated in the manner specified in §8-3-9 of this code or in the manner specified in said section nine considered in *pari materia* with the provisions of §8-3-9 of this code. If a majority of the legal votes cast on the question be in the negative or if the proposed charter revised as a whole is rejected by a majority of the legal votes cast at the election thereon, the provisions of §8-4-2 and §8-4-3 of this code relating to a negative vote on the question of framing a charter and to rejection of a proposed charter shall govern and control.

The qualified voters of a city may amend a special legislative charter or a charter framed and adopted or revised as a whole under the provisions of former §8A-1-1 *et seq.* of this code, §8-3-1 *et seq.* of this code, or under §8-4-1 *et seq.* of this code, as the case may be, but no amendment shall be made within one year of the effective date of such a charter or of the last preceding revision of such charter as a whole, whichever be later, as the case may be. An amendment or amendments may be initiated in the same manner provided in this article for the framing of a charter, in the manner specified in §8-3-9 of this code, or in the manner specified in said section nine considered in *pari materia* with the provisions of §8-4-3 of this code. The governing body of a city shall provide by ordinance for a special municipal election to pass upon a proposed charter amendment or amendments if: (1) Such governing body by the affirmative vote of two-thirds of its members shall determine and specify that a special municipal election is necessary; or (2) a petition bearing the signatures, written in their own handwriting, of 15 percent of the qualified voters of the city, if a Class I or Class II city, or 10 percent of the qualified voters of the city, if a Class III city, expressly requesting that a special municipal election be called for the purpose has been filed with the governing body more than 120 days prior to the date of the next regular municipal election. In all other cases, a proposed charter amendment or

amendments shall be submitted by ordinance at the next regular municipal election. Any proposed amendment or amendments shall be set out in full in the ordinance submitting same. The date of any special municipal election for the purpose shall be fixed by the ordinance providing for same, but any such special municipal election shall be held not less than 30 nor more than 60 days after such ordinance shall have been adopted. Notice of any election at which a proposed amendment or amendments shall be voted upon shall state the date and hours thereof, and shall set out the proposed amendment or amendments at length or state that copies may be obtained by any qualified voter or any freeholder of the city from a designated person at a stated place, upon request. Such notice shall be published as in the case of a notice of an election on the question of whether a charter shall be framed, as specified in §8-4-2 of this code. A charter amendment or amendments approved, or such of them as may be approved, by a majority of the legal votes cast at the election thereon shall take effect on the date that the declaration of the results showing approval by the voters has been made by the governing body and entered in the minutes of the governing body. One copy of the amendment or amendments, together with a certified copy of the declaration of results attached thereto, shall be certified forthwith by the recorder of the city to the Clerk of the House of Delegates, as keeper of the rolls, and another to the clerk of the county ~~court~~ commission for recording in the office of such clerk of the county ~~court~~ commission. The same shall be preserved by said Clerk of the House of Delegates as an authentic public record. After the effective date of an amendment or amendments so filed, all courts shall take judicial notice of such amendment or amendments.

If a majority of the legal votes cast at the election thereon be against any amendment, such proposed amendment shall not be submitted again, without a petition of the qualified voters as provided for in §8-4-1(b) of this code considered in pari materia with the provisions of this section, for at least one year.

#### **§8-4-8. Same — An alternate plan.**

Whenever the governing body of any city shall deem it expedient to amend the charter of any such city (whether such charter be a special legislative charter or a charter framed and

adopted or revised as a whole under the provisions of former §8A-1-1 *et seq.*, of this code, under §8-3-1 *et seq.*, of this code, or §8-4-1 of this code, as the case may be), it shall, by ordinance, set out in its proper record book the proposed amendment or amendments in full. The governing body shall set a date, time, and place for a public hearing thereon, which date shall be not less than 30 days after the date of the first publication hereinafter required. The governing body shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, to be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the city. The notice shall state that the proposed amendment or amendments ~~will~~ shall be considered on the date and at the time and place fixed by the governing body and that any qualified voter or any freeholder of the city may appear and file objections, in writing, and also that if no objections are filed the said amendment or amendments shall become operative on and after a date fixed in the notice, which date shall be not less than 10 days after the date of the hearing. If no objections are filed, or if objections are filed and are withdrawn at the time of the hearing, or within 10 days thereafter, the governing body shall, by ordinance, adopt the amendment or amendments as an amendment or amendments to the charter, and cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county ~~court~~ commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as aforesaid. After the effective date, all courts shall take judicial notice of such amendment or amendments.

If, on the date and at the time and place set for the hearing, objections to the amendment or amendments are filed and are not withdrawn then or within 10 days thereafter, the governing body may abandon the proposed amendment or amendments to which objections have been filed, or it may submit the proposed

amendment or amendments, either as a unit or separately, at the next regular municipal election, or at a special municipal election if such governing body by the affirmative vote of two-thirds of its members shall determine and specify that a special municipal election is necessary and if the date of such regular municipal election shall be more than six months from such date, for ratification or rejection. Notice of any election at which the proposed amendment or amendments shall be voted upon shall state the date and hours thereof and shall set out the proposed amendment or amendments at length or state that copies may be obtained by any qualified voter or any freeholder of the city from a designated person at a stated place, upon request. The governing body shall cause such notice to be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the city. The amendment or amendments approved, or such of them as may be approved, by a majority of the legal votes cast at the election thereon shall take effect on the date that the declaration of the results showing approval by the voters has been made by the governing body and entered in the minutes of the governing body. One copy of the amendment or amendments, together with a certified copy of the declaration of results attached thereto, shall be certified forthwith by the recorder of the city to the Clerk of the House of Delegates, as keeper of the rolls, and another to the clerk of the county ~~court~~ commission for recording in the office of such clerk of the county ~~court~~ commission. The same shall be preserved by said Clerk of the House of Delegates as an authentic public record. After the effective date of an amendment or amendments so filed, all courts shall take judicial notice of such amendment or amendments. If a majority of the legal votes cast at the election thereon be against any proposed amendment, the same shall not be proposed again under the provisions of this section for at least one year.

The method of charter amendment provided for in this section is not in lieu of but is in addition to the other methods prescribed in this chapter

## PART III. ELECTIONS; EXPENSES.

**§8-4-10. Conduct of elections; general provisions concerning canvass and declaration of results; election supplies; election officials.**

The governing body of a city shall canvass the returns within relatively the same time with reference to an election held under the provisions of this article and in the same manner as county ~~count~~ commissions are required to do with respect to general elections, and shall declare the results of any such election. This requirement shall apply to any election held under the provisions of this article, whether it be a special municipal election or voting conducted in conjunction with a general election or a regular municipal election. The canvass and declaration of results shall be entered in the minutes of the governing body on the date made. Unless otherwise provided by charter provision, any such special municipal election or voting conducted in conjunction with a general election or a regular municipal election shall be held and conducted under the supervision at each precinct of three commissioners of election and two clerks who shall be appointed by the governing body and shall be conducted as nearly as may be in accordance with the laws of this state governing general elections, subject, however, in the case of a special municipal election to the provisions of §8-4-11 of this code. For any special municipal election or voting conducted in conjunction with a general election or a regular municipal election, in accordance with the provisions of this article, the governing body shall arrange for and provide at its expense registration books, challenges and other election supplies as provided by law in general elections, and polling places in any such special municipal election or with respect to any such voting conducted in conjunction with a regular municipal election. In the event any commissioner or clerk appointed by the governing body shall fail or refuse to serve, such vacancy may be filled in like manner as such vacancies are filled in general elections under the laws of this state governing general elections, except that the governing body shall act in the place and stead of the county ~~count~~ commission. A recount may be had, as in general elections, upon the party or parties desiring such recount providing adequate assurance to the



governing body that ~~he or they will~~ the party or parties shall pay all costs of such recount.

**§8-5-5. Regular election of officers; establishment of longer terms.**

(a) After the first election of officers of a city, town, or village, the regular election of officers shall be held on the second Tuesday in June of the appropriate year, unless otherwise provided in the charter of the city or the special legislative charters of the towns or villages.

(b) A municipal election date established by a charter provision may fall on the same day as ~~the county state~~ a regularly scheduled statewide primary ~~election~~ or general election only when the voting precinct boundaries in the municipality coincide with the voting precinct boundaries established by the county commission or when the charter provides for separate registration books. If a municipal election falls on the same day as ~~the county state~~ a regularly scheduled statewide primary or general election, the municipality and county may agree to use the county election officials in the municipal elections, if practicable, or the municipality may provide for separate election officials.

(c) A municipal election date established by charter provision may fall within 25 days of a ~~the county state~~ regularly scheduled statewide primary or general election only where separate registration books are provided and maintained for the municipal election.

(d) Any municipality which establishes its election date by charter provision must comply with the provisions of this section or the election date shall be the second Tuesday of June. The language of this section may not be construed to prevent any city, town, or village from amending the provisions of its charter or special legislative charter, to provide that its municipal election be held on some day other than the second Tuesday in June.

(e) Officers of a city may be elected for a four-year term at the same election at which a proposed charter, proposed charter

revision, or charter amendment providing for four-year terms is voted upon. The ballots or ballot labels used for the election of officers must indicate that the officers ~~will~~ shall be elected for four-year terms if the proposed charter, revision or amendment is approved. Officers of a town or village may be elected for a four-year term upon approval by a majority of the legal votes cast at a regular municipal election of a proposition calling for four-year terms. The ballots or ballot labels used for the election of officers must indicate that the officers ~~will~~ shall be elected for four-year terms if the proposition is approved.

(f) Municipalities are authorized to stagger and/or change the terms of elected municipal officers. Prior to any changes being made to the terms of elected municipal officers, the procedure to stagger and/or change the terms shall be set by ordinance and must be approved by a majority of the voters.

(g) Beginning on July 1, 2022, any municipality that has not previously adopted a municipal charter may pass an ordinance that establishes a new municipal election day upon agreement with its county commission to hold any local elections, including the regular election of local officers, municipal bond elections, and municipal levy elections, on the same day as a regularly scheduled statewide primary or general election. The municipality shall publish notice of the public meeting during which the proposed ordinance shall be considered by the municipal governing body via Class II-0 legal advertisement in a publication area sufficient to reach a majority of the municipal residents, which notice shall include the public meeting date, time, and location, any proposed extension or reduction of terms of office pursuant to paragraph (f) of this section, and the proposed election day change.

(h) The ordinance proposed pursuant to paragraph (g) of this section may call for an extension or reduction of the terms of office for the purpose of aligning the terms to coincide with the same date as a regularly scheduled statewide primary or general election day, which question shall be resolved by majority vote of the participating voters in the county: *Provided*, That the governing body shall not propose an extension of the terms of those offices by more than 18 months: *Provided, however*, That nothing in this

section modifies a municipality's authority to reduce current elected officials' terms of office in any other manner provided by law.

(i) A municipality which enters into an agreement with the county commission to hold elections at the same time as a regularly scheduled statewide primary or general election day pursuant to this section is required to share in the administrative costs of holding the election, but which costs shall not exceed the municipality's pro rata share of voters registered in the municipality compared with the total voters registered in the county.

## **CHAPTER 8A. LAND USE PLANNING.**

### **ARTICLE 7. ZONING ORDINANCE.**

#### **§8A-7-7. Election on a zoning ordinance.**

(a) The governing body of a municipality or a county may submit a proposed zoning ordinance for approval or rejection at any primary election or general election ~~or special election~~, to the qualified voters residing:

(1) Within the entire jurisdiction of the governing body, if the proposed zoning ordinance is for the entire jurisdiction; or

(2) In the specific area to be zoned by the proposed zoning ordinance, if the proposed zoning ordinance only applies to part of the governing body's jurisdiction.

(b) The election laws of this state apply to any election on a proposed zoning ordinance.

(c) If a petition for an election on a zoning ordinance is filed with the clerk of a governing body within 90 days after the enactment of a zoning ordinance by a governing body without an election, then a zoning ordinance does not take effect until an election is held and a majority of the voters approves it. At least 10 percent of the total eligible voters in the area to be affected by the proposed zoning ordinance must sign, in their own handwriting, the petition for an election on a zoning ordinance.

(d) Notice for an election on a proposed zoning ordinance must be published in a local newspaper of general circulation in the area affected by the proposed zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 of this code.

(e) The ballots for an election on a zoning ordinance shall have the following:

// For Zoning

// Against Zoning

(f) The zoning ordinance is adopted if it is approved by a majority of the voters and is effective on the date the results of an election are declared. If a zoning ordinance is rejected, the zoning ordinance does not take effect. The governing body may submit the zoning ordinance to the voters again at the next primary or general election.

**§8A-7-8a. Requirements for adopting an amendment to the zoning ordinance.**

(a) After the enactment of the zoning ordinance, the governing body of the municipality may amend the zoning ordinance in accordance with §8A-7-8 of this code, without holding an election.

(b) After the enactment of the zoning ordinance, the governing body of the county may amend the zoning ordinance in accordance with §8A-7-8 of this code, as follows:

(1) Without holding an election;

(2) Holding an election on the proposed amendment; or

(3) Holding an election on the proposed amendment pursuant to a petition.

(c) If the governing body of the county chooses to hold an election on the proposed amendment, then it must:

(1) Publish notice of the election and the proposed amendment to the zoning ordinance in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code; and

(2) Hold an election on the question of adopting or rejecting the proposed amendment to the zoning ordinance at any primary; or general ~~or special~~ election for the qualified voters residing in:

(A) The entire jurisdiction of the county, if the zoning ordinance applies to the entire county; or

(B) The specific area to which the zoning ordinance applies, if the zoning ordinance only applies to a part of the county.

(d) The governing body of a county must hold an election on an amendment to a zoning ordinance if a petition, signed by at least 10 percent of the eligible voters in the area to which the zoning ordinance applies, is filed:

(1) With the governing body of the county prior to enactment of an amendment to a zoning ordinance; or

(2) After the enactment of an amendment to a zoning ordinance without an election, if the petition for an election on the amendment to a zoning ordinance is filed with the governing body of the county within 90 days.

(e) The governing body of the county holding an election on the proposed amendment pursuant to a petition must:

(1) Publish notice of the election and the proposed amendment to the zoning ordinance in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code; and

(2) Hold an election on the question of adopting or rejecting the proposed amendment to the zoning ordinance at any primary; or general ~~or special~~ election for the qualified voters residing in:

(A) The entire jurisdiction of the county, if the zoning ordinance applies to the entire county; or

(B) The specific area to which the zoning ordinance applies, if the zoning ordinance only applies to a part of the county.

(f) If an election is held, then the proposed amendment to the zoning ordinance does not take effect until a majority of the voters approve it.

(g) If an election is held and the proposed amendment to the zoning ordinance is rejected, then the proposed amendment does not take effect. The governing body of the county may resubmit the proposed amendment to the zoning ordinance to the voters at another election.

~~(h) A special election may be held upon written request to the governing body of the county.~~

(i) The election laws of this state apply to any election on a proposed amendment to a zoning ordinance.

**§8A-7-13. Process to replace nontraditional zoning ordinance.**

(a) A governing body that has adopted or enacted a nontraditional zoning ordinance may replace the nontraditional zoning ordinance with a zoning ordinance. A nontraditional zoning ordinance may be replaced with a zoning ordinance by:

(1) The governing body; or

(2) A petition by the voters in the affected area. If the voters petition to replace the nontraditional zoning ordinance with a zoning ordinance, then the provisions of this section and this chapter shall be followed.

(b) At least 10 percent of the total eligible voters in the affected area may petition the governing body to replace the nontraditional zoning ordinance with a zoning ordinance. The petition must include:

(1) The governing body's name to which the petition is addressed;

(2) The reason for the petition, including:

(A) Replacing the nontraditional zoning ordinance with a zoning ordinance; and

(B) That the question of replacing the nontraditional zoning ordinance with a new zoning ordinance be put to the voters of the affected area; and

(3) Signatures in ink or permanent marker.

(c) Each person signing the petition must be a registered voter in the affected area and in the governing body's jurisdiction. The petition must be delivered to the clerk of the affected governing body. There are no time constraints on the petition.

(d) Upon receipt of the petition with the required number of qualifying signatures, the governing body shall place the question on the next ~~special~~, primary or general election ballot.

Notice for an election on replacing a zoning ordinance must be published in a local newspaper of general circulation in the area affected by the nontraditional zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code.

(e) The ballots for an election on replacing a zoning ordinance shall have the following:

"Shall \_\_\_\_\_ (name of governing body) replace \_\_\_\_\_ (name of commonly known nontraditional zoning ordinance) with a zoning ordinance?"

\_\_\_ Yes

\_\_\_ No"

(f) Upon a majority vote of the voters voting in favor of replacing a nontraditional zoning ordinance with a zoning

ordinance, the governing body shall immediately begin the process of adopting and enacting a zoning ordinance, in accordance with the provisions of this chapter. The governing body has a maximum of three years from the date of the election to adopt a zoning ordinance.

(g) The governing body may amend its nontraditional zoning ordinance during the process of adopting and enacting a zoning ordinance.

(h) If a majority of the voters reject replacing the nontraditional zoning ordinance with a zoning ordinance, the affected voters may not petition for a vote on the issue for at least two years from the date of the election.

(i) Nothing in this section shall prevent a governing body from amending its zoning ordinance in accordance with this chapter.

(j) If a governing body of a county chooses to replace a nontraditional zoning ordinance with a traditional zoning ordinance without holding an election, a petition, signed by at least 10 percent of the eligible voters who reside in the area affected by the zoning ordinance, for an election on the question of adopting a traditional zoning ordinance may be filed with the governing body of the county within 90 days after the enactment of the traditional zoning ordinance by the governing body of the county. If a petition is timely filed, then the traditional zoning ordinance does not take effect until:

(1) Notice of the election and the zoning ordinance is published in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code;

(2) An election is held; and

(3) A majority of the voters approve it.



**CHAPTER 11. TAXATION.****ARTICLE 8. LEVIES.****§11-8-16. What order for election to increase levies to show; vote required; amount and continuation of additional levy; issuance of bonds.**

A local levying body may provide for an election to increase the levies by entering on its record of proceedings an order setting forth:

- (1) The purpose for which additional funds are needed;
- (2) The amount for each purpose;
- (3) The total amount needed;
- (4) The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction;
- (5) The proposed additional rate of levy in cents on each class of property;
- (6) The proposed number of years, not to exceed five, to which the additional levy applies;
- (7) The fact that the local levying body ~~will~~ shall or ~~will~~ shall not issue bonds, as provided by this section, upon approval of the proposed increased levy.

The local levying body shall submit to the voters within their political subdivision the question of the additional levy at either a regularly scheduled primary, or general, ~~or special~~ election in accordance with the requirements of §3-1-31 of this code. If at least 60 percent of the voters cast their ballots in favor of the additional levy, the county commission or municipality may impose the additional levy. If at least a majority of voters cast their ballot in favor of the additional levy, the county board of education may impose the additional levy: *Provided*, That any additional levy adopted by the voters, including any additional levy adopted prior to the effective date of this section, shall be the actual number of

cents per each \$100 of value set forth in the ballot provision, which number shall not exceed the maximum amounts prescribed in this section, regardless of the rate of regular levy then or currently in effect, unless such rate of additional special levy is reduced in accordance with the provisions of §11-8-6g of this code or otherwise changed in accordance with the applicable ballot provisions. For county commissions, this levy shall not exceed a rate greater than seven and fifteen hundredths cents for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For municipalities, this levy shall not exceed a rate greater than six and twenty-five hundredths cents for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For county boards of education, this levy shall not exceed a rate greater than twenty-two and ninety-five hundredths cents for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties.

Levies authorized by this section shall not continue for more than five years without resubmission to the voters.

Upon approval of an increased levy as provided by this section, a local levying body may immediately issue bonds in an amount not exceeding the amount of the increased levy plus the total interest thereon, but the term of the bonds shall not extend beyond the period of the increased levy.

Insofar as they might concern the issuance of bonds as provided in this section, the provisions of §13-1-3 and §13-1-4 of this code shall not apply.

In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

**§11-8-17. Special levy elections; notices; ~~election officers~~ conduct of election; supplies; canvass of returns; form of ballot.**

(a) The local levying body shall publish a notice, calling the election, as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the territory in which the election is held. Such notice shall be so published within 14 consecutive days next preceding the election.

(b) All the provisions of the law concerning general elections shall apply so far as they are practicable: Provided, That notwithstanding any provision of this code to the contrary, in the case of a levy which expires at a time after July 1, 2022, and which shall not be up for renewal at the next regularly scheduled primary or general election thereafter, the local levying body shall by ordinance choose to hold the election to renew that levy either at the next regularly scheduled primary or general election in accordance with §3-1-31 of this code: *Provided, however, That notwithstanding any other provision of this code, a local levying body may enter an order authorizing a special election prior to the expiration of the existing or expiring levy for the purpose of presenting to the voters the question of synchronizing the renewal of an existing or expiring levy with a future regularly scheduled primary or general election, which question shall pass upon adoption by a majority of participating voters.* except as follows:  
(1) ~~Where a special election is held, the local levying body, having due regard to the minimum expense involved, shall determine the number of election officials necessary to properly conduct said election, which number shall in no case be less than three commissioners and two clerks, and shall appoint the same and fix and pay their compensation, but otherwise the election officials shall be such as are appointed to serve with respect to the general election held at the same time~~

(2) ~~The local levying body shall provide the election supplies necessary for such election and shall canvass the returns thereof: *Provided, That the county commission is the board of canvassers to canvass the returns of levy elections called by the board of education.*~~

(c) ~~A separate ballot shall be used at a levy election held in connection with any other election.~~ The question on the special levy shall be placed on the ballot in accordance with the ballot placement order prescribed by §3-5-13a(a) of this code. The ballot question heading shall be entitled: "Special Levy Election" and the question shall be significantly in the following form: "Special election to authorize additional levies for the year(s) \_\_\_\_\_ and for the purpose of \_\_\_\_\_ according to the order of the \_\_\_\_\_ entered on the \_\_\_\_\_ day of \_\_\_\_\_."

The additional levy shall be on Class I property \_\_\_\_\_ cents; on Class II property \_\_\_\_\_ cents; on Class III property (if any) \_\_\_\_\_ cents; on Class IV property (if any) \_\_\_\_\_ cents.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

## **CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.**

### **ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.**

#### **§13-1-7. When election to be held.**

Elections for the purpose of voting upon questions of issuing bonds may be held at any general, or primary ~~or special~~ election which the fiscal body in its order submitting the same to a vote may designate, except that, when a petition is filed asking that bonds be issued, the fiscal body with which the same is filed, ~~if it be not designated in the petition that shall order a special election and~~ the election shall be held concurrently at the next regularly scheduled general or primary election, ~~shall order a special election to be held within sixty days from the date of the filing of such petition; or, if it be a petition for bonds for the construction of county district roads or bridges thereon, the election shall be held within sixty days from the filing of the engineer's report as provided for in section five of this article.~~

In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

**§13-1-11. General election laws to apply; recorders and secretaries to act in lieu of circuit clerks.**

All the provisions of the general election laws of this state concerning general, or primary ~~or special~~ elections, when not in conflict with the provisions of this article, shall apply to bond elections hereunder, insofar as practicable: *Provided*, That in bond elections for municipalities, school, or independent school districts, the recorders and secretaries, respectively, shall procure and furnish to the election commissioners at each voting precinct the ballots, pollbooks, tally sheets, and other things necessary for conducting the election, and perform all duties imposed by law upon clerks of the circuit courts in relation to general elections.

**CHAPTER 15. PUBLIC SAFETY.**

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-13. Limitations upon members; exceptions.**

(a) No member of the West Virginia state police may in any way interfere with the rights or property of any person except for the prevention of crime.

(b) No member of the State Police may in any way become active or take part in any political contest or at any time participate in any political party caucus, committee, ~~primary~~, assembly or convention or in any primary, general, or special election while in uniform, except to cast his or her ballot.

(c) No member of the State Police may be detailed or ordered to duty at or near any voting precinct where any election or convention is held on the day of an election or convention; nor may any member thereof remain in, about or near the voting precinct or place of convention, except to cast his or her vote. After voting he or she shall forthwith retire from the voting precinct. No member may act as an election official. If any member of the State Police is found guilty of

violating any of the provisions of this section, he or she shall be dismissed by the superintendent as hereinafter provided.

(d) While out of uniform and off duty, no member of the State Police may participate in any political activity except to:

(1) Campaign for and hold office in political clubs and organizations;

(2) Actively campaign for candidates for public office in partisan and nonpartisan elections; and

(3) Contribute money to political organizations and attend political fund-raising functions.

(e) No member of the State Police may at any time:

(1) Be a candidate for public office in a nonpartisan or partisan election;

(2) Use official authority or influence to interfere with or affect the results of an election or nomination; or

(3) Directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

(f) No officer or member of the State Police may, in any labor trouble or dispute between employer and employee, aid or assist either party thereto, but shall in these cases see that the statutes and laws of this state are enforced in a legal way and manner.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 12. SANITARY DISTRICTS FOR SEWAGE DISPOSAL.**

#### **§16-12-1. Incorporation as sanitary district for sewage disposal; petition, notice and hearing; election; form of ballot; expenses of election.**

Whenever any area of contiguous territory shall contain one or more incorporated cities, towns, and/or villages, and shall be so situated that the construction and maintenance of a plant or plants

for the purification and treatment of sewage and the maintenance of one or more outlets for the drainage thereof, after having been so treated and purified by and through such plant or plants will conduce to the preservation of the public health, comfort, and convenience, the same may be incorporated as a sanitary district under this article in the manner following, to wit:

Any 400 legal voters, residents within the limits of such proposed sanitary district, may petition the county ~~court~~ commission of the county in which the proposed sanitary district, or the major portion thereof, is located, to cause the question to be submitted to the legal voters of such proposed sanitary district, whether such proposed territory shall be organized as a sanitary district under this article; such petition shall be addressed to the county ~~court~~ commission and shall contain a definite description of the boundaries of the territory to be embraced in the such sanitary district, and the name of such proposed sanitary district: *Provided*, That no territory shall be included within more than one sanitary district organized under this article.

Notice shall be given by such county ~~court~~ commission within 10 days after receiving the petition, of the time and place when a hearing on the petition for a sanitary district ~~will~~ shall be held, by publication of such notice as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area of the sanitary district. The first publication shall be made at least 20 days prior to such hearing. The hearing on the petition for a sanitary district shall be held not later than 30 days after the county ~~court~~ commission receives the said petition. At such hearing the president of the county ~~court~~ commission shall preside, and all persons resident within the limits of such proposed sanitary district shall have an opportunity to be heard upon the question of the location and boundary of such proposed sanitary district, and to make suggestions regarding the same, and the said county ~~court~~ commission, after hearing statements, evidence, and suggestions, shall fix and determine the limits and boundaries of such proposed sanitary district as stated in the original petition unless by a vote of the majority of the legal voters resident within the limits of such

proposed sanitary district, present at the said hearing, it should be decided to alter and amend such petition to change and redetermine the limits and boundaries of such proposed sanitary district.

After such determination by the county ~~court~~ commission, the same shall be incorporated in an order which shall be spread at length upon the records of the county ~~court~~ commission. Upon the entering of such order, the county ~~court~~ commission shall submit to the legal voters of the proposed sanitary district, the question of organization and establishment of the proposed sanitary district as determined by said county ~~court~~ commission, at a ~~special~~ an election, to be held ~~within sixty days after the entering of such order~~ concurrently with the next regularly scheduled primary or general election, notice whereof shall be given by the county ~~court~~ commission at least 20 days prior thereto by publication of such notice as a Class II-O legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area of the proposed sanitary district. Such notice shall specify briefly the purpose of such election, with the description of such proposed sanitary district, and the time and place for holding such election.

Each legal voter resident within such proposed sanitary district shall have the right to cast a ballot at such election. Ballots at elections held under this section shall be in substantially the following form, to wit:

// For sanitary district.

// Against sanitary district.

The ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers as is provided by law in the case of ballots cast for county officers, except as herein modified. The county ~~court~~ commission shall cause a statement of the result of such election to be spread on the records of the county ~~court~~ commission. If a majority of the votes cast upon the question of the incorporation of the proposed sanitary district shall be in favor of the proposed sanitary district, such proposed sanitary district shall thenceforth be deemed an organized



sanitary district under this article. All courts in this state shall take judicial notice of the existence of all sanitary districts organized under this article.

The expenses of holding said special election shall be paid by the county ~~or~~ commission of said county, in which said proposed sanitary district, or the major portion thereof, is located, out of the general funds of said county: *Provided*, That in the event such sanitary district is established and incorporated under this article, then said sanitary district shall repay to said county the expenses incurred in holding said special election within two years from the date of incorporating said sanitary district.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 9. SCHOOL FINANCES.**

#### **§18-9-1. School levies; when levy election necessary; special election.**

[Repealed.]

#### **§18-9-2. Elections under this chapter; procedure.**

[Repealed.]

#### **§18-9-2a. Levies.**

[Repealed.]

## **CHAPTER 20. NATURAL RESOURCES.**

### **ARTICLE 5K. COMMERCIAL INFECTIOUS MEDICAL WASTE FACILITY SITING APPROVAL.**

#### **§20-5K-3. Procedure for public participation.**

(a) From and after the effective date of this article, in order to obtain approval to locate a commercial infectious medical waste facility, currently not under permit to operate, an applicant shall:

(1) File a presiting notice with the county commission and local solid waste authority of the county or counties in which the facility is to be located or proposed. Such notice shall be submitted on forms prescribed by the secretary;

(2) File a presiting notice with the secretary; and

(3) File a presiting notice with the Division of Environmental Protection.

(b) If a presiting notice is filed in accordance with subsection (a) of this section, the county commission shall publish a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in a newspaper of general circulation in the counties wherein the commercial infectious medical waste facility is to be located. Upon an affirmative vote of the majority of the county commissioners or upon the written petition of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, which petition shall be filed with the county commission within 60 days after the last date of publication of the notice provided in this section, the county commission shall, upon verification of the required number of signatures on the petition, and not less than 56 days before the election, order a referendum be placed upon the ballot. Any referendum conducted pursuant to this section shall be held at the next primary; or general ~~or other county-wide~~ election:

(1) Such referendum is to determine whether it is the will of the voters of the county that a commercial infectious medical waste management facility be located in the county. Any election at which such question of locating a commercial infectious medical waste management facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address, and date of birth of each person whose signature appears on the petition.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following depending upon the type of facility to be located within the county:

Shall a commercial infectious medical waste management facility be located within \_\_\_\_\_ County.

For the facility

Against the facility

(Place a cross mark in the square opposite your choice.)

(3) If a majority of the legal votes cast upon the question is against the facility, then the county commission shall notify the local solid waste authority, the Division of Environmental Protection, and the Secretary of the Department of Health and Human Resources of the result and the commercial infectious medical waste management facility may not proceed any further with the application. If a majority of the legal votes cast upon the question is for the facility, then the application process as set forth in §20-5j-1 *et seq.* of this code may proceed: *Provided*, That such vote is not binding on nor does it require the secretary to issue the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however*, That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

## **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

### **ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.**

#### **§22-15A-18. Establishment of county recycling programs for solid waste; petition for referendum; ballot contents; election procedure; effect of such election.**

(a) On or before October 18, 1992, each municipality described in subsection (b) of this section shall submit a proposal to the Solid Waste Management Board, consistent with the provisions of this

section, describing the establishment and implementation of the mandatory recycling program. The Solid Waste Management Board shall review the submitted plans for consistency with the criteria provided in this section, the county or regional solid waste management plan, and the statewide management plan. The Solid Waste Management Board may make suggested changes to the plan and shall provide technical assistance to the municipalities in the development of the plans.

(b) On or before October 18, 1993, each municipality with a population of 10,000 or more people, as determined by the most recent decennial census by the Bureau of the Census of the United States Department of Commerce, shall establish and commence implementation of a source separation and curbside collection program for recyclable materials. Implementation shall be phased in by July 1, 1995. Such program shall include, at a minimum, the following:

(1) An ordinance adopted by the governing body of the municipality requiring that each person, partnership, corporation, or other entity in the municipality shall separate at least three recyclable materials, as deemed appropriate by the municipality, from other solid waste: *Provided*, That the list of recyclables to be separated may be adjusted according to whether the generator is residential, commercial or other type of establishment.

(2) A scheduled day, at least one per month, during which separated materials are to be placed at the curbside, or similar location, for collection.

(3) A system that collects recyclable materials from the curbside, or similar location, at least once per month: *Provided*, That to encourage full participation, the program shall, to the maximum extent possible, provide for the collection of recyclables at the same rate of frequency, and simultaneous with, the regular collection of solid waste.

(4) Provisions to ensure compliance with the ordinance, including incentives and penalties.

(5) A comprehensive public information and education program covering the importance and benefits of recycling, as well as the specific features and requirements of the recycling program. As part of the education program, each municipality shall, at a minimum, notify all persons occupying residential, commercial, institutional, or other premises within its boundaries of the requirements of the program, including how the system will operate, the dates of collection, the responsibilities of persons within the municipality and incentives and penalties.

(6) Consultation with the county or regional solid waste authority in which the municipality is located to avoid duplication, ensure coordination of solid waste programs, and maximize the market for recyclables.

(c) Notwithstanding the provisions of subsection (b) of this section, a comprehensive recycling program for solid waste may be established in any county of this state by action of a county commission in accordance with the provisions of this section. Such program shall require:

(1) That, prior to collection at its source, all solid waste shall be segregated into separate identifiable recyclable materials by each person, partnership, corporation, and governmental agency subscribing to a solid waste collection service in the county or transporting solid waste to a commercial solid waste facility in the county;

(2) Each person engaged in the commercial collection, transportation, processing, or disposal of solid waste within the county shall accept only solid waste from which recyclable materials in accordance with the county's comprehensive recycling program have been segregated; and

(3) That the provisions of the recycling plan prepared pursuant to §22-15A-17 of this code shall, to the extent practicable, be incorporated in the county's comprehensive recycling program.

(d) For the purposes of this article, recyclable materials shall include, but not be limited to, steel and bimetallic cans, aluminum,

glass, paper, and such other solid waste materials as may be specified by either the municipality or county commission with the advice of the county or regional solid waste authority.

(e) A comprehensive recycling program for solid waste may be established in any county of this state by: (1) A petition filed with the county commission bearing the signatures of registered voters of the county equal to not less than five percent of the number of votes cast within the county for Governor at the preceding gubernatorial election; and (2) approval by a majority of the voters in a subsequent referendum on the issue. A referendum to determine whether it is the will of the voters of a county that a comprehensive recycling program for solid waste be established in the county may be held at any regular primary or general election ~~or in conjunction with any other countywide election~~. Any election at which the question of establishing a policy of comprehensive recycling for solid waste is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address, and date of birth of each person whose signature appears on the petition. Upon verification of the required number of signatures on the petition, the county commission shall, not less than 70 days before the election, order that the issue be placed on the ballot and referendum held at the next primary; or general ~~or special~~ election to determine whether it is the will of the voters of the county that a policy of comprehensive recycling of solid waste be established in the county: *Provided*, That the petition bearing the necessary signatures has been filed with the county commission at least 100 days prior to the election.

The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be required to establish a comprehensive recycling program for solid waste in \_\_\_\_\_ County, West Virginia?"

For Recycling

Against Recycling

(Place a cross mark in the square opposite your choice.)"

If a majority of legal votes cast upon the question be for the establishment of a policy of comprehensive recycling of solid waste, the county commission shall, after the certification of the results of the referendum, thereafter adopt an ordinance, within 180 days of certification, establishing a comprehensive recycling program for solid waste in the county: *Provided*, That such program shall be implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the establishment of a policy of comprehensive recycling of solid waste, the policy shall not take effect, but the question may again be submitted to a vote at any subsequent election in the manner herein provided.

(f) A comprehensive recycling program for solid waste established by petition and referendum may be rescinded only pursuant to the procedures set out herein to establish the program.

To rescind the program, the ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be required to terminate the comprehensive recycling program for solid waste in \_\_\_\_\_ County, West Virginia?"

Continue Recycling

End Recycling

(Place a cross mark in the square opposite your choice.)"

(g) If a majority of legal votes cast upon the question be for the termination of a policy of comprehensive recycling of solid waste previously established in the county, the county commission shall, after the certification of the results of the referendum, thereafter

rescind by ordinance the comprehensive recycling program for solid waste in the county within 90 days of certification. If a majority of the legal votes cast upon the question be for the continuation of the policy of comprehensive recycling of solid waste, the ordinance shall not be rescinded, but the question may again be submitted to a vote at any subsequent election in the manner herein provided.

(h) In the case of any municipality having a population greater than 30,000 persons, as indicated by the most recent decennial census conducted by the United States, the governing body of such municipality may by ordinance establish a materials recovery facility in lieu of or in addition to the mandatory recycling program required under the provisions of this section: *Provided*, That a materials recovery facility shall be subject to approval by both the Public Service Commission and the Solid Waste Management Board upon a finding by both the Public Service Commission and the Solid Waste Management Board that the establishment of a materials recovery facility will not hinder, and will be consistent with, the purposes of this article.

## **CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS, AND COMPACTS.**

### **ARTICLE 4A. LOCAL PARTICIPATION; REFERENDUM.**

#### **§22C-4A-2. Approval of new Class A facility.**

(a) The purpose of the mandatory referendum for approval of new Class A facilities is to verify for the local community that the local infrastructure and environment are appropriate for a new Class A facility and to assure that the local community accepts the associated benefits and detriments of having a new Class A facility located in their county.

(b) Following receipt of a certificate of need from the Public Service Commission as required by §24-2-1c of this code, and local solid waste approval as required in §22C-4-6 of this code for a new Class A facility, the county commission shall cause a referendum



to be placed on the ballot not less than 56 days before the next primary, or general or other countywide election:

(1) Such referendum is to determine whether it is the will of the voters of the county that a new Class A facility be constructed. Any election at which such question of locating a solid waste facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"The West Virginia Legislature has found that the location of a Class A solid waste facility has impact upon the county in which it will be located, and further that local citizens should be given the opportunity to participate in the decision of locating a new Class A facility in their community. A Class A facility is authorized to receive between ten and thirty thousand tons of solid waste per month.

The \_\_\_\_\_ county commission finds the following:

I. The \_\_\_\_\_ (name of applicant) has obtained site approval for a Class A commercial facility from the \_\_\_\_\_ (name of the county or regional solid waste authority). The authority has determined that the proposed landfill meets all local siting plan requirements. The local siting plan evaluates local environmental conditions and other factors and authorizes commercial landfills in areas of a county where a commercial landfill can be appropriately located.

II. The West Virginia Public Service Commission has issued a certificate of need, and has approved the operation of the Class A landfill. The Public Service Commission has determined that the landfill complies with the state solid waste management plan and based on the anticipated volume of garbage expected to be received

at the landfill, that the proposal is consistent with public convenience and necessity.

Please vote whether to approve construction of the facility by responding to the following question:

Shall the \_\_\_\_\_ commercial solid waste facility located within \_\_\_\_\_ County, be permitted to handle between ten and thirty thousand tons of solid waste per month?

For the facility

Against the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, the Division of Environmental Protection shall not proceed any further with the application. If a majority of the legal votes cast upon the question be for the facility, then the application process as set forth in this article and §22-15-1 *et seq.* of this code may proceed: *Provided*, That such vote is not binding on nor does it require the Division of Environmental Protection to issue the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however*, That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

**§22C-4A-3. Referendum for approval of conversion of a Class B facility to a Class A facility.**

(a) The purpose of the petition and referendum for approval of conversions of Class B facilities to Class A facilities is to allow the local community an opportunity to participate in the decision of whether the local infrastructure and environment are appropriate for expansion of a Class B facility to a Class A facility, and to assure that the local community accepts the associated benefits and detriments of having a Class A facility located in their county.

(b) Within 21 following receipt of a certificate of need from the Public Service Commission as required by §24-2-1c of this code, and local solid waste authority approval as required in §22C-4-26 of this code, the county commission shall complete publication of a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in the qualified newspaper of general circulation in the county wherein the solid waste facility is located. Registered voters residing in the county may petition the county commission to place the issue of whether a Class B facility be expanded to a Class A facility be placed on the ballot at the next primary, or general or other countywide election held not less than 100 days after the deadline for filing the petition. The petition shall be in writing, in the form prescribed by the Secretary of State, and shall include the printed name, residence address, and date of birth of each person whose signature appears on the petition. The petition shall be filed with the county commission not less than 60 days after the last date of publication of the notice provided in this section. Upon receipt of completed petition forms, the county commission shall immediately forward those forms to the clerk of the county commission for verification of the signatures and the voter registration of the persons named on the petition. If a primary, or general or other countywide election is scheduled not more than 120 days and not less than 100 days following the deadline for filing the petitions, the clerk of the county commission shall complete the verification of the signatures within 30 days and shall report the number of valid signatures to the county commission. In all other cases, the clerk of the county commission shall complete verification in a timely manner. Upon verification of the signatures of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, and not less than 70 days before the election, the county commission shall order a referendum be placed upon the ballot:

(1) Such referendum is to determine whether it is the will of the voters of the county that the Class B facility be converted to a Class A facility. Any election at which such question of locating a solid waste facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the

provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed name, address and date of birth of each person whose signature appears on the petition. Should the petition fail to meet the requirements set forth above, the application process as set forth in this article and §22-15-1 *et seq.* of this code, may proceed.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"The West Virginia Legislature finds that expansion of a Class B solid waste facility to a Class A solid waste facility has impact to the county in which it will be located, and further that local citizens should be afforded the opportunity to participate in the decision of locating a Class A facility in their community. A Class A facility is authorized to receive between 10 and 30 thousand tons of solid waste per month. Fifteen percent of the registered voters in \_\_\_\_\_ county have signed a petition to cause a referendum to determine the following question:

The \_\_\_\_\_ county commission finds the following:

I. The \_\_\_\_\_ (name of applicant) has obtained site approval for a Class A commercial facility from the \_\_\_\_\_ (name of the county or regional solid waste authority). The authority has determined that the proposed landfill meets all local siting plan requirements. The local siting plan evaluates local environmental conditions and other factors and authorizes commercial landfills where a commercial landfill can be appropriately located.

II. The West Virginia Public Service Commission has issued a certificate of need, and has approved the operation of the Class A landfill. The Public Service Commission has determined that the landfill complies with the state solid waste management plan and that based on the anticipated volume of garbage expected to be received at the landfill, that the proposal is consistent with public convenience and necessity.

Please vote whether to approve construction of the facility by responding to the following question:

Shall the \_\_\_\_\_ solid waste facility, located within \_\_\_\_\_ County, West Virginia, be permitted to handle between 10 and 30 thousand tons of solid waste per month?

For conversion of the facility

Against conversion of the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, then the Division of Environmental Protection shall not proceed any further with the application. If a majority of the legal votes cast upon the question be for the facility, then the application process as set forth in this article and §22-15-1 *et seq.* of this code may proceed: *Provided*, That such vote is not binding on nor does it require the Division of Environmental Protection to modify the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however*, That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

## **ARTICLE 6. HAZARDOUS WASTE FACILITY SITING APPROVAL.**

### **§22C-6-3. Procedure for public participation.**

(a) From and after June 5, 1992, in order to obtain approval to locate either a commercial hazardous waste management facility or a hazardous waste management facility which disposes of greater than 10,000 tons per annum on site in this state, an applicant shall:

(1) File a presiting notice with the county or counties in which the facility is to be located or proposed. Such notice shall be submitted on forms prescribed by the commercial hazardous waste management facility siting board;

(2) File a presiting notice with the commercial hazardous waste management facility siting board; and

(3) File a presiting notice with the Division of Environmental Protection.

(b) If a presiting notice is filed in accordance with subsection (a) of this section, the county commission shall publish a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in a newspaper of general circulation in the counties wherein the hazardous waste management facility is to be located. Upon an affirmative vote of the majority of the county commissioners or upon the written petition of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, which petition shall be filed with the county commission within 60 days after the last date of publication of the notice provided in this section, the county commission shall, upon verification of the required number of signatures on the petition, and not less than 56 days before the election, order a referendum be placed upon the ballot: *Provided*, That such a referendum is not required for a hazardous waste management facility for which at least 90 percent of the capacity is designated for hazardous waste generated at the site of disposal. Any referendum conducted pursuant to this section shall be held at the next primary; or general ~~or other countywide~~ election.

(1) Such referendum is to determine whether it is the will of the voters of the county that a commercial hazardous waste management facility be located in the county or that a hazardous waste management facility disposing of greater than 10,000 tons of hazardous waste per annum on site be located in the county. Any election at which such question of locating a hazardous waste management facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition which shall include the printed

name, address and date of birth of each person whose signature appears on the petition.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following depending upon the type of facility to be located with the county:

"Shall a commercial hazardous waste management facility be located within \_\_\_\_\_ County, West Virginia?

For the facility

Against the facility

(Place a cross mark in the square opposite your choice.)" or,

"Shall a hazardous waste management facility disposing of greater than 10,000 tons per annum on site be located within \_\_\_\_\_ County, West Virginia?

For the facility

Against the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, then the county commission shall notify the Division of Environmental Protection and the commercial hazardous waste management facility siting board, in the case of a commercial facility, of the result and the commercial hazardous waste management facility siting board or Division of Environmental Protection, as the case may be, shall not proceed any further with the application. If a majority of the legal votes cast upon the question is for the facility, then the application process as set forth in §22-18-1 *et seq.* of this code and §22C-5-1 *et seq.* in the case of a commercial hazardous waste management facility, may proceed: *Provided*, That such vote is not binding on nor does it require the commercial hazardous waste management facility siting board to grant a certificate of site approval or the Division of Environmental Protection to issue the permit, as the case may be.

If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however,* That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

## **CHAPTER 47. REGULATION OF TRADE.**

### **ARTICLE 20. CHARITABLE BINGO.**

#### **§47-20-26. County option election.**

The county commission of any county is authorized to call a local option election for the purpose of determining the will of the voters as to whether the provisions of this article shall continue in effect in said county: *Provided,* That no local option election may be called to disapprove the playing of bingo games at the state fair in accordance with the provisions of this article.

A petition for local option election shall be in the form specified in this section and shall be signed by qualified voters residing within said county equal to at least 10 percent of the persons qualified to vote within said county at the last general election. The petition may be in any number of counterparts and is sufficient if substantially in the following form:

**PETITION ON LOCAL OPTION ELECTION RESPECTING  
THE CONDUCT OF BINGO GAMES FOR CHARITABLE  
PURPOSES IN ..... COUNTY, WEST VIRGINIA**

Each of the undersigned certifies that he or she is a person residing in ..... County, West Virginia, and is duly qualified to vote in that county under the laws of the state, and that his or her name, address, and the date of signing this petition are correctly set forth below.

The undersigned petition the county commission to call and hold a local option election at ~~(1) a special or (2) concurrent with~~ the next primary; or general ~~or special~~ election ~~(the petition shall specify (1) or (2))~~ upon the following question: Shall the provisions of Article Twenty, Chapter Forty-Seven of the Code of West



Virginia, 1931, as amended, continue in effect in ..... County, West Virginia?

Name	Address	Date
.....	.....	.....

(Each person signing must specify either his or her post-office address or his or her street number.)

Upon the filing of a petition for a local option election in accordance with the provisions of this section, the county commission shall enter an order calling a local option election as specified in the petition. The county commission shall give notice of such local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication is the county. The notice shall be so published within 14 consecutive days next preceding the election.

Each person qualified to vote in the county at any primary, general, or special election shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at any primary, general, or special election shall conduct the local option election. If the local option election is to be held at the same time as a primary, or general ~~or special~~ election, it shall be held in connection with and as a part of that primary, or general ~~or special~~ election. The ballots in the local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to said county commission which shall canvass the ballots, all in accordance with the laws of the State of West Virginia relating to primary and general elections insofar as the same are applicable. The county commission shall, without delay, canvass the ballots cast at said local option election and certify the result thereof.

The ballot to be used in said local option election shall have printed thereon substantially the following:

"Shall the playing of bingo to raise money for charitable or public service organizations continue in effect in ..... County of West Virginia?

// Yes // No

(Place a cross mark in the square opposite your choice.)"

If a majority of the voters voting at any local option election vote no on the foregoing question, the provisions of §47-20-1 *et seq.* of this code, no longer continue in effect in said county.

No local option election may be called in a county to resubmit said question to the voters of that county, whether the question was approved or disapproved at the previous local option election, sooner than five years after the last local option election.

**ARTICLE 21. CHARITABLE RAFFLES.**

**§47-21-24. County option election.**

The county commission of any county is authorized to call a local option election for the purpose of determining the will of the voters as to whether the provisions of this article shall continue in effect in such county.

A petition for a local option election shall be in the form specified in this section and shall be signed by qualified voters residing within such county equal to at least 10 percent of the individuals qualified to vote within such county at the last general election. The petition may be in any number of counterparts and is sufficient if substantially in the following form:

PETITION ON LOCAL OPTION ELECTION RESPECTING THE CONDUCT OF RAFFLES FOR CHARITABLE PURPOSES IN \_\_\_\_\_ COUNTY, WEST VIRGINIA

Each of the undersigned certifies that he or she is an individual residing in \_\_\_\_\_ County, West Virginia, and is duly qualified to vote in that county under the laws of the state, and that

his or her name, address, and the date of signing this petition are correctly set forth below.

The undersigned petition the county commission to call and hold a local option election at ~~(1) a special or (2) the next primary, or general or special election (the petition shall specify (1) or (2))~~ upon the following question: Shall the provisions of article twenty-one, chapter forty-seven of the Code of West Virginia, 1931, as amended, continue in effect in \_\_\_\_\_ County, West Virginia?

Name

Address

Date

\_\_\_\_\_

(Each individual signing must specify either his or her post-office address or his or her street number.)

Upon the filing of a petition for a local option election in accordance with the provisions of this section, the county commission shall enter an order calling a local option election as specified in the petition. The county commission shall give notice of such local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county. The notice shall be so published within 14 consecutive days next preceding the election.

Each individual qualified to vote in the county at any primary, general, or special election, shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at any primary, general, or special election shall conduct the local option election. If the local option election is to be held at the same time as a primary, or general or special election, it shall be held in connection with and as a part of that primary, or general or special election. The ballots in the local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to such county commission which shall canvass the ballots, all in accordance with the laws of the State of West Virginia relating to

primary and general elections insofar as the same are applicable. The county commission shall, without delay, canvass the ballots cast at said local option election and certify the result thereof.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 5. LOCAL OPTION ELECTIONS.**

#### **§60-5-1. Election in county, magisterial district, or municipality.**

A county or any municipality may in an election held especially for the purpose, determine whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county or municipality.

A local option election shall ~~not~~ be held ~~within 60 days of a general or municipal election~~ at the same time as the next regularly scheduled primary or general election.

#### **§60-5-3. Form of petition.**

The petition shall be in the following form:

#### Petition for Local Option Election

We, the undersigned legally qualified voters, resident within the county (municipality) of \_\_\_\_\_, do hereby petition that a special election be held within the county (city, town) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the date of the next regularly scheduled primary or general election upon the following question:

Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control Commissioner be (permitted) (prohibited) in \_\_\_\_\_?

Name Address Date

(Post office or street and number)

**§60-5-4. Notice of election; when held; election officers.**

The county commission or governing body of the municipality shall give notice of the special local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area in which the election is to be held. Such notice shall be so published within 14 consecutive days next preceding the election. The election shall be held ~~not more than 90 nor less than 60 days from the filing of the petition at the same time as the next regularly scheduled primary or general election.~~ The regular election officers of the county or municipal corporation shall open the polls and conduct the election in the same manner provided for general elections.

Engrossed Committee Substitute for House Bill 4353, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo and Romano—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4353) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4353**—A Bill to repeal §18-9-1, §18-9-2, and §18-9-2a of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1-30 and §3-1-31 of said code; to amend and reenact §3-2-19 of said code; to amend and reenact §7-1-1a of said code; to amend and reenact §7-4-1 of said code; to amend and reenact §7-14B-21 of said code; to amend and reenact §7-17-12 of said code; to amend and reenact §7-20-7 and §7-20-12 of said code; to amend and reenact §8-1-2 of said code; to amend and reenact §8-2-5 of said code; to amend and reenact §8-3-6 of said code; to amend and reenact §8-4-7, §8-4-8, and §8-4-10 of said code; to amend and reenact §8-5-5 of said code; to amend and reenact §8A-7-7, §8A-7-8a, and §8A-7-13 of said code; to amend and reenact §11-8-16, and §11-8-17 of said code; to amend and reenact §13-1-7, and §13-1-11 of said code; to amend and reenact §15-2-13 of said code; to amend and reenact §16-12-1 of said code; to amend and reenact §20-5K-3 of said code; to amend and reenact §22-15A-18 of said code; to amend and reenact §22C-4A-2, and §22C-4A-3 of said code; to amend and reenact §22C-6-3 of said code; to amend and reenact §47-20-26 of said code; to amend and reenact §47-21-24 of said code; and to amend and reenact §60-5-1, §60-5-3, and §60-5-4 of said code, all relating to synchronizing certain local elections with regular statewide primary or general elections; eliminating requirement that board of education serve as the governing body responsible for appointing election officials for certain special elections; authorizing poll clerks to work and be compensated for both full and half days worked during an election; authorizing local municipal elections to be held concurrently with a regularly scheduled statewide primary or general election; removing requirement to maintain separate municipal precinct books upon request of municipality; requiring question of reforming, altering, or modifying a county commission or council to be placed on primary or general election ballot; requiring question of civil service coverage for county correctional officers to be placed on primary or general election ballot; requiring certain questions regarding county fire service ordinances or fire fees to be placed on primary or general election ballot; requiring certain questions regarding county taxes and fees to be placed on primary or general election ballot; requiring certain questions regarding countywide service fees to be placed on primary or general election

ballot; updating references to county commissions; requiring certain questions regarding incorporation of new municipality to be placed on primary or general election ballot; providing for proposed municipal charter to be placed on ballot concurrent with primary or general election; providing for division of incorporated territory into temporary precincts for purpose of holding election; providing for municipal election date established by charter to be concurrent with primary or general election; providing for municipal election date established by charter to be within 25 days of primary or general election; authorizing municipality without previously adopted municipal charter to establish municipal election day concurrent with primary or general election by ordinance and providing requirements therefor; providing for extension or reduction in terms of office; authorizing agreement between municipality and county regarding certain concurrent election matters; providing for shared administrative costs of municipality and county commission holding elections concurrently with primary or general election; requiring certain questions regarding zoning ordinances to be placed on primary or general election ballot; requiring certain questions regarding additional levies to be placed on primary or general election ballot; authorizing one-time special levy elections on certain questions regarding levy renewal; requiring certain questions regarding levy renewal to be placed on primary or general election ballot; requiring certain questions regarding issuance of certain bonds to be placed on primary or general election ballot; clarifying limitations on members of State Police with respect to participation in elections; requiring certain questions regarding organization and establishment of proposed sanitary district to be placed on primary or general election ballot; repealing certain provisions regarding school levies and elections for same; repealing certain provisions regarding certain elections authorized for school purposes; requiring certain questions regarding commercial infectious medical waste management facility siting to be placed on primary or general election ballot; requiring certain questions regarding county comprehensive recycling programs for solid waste to be placed on primary or general election ballot; requiring certain questions regarding certain solid waste facilities to be placed on primary or general election ballot; requiring certain questions

regarding certain hazardous waste facilities to be placed on primary or general election ballot; requiring certain questions regarding charitable bingo to be placed on primary or general election ballot; requiring certain questions regarding charitable raffles to be placed on primary or general election ballot; requiring certain questions regarding sale of alcoholic liquors within the county to be placed on primary or general election ballot; and authorizing certain ballot questions rejected at primary election to be again submitted to the voters at the next succeeding general election.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4377**, To update the involuntary commitment process.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **ARTICLE 5. INVOLUNTARY HOSPITALIZATION.**

### **§27-5-1b. Pilot projects and other initiatives.**

(a) *Duties of the Department of Health and Human Resources.* — The Secretary shall, in collaboration with designees of the Supreme Court of Appeals, the Sheriff's Association, the Prosecuting Attorney's Association, the Public Defender Services, the Behavioral Health Providers Association, Disability Rights of



West Virginia, and a designee of the Dangerousness Assessment Advisory Board, undertake an evaluation of the utilization of alternative transportation providers and the development of standards that define the role, scope, regulation, and training necessary for the safe and effective utilization of alternative transportation providers and shall further identify potential financial sources for the payment of alternative transportation providers. Recommendations regarding such evaluation shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2022. The Legislature requests the Supreme Court of Appeals cooperate with the listed parties and undertake this evaluation.

(b) *Civil Involuntary Commitment Audits.* — The secretary shall establish a process to conduct retrospective quarterly audits of applications and licensed examiner forms prepared by certifiers for the involuntary civil commitment of persons as provided in §27-5-1 *et seq.* of this code. The process shall determine whether the licensed examiner forms prepared by certifiers are clinically justified and consistent with the requirements of this code and, if not, develop corrective actions to redress identified issues. The Legislature requests the Supreme Court of Appeals participate in this process with the secretary. The process and the findings thereof shall be confidential, not subject to subpoena, and not subject to the provisions of §6-9A-1 *et seq.* and §29B-1-1 *et seq.* of this code.

(i) *Duties of the Mental Health Center for Purposes of Evaluation for Commitment.* — Each mental health center shall make available as necessary a qualified and competent licensed person to conduct prompt evaluations of persons for commitment in accordance with §27-5-1 *et seq.* of this code. Evaluations shall be conducted in person, unless an in-person evaluation would create a substantial delay to the resolution of the matter, and then the evaluation may be conducted by videoconference. Each mental health center that performs these evaluations shall exercise reasonable diligence in performing the evaluations and communicating with the state hospital to provide all reasonable and necessary information to facilitate a prompt and orderly admission to the state hospital of any person who is or is likely to be

involuntarily committed to such hospital. Each mental health center that performs these evaluations shall explain the involuntary commitment process to the applicant and the person proposed to be committed and further identify appropriate alternative forms of potential treatment, loss of liberty if committed, and the likely risks and benefits of commitment.

(k) Notwithstanding any provision of this code to the contrary, the Supreme Court of Appeals, mental health facilities, law enforcement, and the Department of Health and Human Resources may participate in pilot projects in Cabell, Berkeley, and Ohio Counties to implement an involuntary commitment process. Further, notwithstanding any provision of this code to the contrary, no alternative transportation provider may be utilized until standards are developed and implemented that define the role, scope, regulation, and training necessary for an alternative transportation provider as provided in subsection (a) of this section.

**§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.**

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined has a substance use disorder as defined by the most recent edition of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, inclusive of substance use withdrawal, or is mentally ill and because of his or her substance use disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician, psychologist, licensed professional counselor, licensed independent social worker, an advanced nurse practitioner, or physician assistant as provided in subsection (e) of this section: *Provided*, That a diagnosis of dementia, epilepsy, or intellectual or developmental disability alone may not serve as may not be a basis for involuntary commitment to a state hospital.

(b) Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application, and the application must include the additional statement that the correctional facility itself cannot reasonably provide treatment and other services necessary to treat ~~for~~ the individual's mental illness or substance use.

~~(b) The person making the application shall make the application under oath.~~

(c) Application for involuntary custody for examination may be made to the circuit court, magistrate court, or a mental hygiene commissioner of the county in which the individual resides, or of the county in which he or she may be found. A magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or magistrate may enter an order for the individual named in the application to be detained and taken into custody as provided in §27-5-1 and §27-5-10 of this code for the purpose of holding a probable cause hearing as provided in §27-5-2 of this code. ~~for the purpose of~~ An examination of the individual to determine whether the individual meets involuntary hospitalization criteria shall be conducted in person unless an in person examination would create a substantial delay in the resolution of the matter in which case the examination may be by video conference, and shall be performed by a physician, psychologist, a licensed professional counselor

practicing in compliance with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, a physician's assistant practicing in compliance with §30-3-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical social worker, a physician's assistant, or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or substance use disorder sufficient to make the determinations required by the provisions of this section. The examination ~~is to~~ shall be provided or arranged by a community mental health center designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the ~~hearing~~ evaluation be held ~~immediately~~ within a reasonable period of time not to exceed two hours ~~is to~~ and shall provide for the appointment of counsel for the individual: *Provided, however*, ~~That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than immediately if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons:~~ *Provided further* That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or ~~in the event of~~ if there is a medical or psychiatric emergency, the individual may receive treatment. The medical provider shall exercise due

diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, "psychiatric emergency" means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has, within the preceding 72 hours, performed the examination required by ~~the provisions of~~ this subsection the community mental health center may waive the duty to perform or arrange another examination upon approving the previously performed examination. Notwithstanding ~~the provisions of~~ this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or has no substance use disorder, or is determined to be mentally ill or has a substance use disorder but not likely to cause harm to himself, herself, or others, the individual shall be immediately released without the need for a probable cause hearing and the examiner is not civilly liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately, but no later than 60 minutes after completion of the examination, provide the mental hygiene commissioner, circuit court, or magistrate before whom the matter is pending, and the state hospital to which the individual may be involuntarily hospitalized, the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing ~~is to~~ shall be held promptly before a magistrate, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours. Hearings may be conducted via videoconferencing unless the individual or his or her attorney object for good cause or unless the magistrate, mental hygiene commissioner, or circuit judge orders

otherwise. The Supreme Court of Appeals is requested to develop regional mental hygiene collaboratives where mental hygiene commissioners can share on-call responsibilities, thereby reducing the burden on individual circuits and commissioners.

The individual ~~must~~ shall be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or to others. Any such order entered shall be provided to the state hospital to which the individual may or will be involuntarily hospitalized within 60 minutes of filing absent good cause.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: Use videoconferencing and telephonic technology; permit persons hospitalized for substance use disorder to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article to promote a prompt, orderly, and efficient hearing. The alternative or modified procedures shall fully and effectively guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or a mental hygiene

commissioner or circuit judge at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a direct result of mental illness or substance use disorder is likely to cause serious harm to himself, herself, or others and because of mental illness or a substance use disorder requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or others. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or substance use disorder remains likely to cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to ~~the provisions of~~ §27-5-3 of this code may be entered. Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment, or as obligating any person or agency to provide outpatient services or treatment. Time

limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided*, That release pursuant to a voluntary treatment agreement may not be for a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.

~~Notwithstanding anything in this article to the contrary,~~ The commitment of any individual as provided in this article shall be in the least restrictive setting and in an outpatient community-based treatment program to the extent resources and programs are available, unless the clear and convincing evidence of the certifying professional under subsection (e) of this section, who is acting in a manner consistent with the standard of care establishes that the commitment or treatment of that individual requires an inpatient hospital placement. Outpatient treatment will be based upon a plan jointly prepared by the department and the comprehensive community mental health center or licensed behavioral health provider.

(i) If the certifying professional determines that an individual requires involuntary hospitalization for a substance use disorder as permitted by §27-5-2(a) of this code which, due to the degree of the disorder, creates a reasonable likelihood that withdrawal or



detoxification will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible medical complications. If the magistrate, mental hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

### **§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.**

(a) *Admission to a mental health facility for examination.* — ~~Any~~ An individual ~~may shall~~ be admitted to a mental health facility for examination and treatment upon entry of an order finding probable cause as provided in §27-5-2 of this code. ~~upon a finding by a licensed physician that the individual is medically stable, and~~ Upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code with advanced duties in psychiatric medicine that he or she has examined the individual and is of the opinion that the individual is mentally ill or has a substance use disorder and, because of the mental illness or substance use disorder, is likely to cause serious harm to himself, herself, or to others if not immediately restrained and treated: *Provided*, That the

opinions offered by an independent clinical social worker, an advanced nurse practitioner with psychiatric certification, or a physician's assistant with advanced duties in psychiatric medicine ~~must~~ shall be within his or her particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination.* — If the examination does not take place within three days from the date the individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or has a substance use disorder, the individual shall be released.

(c) *Three-day time limitation on certification.* — The certification required in §27-5-3(a) of this code is valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification.* — A certification under this section ~~must~~ shall include findings and conclusions of the mental examination, the date, time, and place of the examination, and the facts upon which the conclusion that involuntary commitment is necessary is based, including facts that less restrictive interventions and placements were considered but are not appropriate and available and that the risks and benefits were explained as required by §27-5-1(i) of this code.

(e) *Notice requirements.* — When an individual is admitted to a mental health facility or a state hospital pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to

the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) *Three-day time limitation for examination and certification at mental health facility or state hospital.* — After the individual's admission to a mental health facility or state hospital, he or she may not be detained more than three days, excluding Sundays and holidays, unless, within the three-day period, the individual is examined by a staff physician and the physician certifies that in his or her opinion the patient is not suffering from a physical ailment manifesting behaviors which mimic mental illness but is mentally ill or has a substance use disorder and is likely to injure himself, herself, or others and requires continued commitment and treatment. ~~if allowed to be at liberty. In the event~~ If the staff physician determines that the individual does not meet the criteria for continued commitment, that the individual can be treated in an available outpatient community-based treatment program and poses no present danger to himself, herself or others, or that the individual has an underlying medical issue or issues that resulted in a determination that the individual should not have been committed, the staff physician shall release and discharge the individual as appropriate as soon as practicable.

(g) ~~For~~ *Twenty-day time limitation for institution of final commitment proceedings.* — If, in the opinion of the examining physician, the patient is mentally ill or has a substance use disorder and because of the mental illness or substance use disorder is likely to injure himself, herself, or others if allowed to be at liberty, the chief medical officer shall, within ~~10~~ 20 calendar days from the date of admission, institute final commitment proceedings as provided in §27-5-4 of this code. If the proceedings are not instituted within the ~~10-20~~-day period absent good cause, the individual shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) ~~Twenty~~ *Thirty-five day time limitation for conclusion of all proceedings.* — If all proceedings as provided in §27-3-1 *et seq.*

and §27-4-1 *et seq.* of this code are not completed within ~~20~~ 35 days from the date of ~~institution of the proceedings~~ filing the Application for Involuntary Custody for Mental Health Examination, the individual shall be immediately released.

**§27-5-3a. Legal effect of commitment after determined not to be based on mental illness or addiction.**

(a) In the event that a person is involuntarily hospitalized, and it is determined after the entry of the order that the behavior which led to the entry of the order of involuntary hospitalization was caused by a physical condition or disorder rather than mental illness or addiction, the hospitalization shall not serve to make him or her a proscribed person under state laws relating to firearms possession or to negatively affect a person's professional licensure, employment, employability, or parental rights. Furthermore, while it is clear that it is the government of the United States and not the government of West Virginia, which has authority under 18 U.S.C. 922(g)(4), to determine whether a person has been "committed to a mental institution" the Legislature notes that "federal courts often look to state law to help determine whether a commitment has occurred." *United States v. Vertz*, 40 F. App'x 69 (6th Cir. 2002). Under such principles of interpretation, it is the express intent of the legislature to make clear that in circumstances under which there is a judicial determination that a person's involuntary hospitalization was necessitated and ordered as a result of a physical condition or disorder, the legislature does not deem this to be a "commitment," under state law, and the Legislature's determination that such an involuntary hospitalization is not a "commitment" should be viewed by the government of the United States as consistent with the provisions of the amendments to the NICS Improvement Amendments Act of 2007, Public Law 110-180, Tit. 1, Sec 101(c)(1), 121 Stat. 2559, 2562-63 (2008).

(b) Consistent with subsection (a) of this section, whenever a mental hygiene commissioner, magistrate, or circuit judge is made aware that the circumstances addressed in subsection (a) of this section have occurred, the mental hygiene commissioner, magistrate, or circuit judge shall enter an order finding that the

person was not suffering from a mental illness or addiction and not committed therefor.

**§27-5-4. Institution of final commitment proceedings; hearing requirements; release.**

(a) *Involuntary commitment.* — Except as provided in §27-5-2 and §27-5-3 of this code, no individual may be involuntarily committed to a mental health facility or state hospital except by order entered of record at any time by the circuit court of the county in which the person resides or was found, or if the individual is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or was found, in the county of the mental health facility and then only after a full hearing on issues relating to the necessity of committing an individual to a mental health facility or state hospital. If the individual objects to the hearing being held in the county where the mental health facility is located, the hearing shall be conducted in the county of the individual's residence. Notwithstanding the provisions of this code to the contrary, all hearings for the involuntary final civil commitment of a person who is committed in accordance with §27-6A-1 et al. of this code shall be held by the circuit court of the county that has jurisdiction over the person for the criminal charges and such circuit court shall have jurisdiction over the involuntary final civil commitment of such person.

(b) *How final commitment proceedings are commenced.* — Final commitment proceedings for an individual may be commenced by the filing of a written application under oath by an adult person having personal knowledge of the facts of the case. The certificate or affidavit is filed with the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a resident or where he or she may be found, or the county of a mental health facility if he or she is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or may be found. Notwithstanding anything any provision of this code to the contrary, all hearings for the involuntary final civil commitment of a person who is committed in accordance with §27-6A-1 et seq. of this code shall be commenced only upon the filing of a Certificate of the Licensed

Certifier at the mental health facility where the person is currently committed.

(c) *Oath; contents of application; who may inspect application; when application cannot be filed. —*

(1) The person making the application shall do so under oath.

(2) The application shall contain statements by the applicant that the individual is likely to cause serious harm to self or others due to what the applicant believes are symptoms of mental illness or substance use disorder. ~~The~~ Except for persons sought to be committed as provided in §27-6A-1 et seq. of this code, the applicant shall state in detail the recent overt acts upon which the belief clinical opinion is based.

(3) The written application, certificate, affidavit, and any warrants issued pursuant thereto, including any related documents, filed with a circuit court, mental hygiene commissioner, or magistrate for the involuntary hospitalization of an individual are not open to inspection by any person other than the individual, unless authorized by the individual or his or her legal representative or by order of the circuit court. The records may not be published unless authorized by the individual or his or her legal representative. Disclosure of these records may, however, be made by the clerk, circuit court, mental hygiene commissioner, or magistrate to provide notice to the Federal National Instant Criminal Background Check System established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. §922, and the central state mental health registry, in accordance with §61-7A-1 et seq. of this code, and the sheriff of a county performing background investigations pursuant to §61-7-1 et seq. of this code. Disclosure may also be made to the prosecuting attorney and reviewing court in an action brought by the individual pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

(4) Applications ~~may not be accepted~~ shall be denied for individuals ~~who only have epilepsy, dementia, or an intellectual or developmental disability.~~ as provided in §27-5-2(a) of this code.

(d) *Certificate filed with application; contents of certificate; affidavit by applicant in place of certificate.* —

(1) The applicant shall file with his or her application the certificate of a physician or a psychologist stating that in his or her opinion the individual is mentally ill or has a substance use disorder and that because of the mental illness or substance use disorder, the individual is likely to cause serious harm to self or others ~~if allowed to remain at liberty and, therefore~~ and requires continued commitment and treatment, and should be hospitalized. Except for persons sought to be committed as provided in §27-6A-1 et seq. of this code, the certificate shall state in detail the recent overt acts on which the conclusion is based, including facts that less restrictive interventions and placements were considered but are not appropriate and available. The applicant shall further file with his or her application the names and last known addresses of the persons identified in §27-5-4(e)(3) of this code.

(2) A certificate is not necessary when an affidavit is filed by the applicant showing facts and the individual has refused to submit to examination by a physician or a psychologist.

(e) *Notice requirements; eight days' notice required.* — Upon receipt of an application, the mental hygiene commissioner or circuit court shall review the application, and if it is determined that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, immediately fix a date for and have the clerk of the circuit court give notice of the hearing:

(1) To the individual;

(2) To the applicant or applicants;

(3) To the individual's spouse, one of the parents or guardians, or, if the individual does not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next of kin is not the applicant;

(4) To the mental health authorities serving the area;

(5) To the circuit court in the county of the individual's residence if the hearing is to be held in a county other than that of the individual's residence; and

(6) To the prosecuting attorney of the county in which the hearing is to be held.

(f) The notice shall be served on the individual by personal service of process not less than eight days prior to the date of the hearing and shall specify:

(1) The nature of the charges against the individual;

(2) The facts underlying and supporting the application of involuntary commitment;

(3) The right to have counsel appointed;

(4) The right to consult with and be represented by counsel at every stage of the proceedings; and

(5) The time and place of the hearing.

The notice to the individual's spouse, parents or parent or guardian, the individual's adult next of kin, or to the circuit court in the county of the individual's residence may be by personal service of process or by certified or registered mail, return receipt requested, and shall state the time and place of the hearing.

(g) *Examination of individual by court-appointed physician, psychologist, advanced nurse practitioner, or physician's assistant; custody for examination; dismissal of proceedings.* —

(1) Except as provided in subdivision (3) of this subsection, and except when a Certificate of the Licensed Examiner and an application for final civil commitment at the mental health facility where the person is currently committed has been completed and filed, within a reasonable time after notice of the commencement of final commitment proceedings is given, the circuit court or mental hygiene commissioner shall appoint a physician, psychologist, an advanced nurse practitioner with psychiatric



certification, or a physician's assistant with advanced duties in psychiatric medicine to examine the individual and report to the circuit court or mental hygiene commissioner his or her findings as to the mental condition or substance use disorder of the individual and the likelihood of causing serious harm to self or others. Any such report shall include the names and last known addresses of the persons identified in §27-5-4-(e)(3) of this code.

(2) If the designated physician, psychologist, advanced nurse practitioner, or physician assistant reports to the circuit court or mental hygiene commissioner that the individual has refused to submit to an examination, the circuit court or mental hygiene commissioner shall order him or her to submit to the examination. The circuit court or mental hygiene commissioner may direct that the individual be detained or taken into custody for the purpose of an immediate examination by the designated physician, psychologist, nurse practitioner, or physician's assistant. All orders shall be directed to the sheriff of the county or other appropriate law-enforcement officer. After the examination has been completed, the individual shall be released from custody unless proceedings are instituted pursuant to §27-5-3 of this code.

(3) If the reports of the appointed physician, psychologist, nurse practitioner, or physician's assistant do not confirm that the individual is mentally ill or has a substance use disorder and might be harmful to self or others, then the proceedings for involuntary hospitalization shall be dismissed.

(h) *Rights of the individual at the final commitment hearing; seven days' notice to counsel required.* —

(1) The individual shall be present at the final commitment hearing, and he or she, the applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify and to present and cross-examine witnesses.

(2) ~~In the event~~ If the individual has not retained counsel, the court or mental hygiene commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall inform the

individual of the name, address, and telephone number of his or her appointed counsel.

(3) The individual has the right to have an examination by an independent expert of his or her choice and to present testimony from the expert as a medical witness on his or her behalf. The cost of the independent expert is paid by the individual unless he or she is indigent.

(4) The individual may not be compelled to be a witness against himself or herself.

(i) *Duties of counsel representing individual; payment of counsel representing indigent.* —

(1) Counsel representing an individual shall conduct a timely interview, make investigation, and secure appropriate witnesses, be present at the hearing, and protect the interests of the individual.

(2) Counsel representing an individual is entitled to copies of all medical reports, psychiatric or otherwise.

(3) The circuit court, by order of record, may allow the attorney a reasonable fee not to exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 *et seq.* of this code.

(j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing.* —

(1) The circuit court or mental hygiene commissioner shall hear evidence from all interested parties in chamber, including testimony from representatives of the community mental health facility.

(2) The circuit court or mental hygiene commissioner shall receive all relevant and material evidence which may be offered.

(3) The circuit court or mental hygiene commissioner is bound by the rules of evidence promulgated by the Supreme Court of Appeals except that statements made to health care professionals

appointed under subsection (g) of this section by the individual may be admitted into evidence by the health care professional's testimony, notwithstanding failure to inform the individual that this statement may be used against him or her. A health care professional testifying shall bring all records pertaining to the individual to the hearing. The medical evidence obtained pursuant to an examination under this section, or §27-5-2 or §27-5-3 of this code, is not privileged information for purposes of a hearing pursuant to this section.

(4) All final commitment proceedings shall be reported or recorded, whether before the circuit court or mental hygiene commissioner, and a transcript made available to the individual, his or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further proceedings. In any case where an indigent person intends to pursue further proceedings, the circuit court shall, by order entered of record, authorize, and direct the court reporter to furnish a transcript of the hearings.

(k) *Requisite findings by the court.* —

(1) Upon completion of the final commitment hearing and the evidence presented in the hearing, the circuit court or mental hygiene commissioner shall make findings as to the following based upon clear and convincing evidence:

(A) Whether the individual is mentally ill or has a substance use disorder;

(B) Whether, ~~because~~ as a result of illness or substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty and requires continued commitment and treatment;

(C) Whether the individual is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county; and

(D) Whether there is a less restrictive alternative than commitment appropriate for the individual that is appropriate and available. The burden of proof of the lack of a less restrictive

alternative than commitment is on the person or persons seeking the commitment of the individual: *Provided*, That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific finding shall be made that the commitment of, or treatment for, the individual requires inpatient hospital placement and that no suitable outpatient community-based treatment program exists that is appropriate and available in the individual's area.

(2) The findings of fact shall be incorporated into the order entered by the circuit court and must be based upon clear, cogent, and convincing proof.

(1) *Orders issued pursuant to final commitment hearing; entry of order; change in order of court; expiration of order.* —

(1) Upon the requisite findings, the circuit court may order the individual to a mental health facility or state hospital for a period not to exceed 90 days except as otherwise provided in this subdivision. During that period and solely for individuals who are committed under §27-6A-1 *et seq.* of this code, the chief medical officer of the mental health facility or state hospital shall conduct a clinical assessment of the individual at least every 30 days to determine if the individual requires continued placement and treatment at the mental health facility or state hospital and whether the individual is suitable to receive any necessary treatment at an outpatient community-based treatment program. If at any time the chief medical officer, acting in good faith and in a manner consistent with the standard of care, determines that: (i) The individual is suitable for receiving outpatient community-based treatment; (ii) necessary outpatient community-based treatment is available in the individual's area as evidenced by a discharge and treatment plan jointly developed by the department and the comprehensive community mental health center or licensed behavioral health provider; and (iii) the individual's clinical presentation no longer requires inpatient commitment, the chief medical officer shall provide written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this section that the individual is suitable for discharge. The chief medical officer may discharge the patient 30 days after the notice

unless the court of record stays the discharge of the individual. In the event the court stays the discharge of the individual, the court shall conduct a hearing within 45 days of the stay, and the individual shall be thereafter discharged unless the court finds by clear and convincing evidence that the individual is a significant and present danger to self or others, and that continued placement at the mental health facility or state hospital is required.

If the chief medical officer determines that the individual requires commitment and treatment at the mental health facility or state hospital at any time for a period longer than 90 days, then the individual shall remain at the mental health facility or state hospital until the chief medical officer of the mental health facility or state hospital determines that the individual's clinical presentation no longer requires further commitment and treatment. The chief medical officer shall provide notice to the court, ~~and~~ the prosecuting attorney, the individual, and the individual's guardian or attorney, or both, if applicable, that the individual requires commitment and treatment for a period in excess of 90 days and, in the notice, the chief medical officer shall describe ~~the reasons~~ how the individual continues to meet commitment criteria and the need for ongoing commitment and treatment. ~~In its discretion, the~~ The court, ~~or~~ prosecuting attorney, the individual, or the individual's guardian or attorney, or both, if applicable, may request any information from the chief medical officer that the court or prosecuting attorney considers appropriate to justify the need for the individual's ongoing commitment and treatment. The court may hold any hearing that it considers appropriate.

(2) Notice to the court of record and prosecuting attorney shall be provided by personal service or certified mail, return receipt requested. The chief medical officer shall make the following findings:

(A) Whether the individual has a mental illness or substance use disorder that does not require inpatient treatment, and the mental illness or serious emotional disturbance is in substantial remission;

(B) Whether the ~~individual's condition~~ individual has the independent ability to manage safely the risk factors resulting from his or her mental illness or substance use disorder and is not likely to deteriorate to the point that the individual will pose a likelihood of serious harm to self or others ~~unless~~ without continued commitment and treatment is continued;

(C) Whether the individual is likely to participate in outpatient treatment with a legal obligation to do so;

(D) Whether the individual is not likely to participate in outpatient treatment unless legally obligated to do so;

(E) Whether the individual ~~is not a danger to self or others~~ is capable of surviving safely in freedom by himself or herself or with the help of willing and responsible family members, guardian, or friends; and

(F) Whether mandatory outpatient treatment is a suitable, less restrictive alternative to ongoing commitment.

(3) The individual may not be detained in a mental health facility or state hospital for a period in excess of 10 days after a final commitment hearing pursuant to this section unless an order has been entered and received by the facility.

(4) An individual committed pursuant to §27-6A-3 of this code may be committed for the period he or she is determined by the court to remain an imminent danger to self or others.

(5) ~~In the event~~ If the commitment of the individual as provided under subdivision (1) of this subsection exceeds two years, the individual or his or her counsel may request a hearing and a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.

(m) *Dismissal of proceedings.* — ~~In the event~~ If the individual is discharged as provided in subsection (l) of this section, the circuit court or mental hygiene commissioner shall dismiss the proceedings.

(n) *Immediate notification of order of hospitalization.* — The clerk of the circuit court in which an order directing hospitalization is entered, if not in the county of the individual's residence, shall immediately upon entry of the order forward a certified copy of the order to the clerk of the circuit court of the county of which the individual is a resident.

(o) *Consideration of transcript by circuit court of county of individual's residence; order of hospitalization; execution of order.*

---

(1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held and the individual is not currently a resident of a mental health facility or state hospital, a transcript of the evidence adduced at the final commitment hearing of the individual, certified by the clerk of the circuit court, shall immediately be forwarded to the clerk of the circuit court of the county of which the individual is a resident. The clerk shall immediately present the transcript to the circuit court or mental hygiene commissioner of the county.

(2) If the circuit court or mental hygiene commissioner of the county of the residence of the individual is satisfied from the evidence contained in the transcript that the individual should be hospitalized as determined by the standard set forth in subdivision one of this subsection, the circuit court shall order the appropriate hospitalization as though the individual had been brought before the circuit court or its mental hygiene commissioner in the first instance.

(3) This order shall be transmitted immediately to the clerk of the circuit court of the county in which the hearing was held who shall execute the order promptly.

(p) *Order of custody to responsible person.* — In lieu of ordering the individual to a mental health facility or state hospital, the circuit court may order the individual delivered to some responsible person who will agree to take care of the individual and the circuit court may take from the responsible person a bond in an

amount to be determined by the circuit court with condition to restrain and take proper care of the individual until further order of the court.

(q) *Individual not a resident of this state.* — If the individual is found to be mentally ill or to have a substance use disorder by the circuit court or mental hygiene commissioner is a resident of another state, this information shall be immediately given to the Secretary of the Department of Health and Human Resources, or to his or her designee, who shall make appropriate arrangements for transfer of the individual to the state of his or her residence conditioned on the agreement of the individual, except as qualified by the interstate compact on mental health.

(r) *Report to the Secretary of the Department of Health and Human Resources.* —

(1) The chief medical officer of a mental health facility or state hospital admitting a patient pursuant to proceedings under this section shall immediately make a report of the admission to the Secretary of the Department of Health and Human Resources or to his or her designee.

(2) Whenever an individual is released from custody due to the failure of an employee of a mental health facility or state hospital to comply with the time requirements of this article, the chief medical officer of the mental health or state hospital facility shall immediately, after the release of the individual, make a report to the Secretary of the Department of Health and Human Resources or to his or her designee of the failure to comply.

(s) *Payment of some expenses by the state; mental hygiene fund established; expenses paid by the county commission.* —

(1) The state shall pay the commissioner's fee and the court reporter fees that are not paid and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.



(2) The county commission shall pay out of the county treasury all other expenses incurred in the hearings conducted under the provisions of this article whether or not hospitalization is ordered, including any fee allowed by the circuit court by order entered of record for any physician, psychologist, and witness called by the indigent individual. The copying and mailing costs associated with providing notice of the final commitment hearing and issuance of the final order shall be paid by the county where the involuntary commitment petition was initially filed.

(3) Effective July 1, 2022, the Department of Health and Human Resources shall reimburse the Sheriff, the Department of Corrections and Rehabilitation, or other law enforcement agency for the actual costs related to transporting a patient who has been involuntarily committed.

**§27-5-10. Transportation for the mentally ill or persons with substance use disorder.**

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, the sheriff shall provide immediate transportation to or from the appropriate mental health facility or state hospital as described in §27-5-19(d) of this code: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* — Sheriffs and municipal governments may enter into written agreements by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, "certified municipal law-enforcement officer" means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff, or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual.

~~(d) Any person executing any transportation or commitment order as provided in this chapter issued by any circuit court, mental hygiene commissioner, or magistrate shall not be declared as violating the provisions of §27-12-2 of this code.~~

~~(e) Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.~~

### **§61-7A-2. Definitions.**

As used in this article and as the terms are deemed to mean in 18 U. S. C. § 922(g) and ~~section seven, article seven of this chapter §61-7-7 of this code~~ as each exists as of January 31, 2008:

(1) "A person adjudicated as a mental defective" means a person who has been determined by a duly authorized court, tribunal, board or other entity to be mentally ill to the point where

he or she has been found to be incompetent to stand trial due to mental illness or insanity, has been found not guilty in a criminal proceeding by reason of mental illness or insanity or has been determined to be unable to handle his or her own affairs due to mental illness or insanity. A child under fourteen years of age is not considered "a person adjudicated as a mental defective" for purposes of this article.

(2) "Committed to a mental institution" means to have been involuntarily committed for treatment pursuant to the provisions of ~~chapter twenty-seven~~ §27-5-4(1) of this code. Children under ~~fourteen~~ 14 years of age are not considered "committed to a mental institution" for purposes of this article. "Committed to a mental institution" does not mean voluntary admission for mental health treatment.

(3) "Mental institution" means any facility or part of a facility used for the treatment of persons committed for treatment of mental illness.

**§61-7A-4. Confidentiality; limits on use of registry information.**

(a) Notwithstanding any provision of this code to the contrary, the Superintendent of the State Police, the Secretary of the Department of Health and Human Resources, the circuit clerks, and the Administrator of the Supreme Court of Appeals may provide notice to the central state mental health registry and the National Instant Criminal Background Check System established pursuant to Section 103(d) of the Brady Handgun Violence Protection Act, 18 U. S. C. §922, that a person: (i) Has been involuntarily committed to a mental institution pursuant to §27-5-4(1); (ii) has been adjudicated as a mental defective ; or (iii) has regained the ability to possess a firearm by order of a circuit court in a proceeding under section five of this article.

(b) The information contained in the central state mental health registry is to be used solely for the purpose of records checks related to firearms purchases and for eligibility for a state license or permit to possess or carry a concealed firearm.

(c) Whenever a person's name and other identifying information has been added to the central state mental health registry, a review of the state concealed handgun registry shall be undertaken and if such review reveals that the person possesses a current concealed handgun license, the sheriff of the county issuing the concealed handgun license shall be informed of the person's change in status.

**§61-7A-5. Petition to regain right to possess firearms.**

(a) Any person who is prohibited from possessing a firearm pursuant to the provisions of ~~section seven, article seven of this chapter~~ §61-7-7 or by provisions of federal law by virtue solely of having previously been adjudicated to be mentally defective or to having a prior involuntary commitment to a mental institution pursuant to ~~chapter twenty seven~~ §27-5-4(1) of this code may petition the circuit court of the county of his or her residence to regain the ability to lawfully possess a firearm.

(b) Petitioners prohibited from possession of firearms due to a mental health disability, must include in the petition for relief from disability:

(1) A listing of facilities and location addresses of all prior mental health treatment received by petitioner;

(2) An authorization, signed by the petitioner, for release of mental health records to the prosecuting attorney of the county; and

(3) A verified certificate of mental health examination by a licensed psychologist or psychiatrist occurring within thirty days prior to filing of the petition which supports that the petitioner is competent and not likely to act in a manner dangerous to public safety.

(c) The court may only consider petitions for relief due to mental health adjudications or commitments that occurred in this state, and only give the relief specifically requested in the petition.

(d) In determining whether to grant the petition, the court shall receive and consider at a minimum evidence:

(1) Concerning the circumstances regarding the firearms disabilities imposed by 18 U.S.C. §922(g)(4);

(2) The petitioner's record which must include the petitioner's mental health and criminal history records; and

(3) The petitioner's reputation developed through character witness statements, testimony, or other character evidence.

(e) If the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibilities concomitant with the possession of a firearm, will not be likely to act in a manner dangerous to public safety, and that granting the relief will not be contrary to public interest, the court may enter an order allowing the petitioner to possess a firearm. If the order denies petitioner's ability to possess a firearm, the petitioner may appeal the denial, which appeal is to include the record of the circuit court rendering the decision.

(f) All proceedings for relief to regain firearm or ammunition rights shall be reported or recorded and maintained for review.

(g) The prosecuting attorney or one of his or her assistants shall represent the state in all proceedings for relief to regain firearm rights and provide the court the petitioner's criminal history records.

(h) The written petition, certificate, mental health or substance abuse treatment records and any papers or documents containing substance abuse or mental health information of the petitioner, filed with the circuit court, are confidential. These documents may not be open to inspection by any person other than the prosecuting attorney or one of his or her assistants only for purposes of representing the state in and during these proceedings and by the petitioner and his or her counsel. No other person may inspect these documents, except upon authorization of the petitioner or his or her legal representative or by order of the court, and these records may not be published except upon the authorization of the petitioner or his or her legal representative.

(i) The circuit clerk of each county shall provide the Superintendent of the West Virginia State Police, or his or her designee, and the Administrator of the West Virginia Supreme Court of Appeals, or his or her designee, with a certified copy of any order entered pursuant to the provisions of this section which removes a petitioner's prohibition to possess firearms. If the order restores the petitioner's ability to possess a firearm, petitioner's name shall be promptly removed from the central state mental health registry and the superintendent or administrator shall forthwith inform the Federal Bureau of Investigation, the United States Attorney General, or other federal entity operating the National Instant Criminal Background Check System of the court action.

Following discussion,

The question being on the adoption of Senator Trump's amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4377, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4377) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4377**—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto three new sections, designated §27-5-1b and §27-5-3a; to amend and reenact §27-5-2, §27-5-3, §27-5-4 and §27-5-10 of said code and to amend and reenact §61-7A-2, §61-7A-4 and §61-7A-5 of said code, all relating generally to involuntary commitment; directing participation by certain groups and entities in a study of the feasibility of developing alternatives to law enforcement transportation of patients; requiring an audit process for mental hygiene services; clarifying conditions for which involuntary commitment is inappropriate; authorizing video conferencing for hearings and evaluations; establishing time limits for completion tasks necessary to the commitment process; requiring reimbursement for transportation costs to the appropriate law enforcement agency; establishing state policy that a person committed for what is determined to be a physical condition is not considered to have been committed for a mental illness or addiction and not a basis for firearms disqualification, professional licensure, or employment purposes; requiring the entry of an order when a mistaken commitment is discovered; clarifying the distinction between hospitalizations for evaluation from those for treatment; and defining terms.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Com. Sub. for Senate Bill 530**, Encouraging public-private partnerships in transportation.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 4, section 4, by striking out all of lines 4-6 and inserting in lieu thereof the words "The review shall consist of the review by the division of the conceptual proposal: *Provided*, That expenses of the division incurred for review of an unsolicited proposal or proposals shall be paid by the private entity submitting the proposal" and,

To amend the bill on page 8, section 5, line 74, by adding the following: "*Provided*, That moneys used by the state road fund shall not exceed \$100 million." And,

To amend the bill on page 14, section 9, line 65, before the period the following: "and the commissioner shall provide notice to the public".

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 530) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Com. Sub. for Senate Bill 530**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6b; and to amend and reenact §17-27-3, §17-27-4, §17-27-5, §17-27-7, §17-27-8, §17-27-9, §17-27-11, §17-27-13, §17-27-14, §17-27-15, and §17-27-16 of said code, all relating to encouraging public-private partnerships related to transportation facilities; providing coal severance tax escrow fund for the state portion of coal severance taxes paid on a public-private transportation facility; authorizing the Division of Highways to repay collected tax in escrow to private entities; cleaning up antiquated language; clarifying the roles of the division, public entities, and developers; simplifying the public-private partnership review process; providing that project proposal may not include use of more than \$100 million from state road fund; clarifying that Commissioner of the Division of Highways



may approve or modify the division's rankings, authorize negotiations and entry into comprehensive agreement with the highest-ranked developer, or reject all proposals; providing that division is not obligated to accept, consider, or review unsolicited conceptual proposals, but may choose to do so; providing that no obligation or liability attaches to either party if they are unable to reach an agreement; providing that the division may negotiate a comprehensive agreement with the next highest-ranked developer if agreement cannot be reached with highest-ranked developer; clarifying the extent to which the division may utilize condemnation if it is found the project serves a public purpose or the developer is in material default; and exempting public-private partnership agreements from statutory government construction contract requirements.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 530, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 530) passed with its Senate amended title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

**Eng. House Bill 4842**, Relating to obscene matter to minors.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.**

**§61-8C-3. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct prohibited; penalty.**

(a) Any person who, knowingly and willfully, sends or causes to be sent or distributes, exhibits, possesses, electronically accesses with intent to view, or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a felony.

(b) Any person who violates the provisions of subsection (a) of this section when the conduct involves fifty or fewer images shall, upon conviction, be imprisoned in a state correctional facility for not more than two years or fined not more than \$2,000 or both.

(c) Any person who violates the provisions of subsection (a) of this section when the conduct involves more than fifty but fewer than six hundred images shall, upon conviction, be imprisoned in a state correctional facility for not less than two nor more than ~~ten~~ 10 years or fined not more than \$5,000, or both.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section any person who violates the provisions of subsection (a) of this section when the conduct involves ~~six hundred~~ 600 or more images or depicts violence against a child or a child engaging in bestiality shall, upon conviction, be imprisoned in a state correctional facility for not less than five nor more than ~~fifteen~~ 15 years or fined not more than \$25,000 or both.

(e) For purposes of this section each video clip, movie or similar recording of five minutes or less shall constitute ~~seventy-five~~ 75 images. A video clip, movie, or similar recording of a duration longer than five minutes shall be deemed to constitute ~~seventy-five~~ 75 images for every two minutes in length if it exceeds five minutes.

(f) The provisions of this section are inapplicable to:

(1) Law enforcement personnel while acting in the performance of their official duties;

(2) Prosecuting attorneys while acting in the performance of their official duties;

(3) Attorneys representing persons charged with a violation of this article or a substantially similar federal law while acting in the performance of their official duties;

(4) Judges and magistrates while acting in the performance of their official duties;

(5) Jurors while acting in the performance of their official duties ; and

(6) Support personnel for the persons listed in subdivisions (1) through (4) of this subsection in the performance of their professional, employment, and fact-finding duties.

(g) The Supreme Court of Appeals is hereby requested to promulgate such rules, protocols, and forms as are necessary to regulate access to, use, and handling of materials depicting minors engaging in sexually explicit conduct with due consideration given

to the privacy rights of victims and the due process rights of defendants in judicial proceedings.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. House Bill 4842**—A Bill to amend and reenact §61-8C-3 of the Code of West Virginia, 1931, as amended, relating to child pornography; clarifying the groups of persons to whom the criminal prohibitions related to child pornography are inapplicable when such persons are performing their official or employment duties; and requesting the Supreme Court of Appeals to promulgate rules.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the Senate amendments to the bill (Eng. H. B. 4842) and requested the House of Delegates to recede therefrom.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate 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 4393**, To increase the managed care tax if the managed care organization receives a rate increase.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed Committee Substitute for House Bill 4393 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4393) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill 4408**, Relating to contracts for construction of recreational facilities in state parks and forests.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 5. PARKS AND RECREATION.**

##### **§20-5-16. Authority to enter into contracts with third parties to construct recreational facilities and cabins; public comment.**

(a) Notwithstanding any other provision of this code to the contrary, in addition to all other powers and authority vested in the director, he or she ~~is hereby authorized and empowered to~~ may:

(1) Enter into contracts with third parties for the financing, construction, and operation of new recreational, lodging, and ancillary facilities at ~~Chief Logan State Park, Beech Fork State Park, Tomlinson Run State Park, Stonewall Jackson Lake State Park, Lost River State Park and Canaan Valley Resort State Park~~ all state parks and state forests under the jurisdiction of the Division of Natural Resources. The contracts may allow and recognize both direct and subsidiary investment arrangements. The term of the contracts may not exceed a period of ~~twenty five~~ 40 years, at which time the full title to the recreational facilities shall vest in the state, except as otherwise provided in this section;

(2) Enter into contracts with third parties for the construction, but not the operation, of cabins at any state park or forest. Upon completion of the construction of the cabins, full title to the cabins shall immediately vest in the state and the cabins shall be operated by the parks and recreation section;

(3) Authorize the construction of at least five cabins by any single third party in state parks and state forests which do not offer the facilities on the effective date of this subsection; and

(4) Propose emergency and legislative rules, in accordance with ~~the provisions of~~ §29A-3-1 *et seq.* of this code, that set the conditions upon which the director may enter into a contract with a single third party proposing to construct cabins.

~~(b) All contracts shall be presented to the Joint Committee on Government and Finance for review and comment prior to execution.~~

(b) Any contract entered into pursuant to this section shall be approved prior to execution by the Secretary of the Department of Commerce, the Secretary of the Department of Tourism, and the Secretary of the Department of Economic Development.

(c) A contract may provide for renewal for the purpose of permitting continued operation of the facilities at the option of the director for a term or terms not to exceed 10 years.

~~(d) The director shall provide prior electronic notice of any contract, extension, and renewal entered into pursuant to this section to the Joint Committee on Government and Finance. Except as otherwise authorized by this section, no extension or renewal beyond the original twenty-five year term may be executed by the director absent the approval of the Joint Committee on Government and Finance.~~

(e) Any vendor which is contracted with pursuant to this section may not employ or contract with the individual who holds the position of director when the contract is executed for a period of one year following the individual's separation from the position of director.

~~(e)~~ (f) *Stonewall Jackson Lake State Park.* —

(1) With respect to the financing, construction, and operation of lodging at Stonewall Jackson Lake State Park, in addition to the lodging in existence as of July 1, 2008, contracts entered into pursuant to this section may grant, convey, or provide for commercially reasonable lodging usage and related rights and privileges all on terms and conditions as the director may deem appropriate, desirable or necessary to attract private investment for the construction of additional lodging units.

(2) No contracts may be entered into prior to the preparation of lodging unit development plans and standard lodging unit contract documents in a form and at a level of detail acceptable to the United States Army Corps of Engineers and the director, and subsequent to the presentation of the lodging unit development plans and standard lodging unit contract documents to the Joint Committee on Government and Finance for review and comment.

(3) At a minimum, the lodging unit development plans and standard lodging unit contracts shall comply with the following requirements:

(A) That no more than 100 additional lodging units may be constructed, in addition to the lodging in existence as of July 1, 2008;

(B) That lodging unit contracts, with respect to any additional lodging units that may be financed, constructed or operated pursuant to the provision of this section, shall generally conform to the contracts entered into by federal agencies or the National Park Service with private parties regarding privately financed property that is constructed, developed or operated on public lands administered by federal agencies or the National Park Service, subject to modification and adaptation by the director as the director deems appropriate, suitable and relevant to any lodging units to be constructed at Stonewall Jackson Lake State Park.

(C) That a party granted rights and privileges under lodging unit contracts awarded under the provisions of this subsection shall have the right to renew his or her ~~or her~~ her or its lodging unit contract for successive terms not to extend beyond the termination date of the state's lease with the United States Army Corps of Engineers; or, in the event that the state's lease with the United States Army Corps of Engineers is extended beyond the termination date of the lease as of July 1, 2007, not to exceed five 10-year extensions or renewals beyond the termination date of the lease between the state and the United States Army Corps of Engineers in effect as of July 1, 2007: *Provided*, That the party extended the renewal rights is in compliance with all material rights, duties and obligations arising under his or her ~~or her~~ her or its contract and all relevant and applicable provisions of federal, state and local laws, rules, regulations, contracts or agreements at the time of renewal: *Provided, however*, That if ~~and in the event~~ the director makes an affirmative determination that further renewals beyond the time periods set forth in this subsection are in the best interest of the state and Stonewall Jackson Lake State Park, giving due consideration to financial, operational and other considerations deemed relevant and material by the director, that the director may authorize further renewals;

(D) That all rights and privileges arising under a lodging unit contract shall be transferred to the state or the state's designee upon the expiration or termination of the contract, upon the terms and conditions as each contract may provide or as may otherwise be agreed upon between the parties;



(E) That the state is not, ~~and cannot be,~~ obligated for any costs, expenses, fees, or other charges associated with the development of the additional lodging units under this subsection or the operation and maintenance of the additional lodging units over time, including, but not limited to, costs associated with infrastructure improvements associated with development or operation of the additional lodging units. In his or her discretion, the director may engage professionals to assist the state in connection with its review and oversight of development of the additional lodging units;

(F) That at any time following the initial term and first renewal period of any lodging unit contract entered into with a private party with respect to an additional lodging unit that is constructed under this section, the state shall have the right and option, in its sole discretion, to purchase a lodging unit or lodging units in accordance with the provisions of this subsection and any and all contracts that may be entered into from time to time under this section;

(G) That ~~at its sole option and discretion,~~ the state may elect to purchase a lodging unit from a private party. ~~In that event,~~ If the private party ~~shall be~~ is paid the fair value of the private party's residual rights and privileges under the lodging unit contract, the residual rights and privileges to be valued generally in accordance with the valuation standards set forth in the National Park Service's standard contract provisions, or other relevant federal agency standards applicable to similar or like contract rights and provisions as may be in existence at the time of transfer, all as the same may be ~~deemed~~ considered relevant and appropriate by the director, and all in the exercise of the director's reasonable discretion. Nothing in this section is intended or ~~shall~~ may be construed to impose an obligation on the state to purchase, buy, buy out or otherwise acquire or pay for any lodging unit under this section, or to limit the right and ability of a private party to donate or contribute his ~~or her,~~ her or its interest in and to any lodging unit constructed under this section to the state or any charitable foundation that may be established and operating from time to time

to support the continued operation and development of Stonewall Jackson Lake State Park;

(H) That the state ~~shall have~~ has no obligation whatsoever to purchase, buy, buy out or otherwise acquire or pay for any lodging unit that is developed or constructed under this section; and

(I) The director ~~shall have the right to~~ may review and approve the form and content of all contracts that may be entered into pursuant to this subsection in connection with the development, operation, and maintenance of additional lodging units at Stonewall Jackson Lake State Park.

(g) Any facilities constructed under the authority granted under this section must be in accordance with the purpose, powers, and duties of the Section of Parks and Recreation as provided by §20-5-3 of this code.

On motion of Senator Tarr, the following amendments to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4408) were reported by the Clerk and considered simultaneously:

On page two, section sixteen, after line thirty-five, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Prior to initiating a contract for new recreational, lodging, and ancillary facilities at all state parks and state forests under the jurisdiction of the Division of Natural resources, the director shall conduct a public hearing to be held at a reasonable time and place within the county in which the facility is located. Notice of the time, place and purpose of the public hearing shall be provided as a Class II legal advertisement in accordance with §59-3-2 of this code which notice shall be given at least for the first publication 20 days in advance of the hearing.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Tarr's amendments to the Finance committee amendment to the bill, the same was put and prevailed.

On motion of Senator Woelfel, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4408) was next reported by the Clerk:

On page one, section sixteen, line eight, after the word "Resources" by inserting the words "except for Watoga State Park".

Following discussion,

The question being on the adoption of Senator Woelfel's amendment to the Finance committee amendment to the bill, and on this question, Senator Woelfel demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Nelson, Romano, Stollings, Stover, Trump, Weld, and Woelfel—19.

The nays were: Azinger, Boley, Clements, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Tarr, Woodrum, and Blair (Mr. President)—13.

Absent: Plymale and Takubo—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Woelfel's amendment to the Finance committee amendment to the bill adopted.

The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4408, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4408 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Grady, Martin, Smith, Stover, and Woelfel—10.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4408) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4408**—A Bill to amend and reenact §20-5-16 of the Code of West Virginia, 1931, as amended, relating to the authority of the Division of Natural Resource to enter into certain contracts.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Beach—1.

Absent: Brown, Plymale, and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4408) takes effect from passage.

*Ordered,* That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4439,** Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.**

#### **§15-1J-6. Military Authority Reimbursable Expenditure Fund.**

(a) A special revenue account known as the "Military Authority Reimbursable Expenditure Fund" is hereby established in the state treasury. The purpose of the fund is to make moneys available to the Military Authority for expenditures that qualify for cost reimbursement pursuant to a cooperative agreement, grant, or other legal agreement with the federal government.

(b) The Adjutant General shall administer the fund.

(c) The fund shall receive all moneys transferred to the fund pursuant to §36-8-13(e) of this code, any income from the investment of moneys held in the fund, and all moneys reimbursed into the fund pursuant to subsection (e) of this section.

(d) The Adjutant General may authorize expenditures from the fund that qualify for cost reimbursement pursuant to a cooperative

agreement, grant, or other legal agreement with the federal government, including but not limited to the following:

(1) Expenditures for operations and maintenance of all facilities;

(2) Expenditures for major and minor construction;

(3) Any other types of expenditures related to homeland and national security missions; and

(4) Any other types of expenditures to support missions of the West Virginia National Guard.

(e) Upon receiving moneys from the federal government to reimburse the Military Authority for expenditures authorized by this section, the Adjutant General shall reimburse the fund in an amount equal to the moneys received from the federal government.

(f) Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall be transferred to the Unclaimed Property Fund.

## **CHAPTER 36. UNIFORM UNCLAIMED PROPERTY ACT.**

### **ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.**

#### **§36-8-13. Deposit of funds**

(a) The administrator shall record the name and last known address of each person appearing from the holders reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company and the amount due.

(b) The Unclaimed Property Fund is continued. The administrator shall deposit all funds received pursuant to this article in the Unclaimed Property Fund, including the proceeds from the sale of abandoned property under §36-8-12 of this code. The administrator may invest the Unclaimed Property Fund with

the West Virginia Board of Treasury Investments or the Investment Management Board and all earnings shall accrue to the fund and are available for expenditure in accordance with the article. In addition to paying claims of unclaimed property duly allowed, the administrator may deduct the following expenses from the Unclaimed Property Fund:

(1) Expenses of the sale of abandoned property;

(2) Expenses incurred in returning the property to owners, including without limitation the costs of mailing and publication to locate owners;

(3) Reasonable service charge; and

(4) Expenses incurred in examining records of holders of property and in collecting the property from those holders.

(c) The Unclaimed Property Trust Fund is continued within the State Treasury. The administrator may invest the Unclaimed Property Trust Fund with the West Virginia Board of Treasury Investments and all earnings shall accrue to the fund and are available for expenditure in accordance with this article. After deducting the expenses specified in subsection (b) of this section and maintaining a sum of money from which to pay claims duly allowed, the administrator shall transfer the remaining moneys in the Unclaimed Property Fund to the Unclaimed Property Trust Fund.

~~(d) (1) On July 1, 2009, the unclaimed property administrator shall transfer the amount of \$8 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund.~~

~~(2) On or before December 15 of each year, notwithstanding any provision of this code to the contrary, the administrator shall transfer the sum of \$1 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund, until the actuary certifies there are sufficient funds to pay out all contracts.~~

~~(e) On or before June 1, 2007, the unclaimed property administrator shall transfer the amount of \$2 million from the~~

~~Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the deferred compensation matching program for state employees. On or before June 1, 2008, the unclaimed property administrator shall transfer the amount of \$1 million from the Unclaimed Property Trust Fund to the Deferred Compensation Matching Fund for operation of the matching program.~~

~~(f) On or before June 1, 2013, the unclaimed property administrator shall transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund for the purpose of satisfying any amounts due as of April 27, 2012 to policemen's and firemen's pension and relief funds in accordance with section fourteen d, article three, chapter thirty three of this Code.~~

(d) Subject to a liquidity determination and cash availability, effective July 1, 2022, the unclaimed property administrator may transfer any amount not to exceed \$10,000,000 in any fiscal year from the Unclaimed Property Trust Fund to the Military Authority Reimbursable Expenditure Fund.

~~(g)~~ (e) After transferring any money required by ~~subsections (d) through (f)~~ subsection (d) of this section, the administrator shall transfer moneys remaining in the Unclaimed Property Trust Fund to the General Revenue Fund.

On motion of Senator Weld, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4439) was reported by the Clerk and adopted:

On page two, section six, after line twenty-two, by inserting the following:

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 19. EDUCATIONAL OPPORTUNITIES FOR CHILDREN OF DECEASED SOLDIERS, SAILORS, MARINES AND AIRMEN.**



**§18-19-2. Eligibility of applicant for benefits; application forms; preference.**

(a) To be eligible for the benefits of this article, a child or spouse as set forth in section one of this article shall meet the following conditions:

(1) In the case of a child, is at least 16 and not more than 25 years of age;

(2) Is enrolled in a post-secondary education or training institution in this state; and

(3) Is the child or spouse of an ~~enlistee~~ enlisted or commissioned service member who designated West Virginia as his or her state of record.

(b) The application shall be made to, and upon forms provided by, the West Virginia ~~Division of Veterans Affairs~~ Department of Veterans Assistance. The ~~division~~ department shall determine the eligibility of those who apply and the yearly amount to be allotted each applicant. The amount, in the discretion of the ~~division~~ department, may vary from year to year, but may not exceed the sum of \$1,000 in any one semester or a total of \$2,000 in any one year. In selecting those to receive the benefits of this article, preference shall be given those who are otherwise financially unable to secure the educational opportunities.

The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4439, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4439) passed.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the bill was withdrawn.

On motion of Senator Weld, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4439**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-J-6; to amend and reenact §18-19-2 of said code; and to amend and reenact §36-8-13 of said code, all relating generally to creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund; establishing the account; declaring the purpose of the account; providing that the Adjutant General shall administer the account; authorizing the Adjutant General to invest moneys in the account; setting forth the permissible contents of the account; authorizing the Adjutant General to make certain expenditures from the account; requiring the Adjutant General to reimburse the account after receiving federal reimbursement moneys; allowing funds in the Unclaimed Property Fund to be invested; providing that moneys in the account will revert to the Unclaimed Property Fund at the end of each fiscal year; authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the account; eligibility of an active-duty service member's child or spouse for tuition-free education through the War Orphan Education Program; and deleting obsolete language.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson,

Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4439) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4450**, Removing the \$0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4450 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4450) passed with its title.

Senator Weld moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4450) takes effect July 1, 2022.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill 4463**, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4463 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Baldwin—1.

Absent: Beach, Plymale, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4463) passed with its title.

Senator Weld moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Baldwin—1.

Absent: Beach, Plymale, and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4463) takes effect July 1, 2022.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 6:13 p.m. today:

**Eng. Com. Sub. for Senate Bill 334**, Authorizing miscellaneous agencies and boards to promulgate rules.

At the request of Senator Stollings, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4502**, Establishing the BUILD WV Act.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On pages eight and nine, section six, lines one through seven, by striking out all of section six and inserting in lieu thereof a new section six, to read as follows:

**§5B-2L-6. Effective date, expiration date and required reporting.**

(a) Effective July 1, 2024, and annually thereafter, the Department of Economic Development shall submit a report to the Joint Committee on Government and Finance. The report shall provide:

(1) The number and location of all projects approved pursuant to this article;

(2) The geographic distribution of the projects approved;

(3) The total number of new housing units approved over the preceding year;

(4) The total number of housing units completed over the preceding year;

(5) The total amount of exemptions granted pursuant to §5B-2L-7 of this article;

(6) The total amount of property value adjustment tax credits allowed pursuant to §5B-2L-10 of this article; and

(7) Any other information requested by the Joint Committee on Government and Finance.

(b) Any property value adjustment tax credit authorized by this article shall be effective for corporate net income tax years and personal income tax years beginning on and after January 1, 2023.

(c) Effective January 1, 2028, the provisions of this article shall expire and have no further force or effect: *Provided*, That any tax exemption or property value adjustment tax credit authorized pursuant to this article prior to January 1, 2028, shall continue to be valid and eligible for redemption pursuant to procedures provided herein.;

On page eighteen, section fourteen, line twenty-three, by striking out "12" and inserting in lieu thereof "3";

And,

On page twenty, section sixteen, lines fourteen through twenty, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c), to read as follows:

(c) The aggregate sum of approved costs for all projects for any fiscal year shall not exceed \$40 million. Any project application submitted for certification in the fiscal year after the sum of \$40 million has been reached shall not be approved or certified. Notwithstanding any other provision of this code, for any fiscal year, the Secretary of the Department of Economic Development may not approve any single proposed project as a certified BUILD WV project for the fiscal year unless the proposed project has an aggregate sum of approved costs that is at least \$3 million or the proposed project includes at least six residential units or houses.

Engrossed Committee Substitute for House Bill 4502, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sybolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Azinger, Karnes, and Martin—3.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4502) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4502**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2L-1, §5B-2L-2, §5B-2L-3, §5B-2L-4, §5B-2L-5, §5B-2L-6, §5B-2L-7, §5B-2L-8, §5B-2L-9, §5B-2L-10, §5B-2L-11, §5B-2L-12, §5B-2L-13, §5B-2L-14, §5B-2L-15, §5B-2L-16, and §5B-2L-17, all relating to establishing the BUILD WV Act; providing legislative findings and purpose; authorizing rule-making authority; providing for the application of the West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing effective and expiration dates; required annual reporting to the Joint Committee on Government and Finance; setting out elements to be included in the annual report; exempting the construction contractors of certified BUILD WV projects from the consumers sales and service tax and use tax; authorizing municipalities to provide exemptions to business and occupation taxes; establishing a property value adjustment tax credit; providing for the determination of amount and application of the property value adjustment tax credit; providing that the property value adjustment tax credit entitlement is retained by eligible taxpayers that have developed project property; providing for credit recapture, interest, penalties, additions to tax, and statute of limitations; providing for certified BUILD WV districts and the procedure for designation; granting authority to the Department of Economic Development to administer BUILD WV; providing for the application and procedures for BUILD WV projects; and requiring agreements between the Department of Economic Development and BUILD WV project participants.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.



(Senator Tarr in the Chair.)

**Eng. House Bill 4522**, Relating to the expungement of criminal records.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on the Judiciary was reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.**

**§61-11-25. Expungement of criminal records for those found not guilty of crimes or against whom charges have been dismissed.**

(a) Any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense, may file a civil petition in the circuit court in which the charges were filed to expunge all records relating to the arrest, charge or other matters arising out of the arrest or charge: *Provided*, That no record in the Division of Motor Vehicles may be expunged by virtue of any order of expungement entered pursuant to ~~section two b, article five, chapter seventeen~~  $\text{C} \text{ §17C-5-2b}$  of this code: *Provided, further*, That any person who has previously been convicted of a felony may not file a petition for expungement pursuant to this section. The term records as used in this section includes, but is not limited to, arrest records, fingerprints, photographs, index references or other data whether in documentary or electronic form, relating to the arrest, charge or other matters arising out of the arrest or charge. Criminal investigation reports and all records relating to

offenses ~~subject to the provisions of article twelve, chapter fifteen of this code because~~ where the person was found not guilty by reason of mental illness, mental retardation or addiction are exempt from the provisions of this section.

(b) The expungement petition shall be filed not sooner than ~~sixty~~ 60 days following the order of acquittal or dismissal by the court. Any court entering an order of acquittal or dismissal shall inform the person who has been found not guilty or against whom charges have been dismissed of his or her rights to file a petition for expungement pursuant to this section.

(c) Following the filing of the petition, the court may set a date for a hearing. If the court does so, it shall notify the prosecuting attorney and the arresting agency of the petition and provide an opportunity for a response to the expungement petition.

(d) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official including law enforcement records. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within ~~sixty~~ 60 days of the entry of the expungement order, that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed.

(e) Upon expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application.

(f) Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the

records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that the interests of justice will be served by granting the petition, it may be granted.

(g) There shall be no filing fees charged or costs assessed for filing an action pursuant to this section.

(h) Upon the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature, if a court enters an order of acquittal of all criminal charges against a person in a case, the court shall order the record expunged upon the expiration of 30 days, unless the person objects to the expungement. The order expunging the records shall not require any action by the person.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Engrossed House Bill 4522, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Woodrum—32.

The nays were: None.

Absent: Plymale and Blair (Mr. President)—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4522) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 4522**—A Bill to amend and reenact §61-11-25 of the Code of West Virginia, 1931, as amended, relating to expungement of criminal records; providing for mandatory expungement upon acquittal of all criminal charges absent objection; and providing time frame for order of expungement.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

(Senator Blair, Mr. President, in the Chair.)

**Eng. House Bill 4571**, Modifying foundation allowance to account for transportation by electric powered buses.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

There being no amendments offered,

Engrossed House Bill 4571 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4571) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

**Eng. House Bill 4571**—A Bill to amend and reenact §18-9A-7 of the Code of West Virginia, 1931, as amended, relating to increasing the foundation allowance for transportation cost for the portion of the county's school bus system that is fully powered by electricity that is stored in an onboard rechargeable battery or other storage device and for the portion of its school bus system that is manufactured within the state of West Virginia.

Senator Weld moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Plymale and Takubo—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4571) takes effect July 1, 2022.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4600**, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

**ARTICLE 8D. CHILD ABUSE.**

**§61-8D-5a. Verbal abuse of noncommunicative child; penalties.**

[Repealed.]

**ARTICLE 8F. SPECIAL PROTECTIONS FOR DISABLED CHILDREN ACT of 2022.**

*This article shall be known as Trenton, Andrew, Adri, Owen and Emma's law*

**§61-8F-1. Findings.**

The Legislature finds that disabled persons and particularly disabled children are often more vulnerable and in greater need of protection than the nondisabled. Concomitant with greater vulnerability is the enhanced risk of injury and intimidation, particularly when the child is noncommunicative.

Based upon these facts, the Legislature has determined that it is appropriate that enhanced protections be put in place statutorily to provide a framework of protections to improve disabled children's education and, quality of life as well as ease the concerns of their loved-ones and caregivers.

**§61-8F-2 Definitions.**

As used in this article:

(1) "Disabled child" means a child with any physical, intellectual, developmental, communication, or psychological

disability or impairment. A disability includes , but is not limited to one that:

(A) Limits the child's ability to recognize abuse, unlawful activity, or his or her rights to safety and protection, or that makes the child rely on others to recognize that he or she is being abused;

(B) Limits the child's ability to recognize unlawful sexual abuse or misconduct;

(C) Causes the child to be dependent on others to assist with any activity of daily living or personal care;

(D) Limits the child's ability to formulate or execute a response to abuse, to verbally or physically defend himself or herself, or to physically escape from an abusive environment; or

(E) Limits the child's ability to disclose abuse.

(2) "Noncommunicative child" means a child who, due to physical or developmental disabilities, is unable to functionally articulate verbally, in writing, or through a recognized sign language,

(3) "Person in a position of trust in relation to a disabled child" means any adult who is acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a disabled child or someone with supervisory responsibility for a disabled child's welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of a disabled child,

(4) "Repeatedly" means on two or more occasions,

(5) "Supervisory responsibility" means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility may occur in a residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.

**§61-8f-3. Maltreatment of a disabled child; penalties.**

(a) Any person in a position of trust in relation to a disabled child, who has supervisory responsibility over a disabled child, and who repeatedly engages in conduct, verbal or otherwise toward the child in an insulting, demeaning, or threatening manner, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, nor more than \$2,500, or confined in jail not more than one year, or both fined and confined.

(b) The conduct prohibited by this section includes, but is not limited to, behavior of any type intended to humiliate, intimidate, shame, degrade, or cause emotional distress.

(c) Each instance of the conduct prohibited by subsection (a) of this section shall constitute a separate and distinct offense whether directed at one disabled child or multiple disabled children.

**§61-8F-4 Battery and assault of a disabled child.**

(a) Any person in a position of trust to a disabled child, with supervisory responsibility over the child who unlawfully and intentionally makes physical contact of an insulting and provoking nature to the person of the disabled child or unlawfully causes physical harm to the disabled child is guilty of a felony, and upon conviction thereof, shall be fined not more than \$1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Any person in a position of trust in relation to a disabled child, with supervisory responsibility over the child who unlawfully attempts to commit a violent injury to the person of the disabled child or unlawfully commits an act that places the disabled child in reasonable apprehension of immediately receiving a violent injury is guilty of a felony and upon conviction thereof shall be fined not more than \$500 or imprisoned not less than one nor more than three years, or both fined and imprisoned.



**§61-8F-5 Failure to report; obstruction; retaliation; penalties.**

(a) Any person in a position of trust in relation to a disabled child who is subject to the mandatory reporting requirements in §49-2-803 of this code who fails to make a required report regarding a disabled child is guilty of a misdemeanor, and upon conviction shall be confined in jail for not more than one year.

(b) Any person who willfully impedes or obstructs or attempts to impede or obstruct a person in a position of trust in regard to a disabled child from making a report required by §49-2-803 of this code regarding a disabled child is guilty of a felony, and upon conviction thereof be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

(c) Any person who discriminates or retaliates against a person in a position of trust in relation to a disabled child for making a report pursuant to § 49-2-803 of this code regarding a disabled child is guilty of a felony and, upon conviction, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than three years or both fined and imprisoned or both fined and imprisoned.

**§61-8F-6 Specific directives to enhance the safety of disabled children.**

(a) The West Virginia Department of Education in collaboration with the Secretary of Health and Human Resources shall:

(1) On or before January 1, 2023, develop, produce, and disseminate an eight-hour education program for people employed in or to be employed in the care, housing, and education of disabled children as well as their supervisory personnel and administrators. The program shall include, but not be limited to, the legal duties of persons so employed, the behavioral characteristics associated with different disabling conditions, symptoms of disabling conditions and appropriate interventions necessary to support a child in a particular setting. Successful completion of the program shall be

mandatory for state, county, and municipal employees engaged in the care, housing, and education of disabled children as well as their supervisory personnel and administrators on and after July 1, 2023; and

(2) On or before January 1, 2023, investigate the availability and implementation cost of a program for public schools and government operated programs for disabled children which allows parents, guardians, and custodians to remotely view classrooms and other areas where disabled children are taught, housed, or cared for and provide copies of the findings and proposals to the President of the Senate and the Speaker of the House of Delegates prior to the first day of the 2023 Regular Session of the Legislature.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(b) On or before January 1, 2023, the West Virginia Prosecuting Attorney's Institute in collaboration with the Law Enforcement Professional Standards subcommittee on the Governor's Committee on Crime Delinquency and Correction shall develop a three-hour mandatory educational program for prosecuting attorneys and law enforcement officers that offers education:

(1) As to the provisions of this article; and

(2) In the investigation and prosecution of crimes against disabled children.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(c) The State Board of Education shall create a database which identifies school employees who are under active investigation for misconduct towards children into which county boards of education shall report and review when considering employing a person with previous experience in the education system.

**§61-8F-7. Effective dates.**

(a) This section and the provisions of §61-8F-1, §61-8F-2, and §61-8F-6 of this article shall be effective from passage.

(b) The provisions of §61-8F-3, §61-8F-4, and §61-8F-5 shall be effective July 1, 2022.

Engrossed Committee Substitute for House Bill 4600, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4600) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4600**—A Bill to repeal §61-8D-5a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-8F-1, §61-8F-2, § 61-8F-3, §61-8F-4, §61-8F-5, §61-8F-6, and §61-8F-7, all relating to maltreatment of disabled children by persons in a position of trust to them; defining terms; creating misdemeanor and felony offenses and penalties for certain non-physical and physical acts against disabled children; creating

criminal penalty for persons in a position of trust in relation to a disabled child failing to report abuse as a mandatory reporter; creating criminal offenses for obstructing or discriminating against a mandatory reporter of abuse; directing the Secretary of the Department of Health and Human Resources and the West Virginia Department of Education to create a mandatory program for people working with disabled children and to study the viability and implementation of putting in place a system that allows parents and guardians the ability to view their children remotely; directing educational programs specific to crimes against disabled children for prosecutors and law enforcement; establishing dates for compliance; requiring the state department of education to establish a database of persons under active investigation for child abuse required to be reported to by county boards of education; and establishing effective dates.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill 4607**, To remove opioid treatment programs from requiring a certificate of need.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4344, already placed in that position.

**Eng. Com. Sub. for House Bill 4613**, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 11, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Nelson, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.**

**§8-22A-2. Definitions.**

As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:

(a) "Accrued benefit" means on behalf of any member ~~two and six tenths~~ 2.75 percent per year of the member's final average salary for the first 20 years of credited service. Additionally, ~~two~~ 2 percent per year for 21 through 25 years and ~~one~~ 1.5 percent per year for ~~26 through 30~~ each year over 25 years will be credited with a maximum benefit of ~~67~~ 90 percent of a member's final average salary. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §8-22A-10 of this code.

(b) "Accumulated contributions" means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) "Active military duty" means full-time duty in the active military service of the United States Army, Navy, Air Force, Coast Guard or Marine Corps. The term does not include regularly required training or other duty performed by a member of a reserve component or National Guard unless the member can substantiate that he or she was called into the full-time active military service

of the United States and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed on the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of section 415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of employment or services performed during the plan year plus amounts excluded under section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits, or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost-of-living in accordance with §5-10D-7 of this code and section 401(a) (17) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application or the required beginning date, if earlier. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) "Beneficiary" means a natural person who is entitled to, or will be entitled to, an annuity or other benefit payable by the plan.

(i) "Board" means the Consolidated Public Retirement Board.

(j) "Covered employment" means either: (1) Employment as a full-time municipal police officer or firefighter and the active performance of the duties required of that employment; or (2) the period of time during which active duties are not performed but disability benefits are received under this article; or (3) concurrent employment by a municipal police officer or firefighter in a job or jobs in addition to his or her employment as a municipal police officer or firefighter in this plan where the secondary employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: *Provided*, That the police officer or firefighter contributes to the fund created in this article the amount specified as the member's contribution in §8-22A-8 of this code.

(k) "Credited service" means the sum of a member's years of service, active military duty and disability service.

(l) "Dependent child" means either: (1) An unmarried person under age 18 who is: (A) A natural child of the member; (B) a legally adopted child of the member; (C) a child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or (D) a stepchild of the member residing in the member's household at the time of the member's death; or (2) Any unmarried child under age 23: (A) Who is enrolled as a full-time student in an accredited college or university; (B) who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death; and (C) whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

(m) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

(n) "Disability service" means service credit received by a member, expressed in whole years, fractions thereof, or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

(o) "Effective date" means January 1, 2010.

(p) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

~~(p)~~ (q) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly compensation which the member was receiving in the plan year prior to the initial disability. "Final average salary" does not include any lump sum payment for unused, accrued leave of any kind or character.

~~(q)~~ (r) "Full-time employment" means permanent employment of an employee by a participating municipality in a position which normally requires 12 months per year service and requires at least 1,040 hours per year service in that position.

~~(r)~~ (s) "Fund" means the West Virginia Municipal Police Officers and Firefighters Retirement Fund created by this article.

~~(s)~~ (t) "Hour of service" means: (1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are



performed; and (2) each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member may not be credited with any hours of service for any period of time he or she is receiving benefits under §8-22A-17 and §8-22A-18 of this code; and (3) each hour for which back pay is either awarded or agreed to be paid by the employing municipality, irrespective of mitigation of damages. The same hours of service may not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

~~(t)~~ (u) "Member" means, except as provided in §8-22A-32 and §8-22A-33 of this code, a person hired as a municipal police officer or municipal firefighter, as defined in this section, by a participating municipal employer on or after January 1, 2010. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

~~(u)~~ (v) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

~~(v)~~ (w) "Municipality" has the meaning ascribed to it in this code.

~~(w)~~ (x)(1) "Municipal police officer" means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal policemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal policemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal police officer also means an individual employed as a member of a paid

police department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid police department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

(2) "Municipal firefighter" means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal firemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal firemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal firefighter also means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid fire department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

~~(x)~~ (y) "Municipal subdivision" means any separate corporation or instrumentality established by one or more municipalities, as permitted by law; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more municipalities.

~~(y)~~ (z) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

~~(z)~~ (aa) "Normal retirement age" means the first to occur of the following: (1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service; (2) while still in

covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory service equals or exceeds 70 years; (3) while still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or (4) attainment of age 62 years and completion of five or more years of regular contributory service.

~~(aa)~~ (bb) "Plan" means the West Virginia Municipal Police Officers and Firefighters Retirement System established by this article.

~~(bb)~~ (cc) "Plan year" means the 12-month period commencing on January 1 of any designated year and ending the following December 31.

~~(ee)~~ (dd) "Qualified public safety employee" means any employee of a participating state or political subdivision who provides police protection, firefighting services or emergency medical services for any area within the jurisdiction of the state or political subdivision, or such other meaning given to the term by section 72(t) (10) (B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b) (2) (v) as they may be amended from time to time.

~~(dd)~~ (ee) "Regular contributory service" means a member's credited service excluding active military duty, disability service and accrued annual and sick leave service.

~~(ee)~~ (ff) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

~~(ff)~~ (gg) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age ~~70 and one-half~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise separates from covered employment.

~~(gg)~~ (hh) "Retirement income payments" means the monthly retirement income payments payable.

~~(hh)~~ (ji) "Spouse" means the person to whom the member is legally married on the annuity starting date.

~~(ii)~~ (jj) "Surviving spouse" means the person to whom the member was legally married at the time of the member's death and who survived the member.

~~(jj)~~ (kk) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For purposes of this subsection: (1) A member is totally disabled only if his or her physical or mental impairment or impairments ~~is~~ are so severe that he or she is not only unable to perform his or her previous work as a police officer or firefighter but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration; and (2) "Physical or mental impairment" is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a member's annual tax return for purposes of monitoring the earnings limitation.

~~(kk)~~ (ll) "Vested" means eligible for retirement income payments after completion of five or more years of regular contributory service.

~~(ll)~~ (mm) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based on the hours of service performed as covered employment and credited to the member during the plan year based on the following schedule:

Hours of Service	Year of Service Credited
Less than 500	0
500 to 999	1/3
1,000 to 1,499	2/3
1,500 or more	1

During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under §8-22A-17 and §8-22A-18 of this code.

Engrossed Committee Substitute for House Bill 4613, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4613) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4627**, To provide for no more than two licensed laboratories for medical cannabis testing in this state.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **ARTICLE 7. MEDICAL CANNABIS CONTROLS.**

### **§16A-7-4. Laboratory.**

(a) A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

(b) All medical cannabis produced pursuant to this chapter shall be subject to testing as directed by the bureau.

(c) The bureau shall ensure that there is sufficient testing capacity to meet patient demand.

(d) All laboratories providing testing pursuant to this section shall be certified to do so by the Office of Laboratory Services: Provided, That no more than two laboratories in this state may be certified pursuant to this section and any limitation relating to the number of certified laboratories shall terminate on January 1, 2025. Provided, however, that in no event may the two laboratories conspire to fix prices to artificially increase costs for laboratory services and must at all times adhere to the laws, regulations, policies, and guidance regulating medical cannabis programs in the State of West Virginia.

Engrossed House Bill 4627, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Karnes, Martin, and Weld—3.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4627) passed with its title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill 4642**, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on the Judiciary was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

**§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.**

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education,

supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor, or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 and, ~~in the court's discretion~~, the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of



value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

(2) Is not an owner, a shareholder, a director, or an officer of a private entity under the contract;

(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d),

section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under §7-12-1 *et seq.* of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by §7-12-5(a) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by §7-12-5(a) of this code.

(n) It is not a violation of subsection (a) of this section for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal, or teacher of public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence, or control in the award or letting of the contract if:

(1) It is not a contract for services;

(2) The contract has been put out for competitive bid, and the contract is awarded based on lowest cost;

(3) If the party to the contract is in a voting or other decision-making position as to the contract, he or she recuses himself or herself from voting or decision-making; and

(4) The party to the contract has previously obtained a written advisory opinion from the West Virginia Ethics Commission.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4642) was reported by the Clerk and adopted:

On page five, section fifteen, line one hundred, after the word "Commission" by inserting the words "permitting the employee to have a pecuniary interest in the contract".

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Engrossed House Bill 4642, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4642) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 4642**—A Bill to amend and reenact §61-10-15 of the Code of West Virginia, 1931, as amended, relating to pecuniary interest of county employees in contracts where the employee has a voice, influence, or control; making an exception to criminal violation to have a pecuniary interest in a contract where certain criteria are met.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

On motion of Senator Takubo, at 6:49 p.m., the Senate recessed until 7:15 p.m. tonight.

The Senate reconvened at 7:33 p.m.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 231**, Relating generally to broadband connectivity.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Com. Sub. for Senate Bill 247**, Relating to certified community behavioral health clinics.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 463**, Best Interests of Child Protection Act of 2022.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page 1, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

**ARTICLE 9. ALLOCATION OF CUSTODIAL  
RESPONSIBILITY AND DECISION-MAKING  
RESPONSIBILITY OF CHILDREN.**

**§48-9-102. Objectives; best interests of the child.**

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative Parental ~~parental~~ planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, and which is rebuttably presumed to be equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the rebuttable presumption of equal (50-50) custodial allocation.

**§48-91-102a Presumption in favor of equal (50-50) custodial allocation.**

There shall be a presumption, rebuttable by a preponderance of the evidence, that equal (50-50) custodial allocation is in the best interest of the child. If the presumption is rebutted, the court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

**§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~**

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

~~(3) The parents' work and child care schedules for the preceding twelve~~ 12 months;

~~(4)~~(3) The parents' current work and child-care schedules; and

~~(5)~~(4) Any of the ~~circumstances~~ criteria set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence or residences for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(e) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the sworn testimony of the parents and their witnesses presented at the hearing.

(d) Upon request of either parent for an equal (50-50) allocation of physical custody, the presumption provided in §48-1-102a of this code applies.

(e) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon the sworn testimony presented at the hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision: *Provided*, That the doctrine of res judicata or collateral estoppel shall not be applied or construed to preclude the court from making new findings of fact that are different than or contrary to such findings of fact.

(f) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial



allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order: *Provided*, That no stay shall be granted pending resolution of the appeal, and the filing of an interlocutory appeal shall not be the basis of a continuance of any subsequent or final hearing.

(d) (g) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

#### **§48-9-204. Criteria for temporary parenting plan.**

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending. In making this determination, the court shall give particular consideration to:

~~(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and~~

~~(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required

by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a presumption in favor of equal (50-50) physical custody which is rebuttable by a preponderance of the evidence, to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

**§48-9-205. Permanent parenting plan.**

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children;  
and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

**§48-9-206. Allocation of custodial responsibility at final hearing.**

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To (b) The court shall apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.~~

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent;~~

~~including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

(c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(e) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code, and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by proffer~~. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

**§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.**

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any criteria considerations as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

(4) (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's ~~legal~~ parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption ~~the court shall presume~~ that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment, or~~ by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~Provided, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or~~ agreed to by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

**~~§48-9-208. Criteria for parenting plan; Parental dispute resolution.~~**

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201,~~ in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting~~ factor as set forth in ~~section 209 of this article.~~ §48-9-209 of this code.



(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

**§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.**

~~(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:~~ When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering

parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent or another person regularly in the household of the parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising

custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent or a person regularly in the home of the parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against

the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of subsection (a) of this section, may move the court pursuant to subdivision (4), subsection (b), section one hundred and one, article five, chapter forty nine §49-5-101(b)(4)~~ of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty nine §49-5-101(b)(4)~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

- (1) The factors set forth in subdivision (a) of this section;
- (2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing; *Provided*, That the child reaching one year of age shall qualify as a substantial change in circumstances per §48-9-401 of this code; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

(A) Is in arrears or currently noncompliant with a previous order of the court regarding payment of child support payments for another child: *Provided*, That any arrearages or noncompliance that are the result of a mistake or miscalculation by the Bureau of Child Support Enforcement may not be used against the parent as a basis for rebutting the presumption for an equal ("50-50") allocation of physical custody and parenting time;

(B)(A) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

(C)(B) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

(D)(C) Has intentionally avoided or refused involvement or not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

(E) Has professional responsibilities which render him or her unable to devote adequate time to the child;

(F) Has a work schedule that causes the child or children to be in the care of a third party rather than the other available parent;

(G)(E)(D) Does not have a stable housing situation: *Provided*, That a parent's temporary residence with a child in a domestic

violence violation shelter shall not constitute an unsafe housing situation; or

(H)(F)(E) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living or regularly in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided*, That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

(E)(F) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical because of ~~due to~~ the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

**§48-9-401. Modification upon showing of changed circumstances or harm.**

(a) Except as provided in ~~section 9-402 or 9-403~~, §48-9-402 or §48-9-403 of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein~~ in the prior order, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in subsection (a), section 9-209, §48-9-209(a) of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to section 9-209 §48-9-209 of this code, to protect the child or the child's parent.

**§48-9-402. Modification without showing of changed circumstances.**

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in



the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

**§48-9-602. Designation of custody for the purpose of other state and federal statutes.**

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children: Provided, That such claims to state and federal income tax deductions and exemptions for the child or children may alternate between parents year to year.

**§48-9-603. Effect of enactment; operative dates.**

~~(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made~~

~~mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(e) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) (a) The amendments to this chapter made enacted during the 2024<sup>2</sup> session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(b) The amendments to this chapter enacted during the 2022 Regular Legislative Session regular session of the Legislature, 2022, do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.~~

~~(e) (c) The amendments to this chapter enacted during the regular session of the Legislature, 2022, 2022 Regular Legislative Session shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) The amendments to this chapter enacted during the 2022 Regular Legislative Session regular session of the Legislature, 2022, shall be known as the 2022 Best Interest of the Child Act.~~

On motion of Senator Trump, the following amendments to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 463) were reported by the Clerk, considered simultaneously, and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.**

**§48-9-102. Objectives; best interests of the child.**

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative Parental ~~parental~~ planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, and which is rebuttably presumed to be equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the rebuttable presumption of equal (50-50) custodial allocation.

**§48-9-102a Presumption in favor of equal (50-50) custodial allocation.**

There shall be a presumption, rebuttable by a preponderance of the evidence, that equal (50-50) custodial allocation is in the best interest of the child. If the presumption is rebutted, the court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

**§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~**

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

~~(3) The parents' work and child care schedules for the preceding twelve~~ 12 months;

~~(4)~~(3) The parents' current work and child-care schedules; and

~~(5)~~(4) Any of the ~~circumstances~~ criteria set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of

temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence or residences for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the evidence presented at the hearing unless the parties have agreed to proceed by proffer.

(d) Upon request of either parent for an equal (50-50) allocation of physical custody, the presumption provided in §48-1-102a of this code applies.

(e) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon evidence presented at a hearing, as to the reasons

under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision.

(f) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order: *Provided*, That no stay shall be granted pending resolution of the appeal, and the filing of an interlocutory appeal shall not be the basis of a continuance of any subsequent or final hearing.

~~(d)~~ (g) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

#### **§48-9-204. Criteria for temporary parenting plan.**

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last 12 months for performing ~~caretaking and/or~~ parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a presumption in favor of equal (50-50) physical custody which is rebuttable by a preponderance of the evidence, to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

#### **§48-9-205. Permanent parenting plan.**

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:



(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children;  
and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

**§48-9-206. Allocation of custodial responsibility at final hearing.**

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403~~(d)~~ of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

~~(b) (c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.~~

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on~~

~~caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by proffer~~. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

**§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.**

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any criteria considerations as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

~~(4)~~ (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's legal parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment, or~~ by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~Provided, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or~~ agreed to by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

**~~§48-9-208. Criteria for parenting plan; Parental dispute resolution.~~**

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement under section 9-201, in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting~~ factor as set forth in ~~section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

**§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.**

(a) ~~If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:~~ When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with

respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent or another person regularly in the household of the parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent or a person regularly in the home of the parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was



made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of subsection (a) of this section,~~ ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

- (1) The factors set forth in subdivision (a) of this section;
- (2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing; *Provided*, That the child reaching one year of age shall qualify as a substantial change in circumstances per §48-9-401 of this code; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

(A) Is willfully noncompliant with a previous order of the court regarding payment of child support payments for a child or children of the parties;

(B) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

(C) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

(D) Has intentionally avoided or refused involvement or not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

(E) Repeatedly causes the child or children to be in the care of a third party rather than the other parent when he or she is available;

(F) Does not have a stable housing situation: *Provided*, That a parent's temporary residence with a child in a domestic violence ~~violation~~ shelter shall not constitute an unsafe housing situation; or

(G) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living, or regularly in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided*, That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

(F) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical because of ~~due to~~ the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court

determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

**§48-9-401. Modification upon showing of changed circumstances or harm.**

(a) Except as provided in ~~section 9-402 or 9-403~~, §48-9-402 or §48-9-403 of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein~~ in the prior order, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in ~~subsection (a), section 9-209, §48-9-209(a) of this code,~~ after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to ~~section 9-209 §48-9-209 of this code,~~ to protect the child or the child's parent.

**§48-9-402. Modification without showing of changed circumstances.**

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

**§48-9-602. Designation of custody for the purpose of other state and federal statutes.**

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children: Provided, That such claims to state and federal income tax deductions and exemptions for the child or children may be divided equitably between the parents, year to year.

**§48-9-603. Effect of enactment; operative dates.**

(a) ~~The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

(b) ~~The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(e) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) The amendments to this chapter made during the 2021 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

(a) The amendments to this chapter enacted during the 2022 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(b) The amendments to this chapter enacted during the 2022 Regular Legislative Session do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.

(c) The amendments to this chapter enacted during the 2022 Regular Legislative Session shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter enacted during the 2022 Regular Legislative Session shall be known as the 2022 Best Interest of the Child Act.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 463**—A Bill to amend and reenact §48-9-102 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated § 48-1-102a; to amend and reenact §48-9-203, §48-9-204, §48-9-205, §48-9-206, §48-9- 207, §48-9-208, §48-9-209, §48-9-401, §48-9-402, §48-9-602, and §48-9-603 of said code, all relating generally to domestic relations matters; modifying allocation of legal custody and parenting time in domestic relations matters; establishing collaborative parenting as a goal in allocation of custodial responsibility and decision-making; creating a rebuttable presumption that equal custodial allocation is in a child's best interest; requiring specific findings and legal conclusions by the court if equal parenting is not granted; establishing criteria for diverging from equal custodial allocation when it is sought; authorizing interlocutory appeals to the Intermediate Court of Appeals if the family court refuses all physical custody to a parent or denies equal custody when sought; precluding the family court from entering a stay during an interlocutory appeal; requiring consideration of certain factors in developing a temporary parenting plan; ensuring that permanent parenting plans include provisions for financial support of children; requiring court not to consider temporary allocation of physical custody in final order unless parties agreed on temporary terms; removing provisions requiring consideration of terms in temporary orders when drafting final orders; requiring consideration of parents' ability or inability to work together in allocating significant decision-making responsibilities; clarifying considerations for courts in developing or approving parenting plans; setting forth optional considerations for a court in allocating physical custody of a child; authorizing family court to designate which parent is entitled to tax deductions and exemptions equitably on a year to year basis when equal custody is ordered; clarifying that amendments made during regular session of the Legislature, 2022, are prospective; and declaring custodial orders entered prior to the effective date of the amendments to chapter 48 during the regular session of the



Legislature, 2022, remain in full force and effect until judicially modified.

Senator Takubo moved that the Senate concur in the House of Delegates amendment, as amended.

Following discussion,

The question being on the adoption of Senator Takubo's aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 463, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, and Romano—8.

Absent: Plymale and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 463) passed with its Senate amended title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2022, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 493**, Requiring county BOE make meetings available to public in-person and through internet.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 1, immediately following the enacting section by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.**

(a) The county board shall meet upon the dates provided by law, and at any other times the county board fixes upon its records. Subject to adequate public notice, nothing in this section prohibits the county board from conducting regular meetings in facilities within the county other than the county board office. At any meeting as authorized in this section and in compliance with the provisions of chapter 18A of this code, the county board may employ qualified teachers, or those who will qualify by the time they enter upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. Meetings of the county board shall be held in compliance with the provisions of chapter 18A of this code for purposes relating to the assignment, transfer, termination, and dismissal of teachers and other school employees.

(b) In addition to any requirements imposed by §6-9A-1 et seq. of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website: *Provided*, That, if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved. This

subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. If the county board provides opportunity for the public to address the school board at any meeting the county board shall ensure that any person expressing a desire to speak has the opportunity to speak in compliance with the adopted procedures. All members of the public wishing to address the school board on an issue pursuant to policies adopted by the board shall be treated equally.

~~(b)~~ (c) Special meetings may be called by the president or any three members, but no business may be transacted other than that designated in the call.

~~(e)~~ (d) In addition, a public hearing shall be held concerning the preliminary operating budget for the next fiscal year not fewer than 10 days after the budget has been made available to the public for inspection and within a reasonable time prior to the submission of the budget to the state board for approval. Reasonable time shall be granted at the hearing to any person who wishes to speak regarding any part of the budget. Notice of the hearing shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

~~(d)~~ (e) A majority of the members of the county board is the quorum necessary for the transaction of official business.

(f) A draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days after the meeting. After approval, minutes shall remain on the website for at least one year after the meeting.

~~(e)~~ (g) Board members may receive compensation at a rate not to exceed \$160 per meeting attended, but they may not receive pay for more than 50 meetings in any one fiscal year. Board members who serve on an administrative council of a multi-county

vocational center also may receive compensation for attending up to 12 meetings of the council at the same rate as for meetings of the county board. Meetings of the council are not counted as board meetings for purposes of determining the limit on compensable board meetings.

(f) (h) Members also shall be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses, including all authorized meetings, incurred on official business, at the order of the county board.

(g) (i) When, by a majority vote of its members, a county board considers it a matter of public interest, the county board may join the West Virginia School Board Association ~~and the National School Board Association~~ and may pay the dues prescribed by the ~~associations~~ association and approved by action of the respective county boards. Membership dues and actual traveling expenses incurred by board members for attending meetings of the West Virginia School Board Association may be paid by their respective county boards out of funds available to meet actual expenses of the members, but no allowance may be made except upon sworn itemized statements.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 493**—A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to requiring each county board of education to ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website; providing exception for executive session; allowing each county board to make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend; requiring the county board to ensure that any person expressing an interest in speaking has the opportunity in compliance with adopted procedures; requiring that speakers are

treated equally; requiring that a draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days; establishing the duration in which the approved minutes shall remain on the website; and removing the option for a county board to join the National School Board Association.

On motion of Senator Rucker, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 493) were reported by the Clerk, considered simultaneously, and adopted:

On pages one and two, section four, by striking out all of subsection (b) and inserting in lieu thereof a new subsection (b), to read as follows:

(b) In addition to any requirements imposed by §6-9A-1 et seq. of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website. In addition to being available live, each county board also shall ensure that the audio and video is recorded and that the recording is also available through a link on its website: *Provided, That, if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved. This subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.*

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. If the county board provides opportunity for the public to address the school board at any meeting the county board shall ensure that any person expressing a desire to speak has the opportunity to speak in compliance with the adopted procedures. All members of the public wishing to address the school board on an issue pursuant to policies adopted by the board shall be treated equally.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 493**—A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to requiring each county board of education to ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website; requiring each county board to ensure that the audio and video is recorded and that the recording is also available through a link on its website; allowing meeting to continue if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted; providing exception for executive session; allowing each county board to make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend; requiring the county board, if providing opportunity for the public to address the school board at a meeting, to ensure that any person expressing an interest in speaking has the opportunity in compliance with adopted procedures; requiring that speakers are treated equally; requiring that a draft of the minutes of each public board meeting include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days; establishing the duration in which the approved minutes shall remain on the website; and removing the option for a county board to join the National School Board Association.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 493, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover,

Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 493) passed with its Senate amended title.

Senator Takubo moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Beach, Plymale, and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 493) takes effect July 1, 2022.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 543**, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 3, section 23, line 54, by adding a new subsection (g) reading as follows: "Neither the state, a political subdivision, an agency, nor an employee of the state acting in an official capacity may be held personally liable for an act of an investigator employed by the unit if the act or omission was done in good faith while the investigator was performing official duties on behalf of the unit.";

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 543**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-10-23, relating to authorizing the Commissioner of Workforce West Virginia to create an Unemployment Compensation Insurance Fraud Unit; establishing training and experience requirements; specifying duties; granting certain authorities necessary to conduct investigations into alleged unemployment insurance fraud; authorizing certain personnel to operate a state vehicle and carry a firearm; establishing training requirements for carrying a firearm; exempting the Unemployment Compensation Fraud Unit from the requirements of the Freedom of Information Act and the Open Government Proceedings Act; and creating certain immunities for acts of an investigator employed by the unit.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 543) were reported by the Clerk and considered simultaneously:

By striking out everything after the enacting section and inserting in lieu thereof the following:



**ARTICLE 2D. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACT.****§21A-2D-2. Unemployment insurance program integrity.**

The commissioner shall, on a weekly basis, unless otherwise specified: be required to

~~(a)~~ (1) Check the unemployment insurance rolls against the Division of Corrections and Rehabilitation's list of imprisoned individuals to verify eligibility for unemployment benefits and ensure program integrity;

~~(b)~~ (2) Check new hire records against the National Directory of New Hires to verify eligibility for unemployment benefits; ~~and~~

~~(c)~~ (3) Check the unemployment insurance rolls against a commercially available database that provides cross-matching functions to verify eligibility for unemployment benefits;

(4) On a monthly basis, cross-check the unemployment insurance rolls against state death records; and

(5) Verify the identity of unemployment claimants by methods including, but not limited to, verifying the identity of an applicant prior to awarding benefits and requiring multi-factor authentication as part of online applications.

**§21A-2D-2a. Automatic claim review.**

The commissioner shall perform a full eligibility review of suspicious or potentially improper claims in cases including, but not limited to:

(1) Multiple or duplicative claims filed online originating from the same IP address;

(2) Claims filed online from foreign IP addresses;

(3) Multiple or duplicative claims filed that are associated with the same mailing address; and

(4) Multiple or duplicative claims filed that are associated with the same bank account.

### **§21A-2D-3. Data sharing.**

The commissioner ~~shall have the authority to~~ may execute a memorandum of understanding exchange information with any department, agency, or division ~~for information required to be shared between agencies outlined in this article~~ as necessary to carry out the requirements of this article.

## **ARTICLE 3. UNEMPLOYMENT BENEFITS INDEXING.**

### **§21A-3-1. Duration of benefits; calculation.**

(a) For the purposes of this article, "state average unemployment rate" means the average of the seasonally adjusted unemployment rates for the months comprising the previous quarter of the most recent calendar year as published by Workforce West Virginia.

(b) For all valid unemployment compensation claims submitted during a calendar year, the maximum duration of benefits will be as follows:

(1) If the state average unemployment rate is below 5.5 percent, the maximum duration of benefits will be limited to 14 weeks;

(2) If the state average unemployment rate is at or above 5.5 percent, but below 6.0 percent, the maximum duration of benefits will be limited to 15 weeks;

(3) If the state average unemployment rate is at or above 6.0 percent, but below 6.5 percent, the maximum duration of benefits will be limited to 16 weeks;

(4) If the state average unemployment rate is at or above 6.5 percent, but below 7.0 percent, the maximum duration of benefits will be limited to 17 weeks;

(5) If the state average unemployment rate is at or above 7.0 percent, but below 7.5 percent, the maximum duration of benefits will be limited to 18 weeks;

(6) If the state average unemployment rate is at or above 7.5 percent, but below 8.0 percent, the maximum duration of benefits will be limited to 19 weeks;

(7) If the state average unemployment rate is at or above 8.0 percent, but below 8.5 percent, the maximum duration of benefits will be limited to 20 weeks;

(8) If the state average unemployment rate is at or above 8.5 percent, but below 9.0 percent, the maximum duration of benefits will be limited to 21 weeks; and

(9) If the state average unemployment rate is at or above 9.0 percent, the maximum duration of benefits will be limited to 22 weeks.

### **§21A-3-2. Rulemaking.**

Workforce West Virginia shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to implement the provisions of this article.

### **§21A-3-3. Effective date.**

The provisions of §21A-3-1 of this code shall take effect on January 1, 2023.

## **ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.**

### **§21A-6-1. Eligibility qualifications.**

An unemployed individual shall be eligible to receive benefits only if the commissioner finds that:

(1) He or she has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the commissioner;

(2) He or she has made a claim for benefits in accordance with the provisions of ~~article seven of this chapter~~ §21A-7-1 et seq. of this code and has furnished his or her Social Security number, or numbers if he or she has more than one such number;

(3) He or she is able to work and is available for full-time work for which he or she is fitted by prior training or experience and is ~~doing that which a reasonably prudent person in his or her circumstances would do in seeking work~~ actively seeking work as defined in §21A-6-1d of this code;

(4) He or she has been totally or partially unemployed during his or her benefit year for a waiting period of one-week prior to the week for which he or she claims benefits for total or partial unemployment;

(5) He or she has within his or her base period been paid wages for employment equal to not less than \$2,200 and must have earned wages in more than one quarter of his or her base period or, if he or she is not eligible under his or her base period, has within his or her alternative base period been paid wages for employment equal to not less than \$2,200 and must have earned wages in more than one quarter of his or her alternative base period; and

(6) He or she participates in reemployment services as defined in §21A-6-1d of this code, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the commissioner, unless the commissioner determines that:

(A) The individual has completed such services; or

(B) There is justifiable cause for the claimant's failure to participate in such services.

#### **§21A-6-1d. Jobs and Reemployment Act.**

(a) In addition to compliance with all other eligibility requirements, an individual shall be eligible and shall remain eligible for unemployment benefits only if he or she actively seeks,

and continues to seek, work by conducting at least four work search activities weekly, defined as:

(1) Registering for work with the state's labor exchange system, placement firm, temporary work agencies, or educational institution with job placement offices;

(2) Logging on and looking for work in the state's labor exchange or other online job matching system;

(3) Using reemployment services in job centers or completing similar online or self-service activities, including, but not limited to, obtaining and using labor market and career information, participating in Reemployment Services and Eligibility Assessment (RESEA) activities, participating in skills assessment for occupational matching, instructional workshops, or other specialized activities;

(4) Completing job applications for employers that have, or are reasonably expected to have, job openings, or following through on job referrals or job development attempts, as directed by Workforce West Virginia staff;

(5) Applying for or participating in employment and training services provided by partner programs in job centers;

(6) Participating in work-related networking events, such as job clubs, job fairs, industry association events, or networking groups;

(7) Making contacts with, or in-person visits to, employers that have, or are reasonably expected to have, job openings;

(8) Taking a civil service examination;

(9) Going on interviews with employers, either in-person or virtually; or

(10) Performing any other work search activities prescribed or allowed by rules promulgated by Workforce West Virginia.

(b) The commissioner shall:

(1) Require an individual, at the time of application for unemployment benefits and weekly thereafter, to provide proof of all his or her work search activities;

(2) Verify submissions of proof of work search activities by individuals applying for or receiving unemployment benefits; and

(3) Determine any individual who fails to perform work search activities or provide proof of work search activities as required by this section ineligible to receive unemployment benefits unless the individual can reasonably explain his or her failure to do so or timely remedy the failure to provide proof of his or her work search activity.

(c) The commissioner shall have discretion to determine the sufficiency of the proof of work search activities submitted, the explanation of a failure to submit such proof, the provision of such proof after an inaccuracy in the proof provided is identified, and whether an individual has otherwise complied with the requirements of this section.

(d) The commissioner shall, utilizing existing resources:

(1) Establish a process by which Workforce West Virginia will share open positions submitted to or posted by the Division of Personnel or any other state-administered job board by employers directly with individuals applying for or receiving unemployment benefits; and

(2) Establish a process by which, for the purpose of helping individuals applying for or receiving unemployment benefits secure suitable work, Workforce West Virginia shall refer individuals applying for or receiving unemployment benefits to such open positions, including facilitating contact between employers and those individuals and monitoring whether those individuals are sufficiently responsive to a referral.

(e) An individual applying for or receiving unemployment benefits who receives referrals from Workforce West Virginia to a job or jobs considered to be suitable, as that term is defined in this chapter, shall apply for that job or those jobs within one-week of

receiving the referrals and accept employment in suitable work if offered.

(f) Employers shall report the refusal of any individual who is receiving unemployment benefits and who receives job referrals from Workforce West Virginia to accept an offer of employment to the commissioner. The report shall be made in writing in a manner prescribed by the commissioner and shall be signed by the employer. The report shall become part of the file of the individual's claim for benefits.

(g) Individuals receiving unemployment benefits who accept a referral to a part-time open position or otherwise accept part-time employment for which the wages are less than his or her weekly benefit rate shall continue to receive unemployment benefits without reduction for those wages for the duration of his or her benefits period.

(h) With the exception of individuals who have received or been served with a summons for jury duty or are serving on a jury in any court of this state, the United States, or any state of the United States; are receiving vocational training as described in the provisions of §21A-6-4 of this code; or who are members in good standing of a union that refers its members to employment from a union hall, all individuals applying for or receiving unemployment benefits shall be subject to the requirements of this section, including, but not limited to, individuals who are seasonally unemployed or laid off subject to recall by their employer.

(i) Workforce West Virginia shall notify individuals seeking benefits, at the time an initial claim is filed and at any other time during the benefit year that the requirements substantively change, of the obligation to actively seek work. Delivery of the notification shall be made by the method selected by the individual seeking benefits, and may include United States mail, email, online mailbox, or text message. The notification shall include, at a minimum, the types of work search activities that are acceptable; the number of work search activities that are required in any week; the requirement that work search activities be documented; and the

requirement to apply, and accept if offered, suitable jobs referred by the agency.

(j) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to implement the provisions of this section.

(k) Except for the provisions of subsection (j) of this section, the provisions of this section shall become effective January 1, 2023.

### **§21A-6-3. Disqualification for benefits.**

Upon the determination of the facts by the commissioner, an individual is disqualified for benefits:

(1) For the week in which he or she left his or her most recent work voluntarily without good cause involving fault on the part of the employer and until the individual returns to covered employment and has been employed in covered employment at least 30 working days.

For the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer if the individual leaves his or her most recent work with an employer and if he or she in fact, within a 14-day calendar period, does return to employment with the last preceding employer with whom he or she was previously employed within the past year prior to his or her return to work, and which last preceding employer, after having previously employed the individual for 30 working days or more, laid off the individual because of lack of work, which layoff occasioned the payment of benefits under this chapter or could have occasioned the payment of benefits under this chapter had the individual applied for benefits. It is the intent of this paragraph to cause no disqualification for benefits for an individual who complies with the foregoing set of requirements and conditions. Further, for the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer, if the individual was



compelled to leave his or her work for his or her own health-related reasons and notifies the employer prior to leaving the job or within two business days after leaving the job or as soon as practicable and presents written certification from a licensed physician within 30 days of leaving the job that his or her work aggravated, worsened, or will worsen the individual's health problem.

For the purpose of this subdivision, an individual shall not be deemed to have left his or her most recent work voluntarily, without good cause involving fault on the part of the employer, if the individual leaves such employment as a result of being denied a religious or medical exemption to the COVID-19 vaccination by his or her employer.

(2) For the week in which he or she was discharged from his or her most recent work for misconduct and the six weeks immediately following that week; or for the week in which he or she was discharged from his or her last 30-day employing unit for misconduct and the six weeks immediately following that week. The disqualification carries a reduction in the maximum benefit amount equal to six times the individual's weekly benefit. However, if the claimant returns to work in covered employment for 30 days during his or her benefit year, whether or not the days are consecutive, the maximum benefit amount is increased by the amount of the decrease imposed under the disqualification; except that:

If he or she ~~were~~ was discharged from his or her most recent work for one of the following reasons, or if he or she ~~were~~ was discharged from his or her last 30 days employing unit for one of the following reasons: Gross misconduct consisting of willful destruction of his or her employer's property; assault upon the person of his or her employer or any employee of his or her employer; if the assault is committed at the individual's place of employment or in the course of employment; reporting to work in an intoxicated condition, or being intoxicated while at work; reporting to work under the influence of any controlled substance, as defined in ~~chapter 60A §60A-1-1 et seq.~~ of this code without a valid prescription, or being under the influence of any controlled substance, as defined in ~~said chapter §60A-1-1 et seq.~~ of this code

without a valid prescription, while at work; adulterating or otherwise manipulating a sample or specimen in order to thwart a drug or alcohol test lawfully required of an employee; refusal to submit to random testing for alcohol or illegal controlled substances for employees in safety-sensitive positions as defined in §21-1D-2 of this code; violation of an employer's drug-free workplace program; violation of an employer's alcohol-free workplace program; arson, theft, larceny, fraud, or embezzlement in connection with his or her work; or any other gross misconduct, he or she is disqualified for benefits until he or she has thereafter worked for at least 30 days in covered employment: *Provided*, That for the purpose of this subdivision, the words "any other gross misconduct" includes, but is not limited to, any act or acts of misconduct where the individual has received prior written warning that termination of employment may result from the act or acts.

(3) For the week in which he or she failed without good cause to apply for available, suitable work, accept suitable work when offered, or return to his or her customary self-employment when directed to do so by the commissioner, and for the four weeks which immediately follow for such additional period as any offer of suitable work shall continue open for his or her acceptance. The disqualification carries a reduction in the maximum benefit amount equal to four times the individual's weekly benefit amount.

(4) For any week or portion thereof in which he or she did not work as a result of:

(a) A strike or other bona fide labor dispute which caused him or her to leave or lose his or her employment.

(b) A lockout is not a strike or a bona fide labor dispute and no individual may be denied benefits by reason of a lockout. However, the operation of a facility by nonstriking employees of the company, contractors, or other personnel is not a reason to grant employees of the company on strike unemployment compensation benefit payments. If the operation of a facility is with workers hired to permanently replace the employees on strike, the employees would be eligible for benefits.

(c) For the purpose of this subsection, an individual shall be determined to leave or lose his or her employment by reason of a lockout where the individual employee has established that: (i) The individual presented himself or herself physically for work at the workplace on the first day of such lockout or on the first day he or she is able to present himself or herself at the workplace ~~or herself~~; and (ii) the employer denied the individual the opportunity to perform work.

(d) For purposes of this subsection, an individual is determined to be permanently replaced where the individual employee establishes that: (i) He or she is currently employed by an employer who is the subject of a strike or other bona fide labor dispute; and (ii) the position of the employee has been occupied by another employee who has been notified they are permanently replacing the employee who previously occupied the position. Employees or contractors who are hired to perform striking employees' work on a temporary basis, such as the duration of a strike or other bona fide labor dispute, or a shorter period of time, may not be determined to have permanently replaced a striking employee.

(5) For a week with respect to which he or she is receiving or has received:

(a) Wages in lieu of notice;

(b) Compensation for temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(c) Unemployment compensation benefits under the laws of the United States or any other state.

(6) For the week in which an individual has voluntarily quit employment to marry or to perform any marital, parental, or family duty, or to attend to his or her personal business or affairs and until the individual returns to covered employment and has been employed in covered employment at least 30 working days: *Provided*, That an individual who has voluntarily quit employment to accompany a spouse serving in active military service who has

been reassigned from one military assignment to another is not disqualified for benefits pursuant to this subdivision: *Provided, however,* That the account of the employer of an individual who leaves the employment to accompany a spouse reassigned from one military assignment to another may not be charged.

(7) Benefits may not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the later of the seasons (or similar periods).

(8) (a) Benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act): *Provided,* That any modifications to the provisions of Section 3304(a)(14) of the federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date than stated in this subdivision for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act are applicable under the provisions of this section.

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the

individual are not payable because of his or her alien status may be made except upon a preponderance of the evidence.

(9) For each week in which an individual is unemployed because, having voluntarily left employment to attend a school, college, university, or other educational institution, he or she is attending that school, college, university, or other educational institution, or is awaiting entrance thereto or is awaiting the starting of a new term or session thereof, and until the individual returns to covered employment.

(10) For each week in which he or she is unemployed because of his or her request, or that of his or her duly authorized agent, for a vacation period at a specified time that would leave the employer no other alternative but to suspend operations.

(11) In the case of an individual who accepts an early retirement incentive package, unless he or she: (i) Establishes a well-grounded fear of imminent layoff supported by definitive objective facts involving fault on the part of the employer; and (ii) establishes that he or she would suffer a substantial loss by not accepting the early retirement incentive package.

(12) For each week with respect to which he or she is receiving or has received benefits under Title II of the Social Security Act or similar payments under any Act of Congress, or remuneration in the form of an annuity, pension, or other retirement pay from a base period employer or chargeable employer or from any trust or fund contributed to by a base period employer or chargeable employer or any combination of the above, the weekly benefit amount payable to the individual for that week shall be reduced (but not below zero) by the prorated weekly amount of those benefits, payments, or remuneration: *Provided*, That if the amount of benefits is not a multiple of \$1, it shall be computed to the next lowest multiple of \$1: *Provided, however*, That there is no disqualification if in the individual's base period there are no wages which were paid by the base period employer or chargeable employer paying the remuneration, or by a fund into which the employer has paid during the base period: *Provided further*, That notwithstanding any other provision of this subdivision to the

contrary, the weekly benefit amount payable to the individual for that week may not be reduced by any retirement benefits he or she is receiving or has received under Title II of the Social Security Act or similar payments under any Act of Congress. A claimant may be required to certify as to whether or not he or she is receiving or has been receiving remuneration in the form of an annuity, pension, or other retirement pay from a base period employer or chargeable employer or from a trust fund contributed to by a base period employer or chargeable employer.

(13) For each week in which and for 52 weeks thereafter, beginning with the date of the decision, if the commissioner finds the individual who within 24 calendar months immediately preceding the decision, has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this article: *Provided*, That disqualification under this subdivision does not preclude prosecution under §21A-10-7 of this code.

**§21A-6-10. Benefit rate — Total unemployment; annual computation and publication of rates.**

(a) Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in Column (C) in the benefit table in this section, on the line on which in Column (A) there is indicated the employee's wage class, except as otherwise provided under the term "total and partial unemployment" in §21A-1A-27 of this code. The employee's wage class shall be determined by his or her base period wages as shown in Column (B) in the benefit table. The right of an employee to receive benefits ~~shall~~ may not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages. An individual who is totally unemployed but earns in excess of \$60 as a result of odd job or subsidiary work, or is paid a bonus in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.

(b) (1) The maximum benefit for each wage class shall be equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1.

(2) The maximum benefit rate shall be 66 and two-thirds percent of the average weekly wage in West Virginia.

(c) On July 1 of each year, the commissioner shall determine the maximum weekly benefit rate upon the basis of the formula set forth above and shall establish wage classes as are required, increasing or decreasing the amount of the base period wages required for each wage class by \$150, establishing the weekly benefit rate for each wage class by rounded dollar amount to be 55 percent of one fifty-second of the median dollar amount of wages in the base period for such wage class and establishing the maximum benefit for each wage class as an amount equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1: *Provided*, That the commissioner ~~shall~~ may not increase or decrease the maximum weekly benefit rate for the period beginning on the effective date of the amendment and reenactment of this section in the regular session of the Legislature in 2009 until the threshold wage is reduced to \$9,000, as required by §21A-1A-28(d) of this code. The maximum weekly benefit rate, when computed by the commissioner, in accordance with the foregoing provisions, shall be rounded to the next lowest multiple of \$1.

(d) After he or she has established ~~such~~ the wage classes, the commissioner shall prepare and publish a table setting forth ~~such~~ that information.

(e) Average weekly wage shall be computed by dividing the number of employees in West Virginia earning wages in covered employment into the total wages paid to employees in West Virginia in covered employment, and by further dividing ~~said~~ the result by 52, and shall be determined from employer wage and contribution reports for the previous calendar year which are furnished to the department on or before June 1 following such

calendar year. The average weekly wage, as determined by the commissioner, shall be rounded to the next higher dollar.

(f) The computation and determination of rates as aforesaid shall be completed annually before July 1 and any such new wage class, with its corresponding wages in base period, weekly benefit rate, and maximum benefit in a benefit year established by the commissioner in the foregoing manner effective on July 1 shall apply only to a new claim established by a claimant on and after July 1, and does not apply to continued claims of a claimant based on his or her new claim established before said July 1.

### BENEFIT TABLE

A	B	C	
WAGE CLASS	WAGES IN BASE PERIOD	WEEKLY BENEFIT RATE	<del>MAXIMUM BENEFIT RATE</del>
	Under \$ 2,200.00	Ineligible	
1	\$ 2,200.00 - 2,359.99	24.00	<del>624.00</del>
2	2,350.00 - 2,499.99	25.00	<del>650.00</del>
3	2,500.00 - 2,649.99	27.00	<del>702.00</del>
4	2,650.00 - 2,799.99	28.00	<del>728.00</del>
5	2,800.00 - 2,949.99	30.00	<del>780.00</del>
6	2,950.00 - 3,099.99	31.00	<del>806.00</del>
7	3,100.00 - 3,249.99	33.00	<del>858.00</del>
8	3,250.00 - 3,399.99	35.00	<del>910.00</del>
9	3,400.00 - 3,549.99	36.00	<del>936.00</del>
10	3,550.00 - 3,699.99	38.00	<del>988.00</del>
11	3,700.00 - 3,849.99	39.00	<del>1,014.00</del>
12	3,850.00 - 3,999.99	41.00	<del>1,066.00</del>
13	4,000.00 - 4,149.99	43.00	<del>1,118.00</del>
14	4,150.00 - 4,299.99	44.00	<del>1,144.00</del>
15	4,300.00 - 4,449.99	46.00	<del>1,196.00</del>
16	4,450.00 - 4,599.99	47.00	<del>1,222.00</del>
17	4,600.00 - 4,749.99	49.00	<del>1,274.00</del>
18	4,750.00 - 4,899.99	51.00	<del>1,326.00</del>
19	4,900.00 - 5,049.99	52.00	<del>1,352.00</del>
20	5,050.00 - 5,199.99	54.00	<del>1,404.00</del>
21	5,200.00 - 5,349.99	55.00	<del>1,430.00</del>
22	5,350.00 - 5,499.99	57.00	<del>1,482.00</del>
23	5,500.00 - 5,649.99	58.00	<del>1,508.00</del>
24	5,650.00 - 5,799.99	60.00	<del>1,560.00</del>
25	5,800.00 - 5,949.99	62.00	<del>1,612.00</del>
26	5,950.00 - 6,099.99	63.00	<del>1,638.00</del>
27	6,100.00 - 6,249.99	65.00	<del>1,690.00</del>



28	6,250.00	-	6,399.99	66.00	1,716.00
29	6,400.00	-	6,549.99	68.00	1,768.00
30	6,550.00	-	6,699.99	70.00	1,820.00
31	6,700.00	-	6,849.99	71.00	1,846.00
32	6,850.00	-	6,999.99	73.00	1,898.00
33	7,000.00	-	7,149.99	74.00	1,924.00
34	7,150.00	-	7,299.99	76.00	1,976.00
35	7,300.00	-	7,449.99	78.00	2,028.00
36	7,450.00	-	7,599.99	79.00	2,054.00
37	7,600.00	-	7,749.99	81.00	2,106.00
38	7,750.00	-	7,899.99	82.00	2,132.00
39	7,900.00	-	8,049.99	84.00	2,184.00
40	8,050.00	-	8,199.99	85.00	2,210.00
41	8,200.00	-	8,349.99	87.00	2,262.00
42	8,350.00	-	8,499.99	89.00	2,314.00
43	8,500.00	-	8,649.99	90.00	2,340.00
44	8,650.00	-	8,799.99	92.00	2,392.00
45	8,800.00	-	8,949.99	93.00	2,418.00
46	8,950.00	-	9,099.99	95.00	2,470.00
47	9,100.00	-	9,249.99	97.00	2,522.00
48	9,250.00	-	9,399.99	98.00	2,548.00
49	9,400.00	-	9,549.99	100.00	2,600.00
50	9,550.00	-	9,699.99	101.00	2,626.00
51	9,700.00	-	9,849.99	103.00	2,678.00
52	9,850.00	-	9,999.99	104.00	2,704.00
53	10,000.00	-	10,149.99	106.00	2,756.00
54	10,150.00	-	10,299.99	108.00	2,808.00
55	10,300.00	-	10,449.99	109.00	2,834.00
56	10,450.00	-	10,599.99	111.00	2,886.00
57	10,600.00	-	10,749.99	112.00	2,912.00
58	10,750.00	-	10,899.99	114.00	2,964.00
59	10,900.00	-	11,049.99	116.00	3,016.00
60	11,050.00	-	11,199.99	117.00	3,042.00
61	11,200.00	-	11,349.99	119.00	3,094.00
62	11,350.00	-	11,499.99	120.00	3,120.00
63	11,500.00	-	11,649.99	122.00	3,172.00
64	11,650.00	-	11,799.99	124.00	3,224.00
65	11,800.00	-	11,949.99	125.00	3,250.00
66	11,950.00	-	12,099.99	127.00	3,302.00
67	12,100.00	-	12,249.99	128.00	3,328.00
68	12,250.00	-	12,399.99	130.00	3,380.00
69	12,400.00	-	12,549.99	131.00	3,406.00
70	12,550.00	-	12,699.99	133.00	3,458.00
71	12,700.00	-	12,849.99	135.00	3,510.00
72	12,850.00	-	12,999.99	136.00	3,536.00
73	13,000.00	-	13,149.99	138.00	3,588.00
74	13,150.00	-	13,299.99	139.00	3,614.00
75	13,300.00	-	13,449.99	141.00	3,666.00
76	13,450.00	-	13,599.99	143.00	3,718.00
77	13,600.00	-	13,749.99	144.00	3,744.00

78	13,750.00	-	13,899.99	146.00	3,796.00
79	13,900.00	-	14,049.99	147.00	3,822.00
80	14,050.00	-	14,199.99	149.00	3,874.00
81	14,200.00	-	14,349.99	150.00	3,900.00
82	14,350.00	-	14,499.99	152.00	3,952.00
83	14,500.00	-	14,649.99	154.00	4,004.00
84	14,650.00	-	14,799.99	155.00	4,030.00
85	14,800.00	-	14,949.99	157.00	4,082.00
86	14,950.00	-	15,099.99	158.00	4,108.00
87	15,100.00	-	15,249.99	160.00	4,160.00
88	15,250.00	-	15,399.99	162.00	4,212.00
89	15,400.00	-	15,549.99	163.00	4,238.00
90	15,550.00	-	15,699.99	165.00	4,290.00
91	15,700.00	-	15,849.99	166.00	4,316.00
92	15,850.00	-	15,999.99	168.00	4,368.00
93	16,000.00	-	16,149.99	170.00	4,420.00
94	16,150.00	-	16,299.99	171.00	4,446.00
95	16,300.00	-	16,449.99	173.00	4,498.00
96	16,450.00	-	16,599.99	174.00	4,524.00
97	16,600.00	-	16,749.99	176.00	4,576.00
98	16,750.00	-	16,899.99	177.00	4,602.00
99	16,900.00	-	17,049.99	179.00	4,654.00
100	17,050.00	-	17,199.99	181.00	4,706.00
101	17,200.00	-	17,349.99	182.00	4,732.00
102	17,350.00	-	17,499.99	184.00	4,784.00
103	17,500.00	-	17,649.99	185.00	4,810.00
104	17,650.00	-	17,799.99	187.00	4,862.00
105	17,800.00	-	17,949.99	189.00	4,914.00
106	17,950.00	-	18,099.99	190.00	4,940.00
107	18,100.00	-	18,249.99	192.00	4,992.00
108	18,250.00	-	18,399.99	193.00	5,018.00
109	18,400.00	-	18,549.99	195.00	5,070.00
110	18,550.00	-	18,699.99	196.00	5,096.00
111	18,700.00	-	18,849.99	198.00	5,148.00
112	18,850.00	-	18,999.99	200.00	5,200.00
113	19,000.00	-	19,149.99	201.00	5,226.00
114	19,150.00	-	19,299.99	203.00	5,278.00
115	19,300.00	-	19,449.99	204.00	5,304.00
116	19,450.00	-	19,599.99	206.00	5,356.00
117	19,600.00	-	19,749.99	208.00	5,408.00
118	19,750.00	-	19,899.99	209.00	5,434.00
119	19,900.00	-	20,049.99	211.00	5,486.00
120	20,050.00	-	20,199.99	212.00	5,512.00
121	20,200.00	-	20,349.99	214.00	5,564.00
122	20,350.00	-	20,499.99	216.00	5,616.00
123	20,500.00	-	20,649.99	217.00	5,642.00
124	20,650.00	-	20,799.99	219.00	5,694.00
125	20,800.00	-	20,949.99	220.00	5,720.00
126	20,950.00	-	21,099.99	222.00	5,772.00
127	21,100.00	-	21,249.99	223.00	5,798.00

128	21,250.00 - 21,399.99	225.00	5,850.00
129	21,400.00 - 21,549.99	227.00	5,902.00
130	21,550.00 - 21,699.99	228.00	5,928.00
131	21,700.00 - 21,849.99	230.00	5,980.00
132	21,850.00 - 21,999.99	231.00	6,006.00
133	22,000.00 - 22,149.99	233.00	6,058.00
134	22,150.00 - 22,299.99	235.00	6,110.00
135	22,300.00 - 22,449.99	236.00	6,136.00
136	22,450.00 - 22,599.99	238.00	6,188.00
137	22,600.00 - 22,749.99	239.00	6,214.00
138	22,750.00 - 22,899.99	241.00	6,266.00
139	22,900.00 - 23,049.99	243.00	6,318.00
140	23,050.00 - 23,199.99	244.00	6,344.00
141	23,200.00 - 23,349.99	246.00	6,396.00
142	23,350.00 - 23,499.99	247.00	6,422.00
143	23,500.00 - 23,649.99	249.00	6,474.00
144	23,650.00 - 23,799.99	250.00	6,500.00
145	23,800.00 - 23,949.99	252.00	6,552.00
146	23,950.00 - 24,099.99	254.00	6,604.00
147	24,100.00 - 24,249.99	255.00	6,630.00
148	24,250.00 - 24,399.99	257.00	6,682.00
149	24,400.00 - 24,549.99	258.00	6,708.00
150	24,550.00 - 24,699.99	260.00	6,760.00
151	24,700.00 - 24,849.99	262.00	6,812.00
152	24,850.00 - 24,999.99	263.00	6,838.00
153	25,000.00 - 25,149.99	265.00	6,890.00
154	25,150.00 - 25,299.99	266.00	6,916.00
155	25,300.00 - 25,449.99	268.00	6,968.00
156	25,450.00 - 25,599.99	269.00	6,994.00
157	25,600.00 - 25,749.99	271.00	7,046.00
158	25,750.00 - 25,899.99	273.00	7,098.00
159	25,900.00 - 26,049.99	274.00	7,124.00
160	26,050.00 - 26,199.99	276.00	7,176.00
161	26,200.00 - 26,349.99	277.00	7,202.00
162	26,350.00 - 26,499.99	279.00	7,254.00
163	26,500.00 - 26,649.99	281.00	7,306.00
164	26,650.00 - 26,799.99	282.00	7,332.00
165	26,800.00 - 26,949.99	284.00	7,384.00
166	26,950.00 - 27,099.99	285.00	7,410.00
167	27,100.00 - 27,249.99	287.00	7,462.00
168	27,250.00 - 27,399.99	289.00	7,514.00
169	27,400.00 - 27,549.99	290.00	7,540.00
170	27,550.00 - 27,699.99	292.00	7,592.00
171	27,700.00 - 27,849.99	293.00	7,618.00
172	27,850.00 - 27,999.99	295.00	7,670.00
173	28,000.00 - 28,149.99	296.00	7,696.00
174	28,150.00 - 28,299.99	298.00	7,748.00
175	28,300.00 - 28,449.99	300.00	7,800.00
176	28,450.00 - 28,599.99	301.00	7,826.00
177	28,600.00 - 28,749.99	303.00	7,878.00

178	28,750.00 - 28,899.99	304.00	7,904.00
179	28,900.00 - 29,049.99	306.00	7,956.00
180	29,050.00 - 29,199.99	308.00	8,008.00
181	29,200.00 - 29,349.99	309.00	8,034.00
182	29,350.00 - 29,499.99	311.00	8,086.00
183	29,500.00 - 29,649.99	312.00	8,112.00
184	29,650.00 - 29,799.99	314.00	8,164.00
185	29,800.00 - 29,949.99	315.00	8,190.00
186	29,950.00 - 30,099.99	317.00	8,242.00
187	30,100.00 - 30,249.99	319.00	8,294.00
188	30,250.00 - 30,399.99	320.00	8,320.00
189	30,400.00 - 30,549.99	322.00	8,372.00
190	30,550.00 - 30,699.99	323.00	8,398.00
191	30,700.00 - 30,849.99	325.00	8,450.00
192	30,850.00 - 30,999.99	327.00	8,502.00
193	31,000.00 - 31,149.99	328.00	8,528.00
194	31,150.00 - 31,299.99	330.00	8,580.00
195	31,300.00 - 31,449.99	331.00	8,606.00
196	31,450.00 - 31,599.99	333.00	8,658.00
197	31,600.00 - 31,749.99	335.00	8,710.00
198	31,750.00 - 31,899.99	336.00	8,736.00
199	31,900.00 - 32,049.99	338.00	8,788.00
200	32,050.00 - 32,199.99	339.00	8,814.00
201	32,200.00 - 32,349.99	341.00	8,866.00
202	32,350.00 - 32,499.99	342.00	8,892.00
203	32,500.00 - 32,649.99	344.00	8,944.00
204	32,650.00 - 32,799.99	346.00	8,996.00
205	32,800.00 - 32,949.99	347.00	9,022.00
206	32,950.00 - 33,099.99	349.00	9,074.00
207	33,100.00 - 33,249.99	350.00	9,100.00
208	33,250.00 - 33,399.99	352.00	9,152.00
209	33,400.00 - 33,549.99	354.00	9,204.00
210	33,550.00 - 33,699.99	355.00	9,230.00
211	33,700.00 - 33,849.99	357.00	9,282.00
212	33,850.00 - 33,999.99	358.00	9,308.00
213	34,000.00 - 34,149.99	360.00	9,360.00
214	34,150.00 - 34,299.99	361.00	9,386.00
215	34,300.00 - 34,449.99	363.00	9,438.00
216	34,450.00 - 34,599.99	365.00	9,490.00
217	34,600.00 - 34,749.99	366.00	9,516.00
218	34,750.00 - 34,899.99	368.00	9,568.00
219	34,900.00 - 35,049.99	369.00	9,594.00
220	35,050.00 - 35,199.99	371.00	9,646.00
221	35,200.00 - 35,349.99	373.00	9,698.00
222	35,350.00 - 35,499.99	374.00	9,724.00
223	35,500.00 - 35,649.99	376.00	9,776.00
224	35,650.00 - 35,799.99	377.00	9,802.00
225	35,800.00 - 35,949.99	379.00	9,854.00
226	35,950.00 - 36,099.99	381.00	9,906.00
227	36,100.00 - 36,249.99	382.00	9,932.00

228	36,250.00 - 36,399.99	384.00	9,984.00
229	36,400.00 - 36,549.99	385.00	10,010.00
230	36,550.00 - 36,699.99	387.00	10,062.00
231	36,700.00 - 36,849.99	388.00	10,088.00
232	36,850.00 - 36,999.99	390.00	10,140.00
233	37,000.00 - 37,149.99	392.00	10,192.00
234	37,150.00 - 37,299.99	393.00	10,218.00
235	37,300.00 - 37,449.99	395.00	10,270.00
236	37,450.00 - 37,599.99	396.00	10,296.00
237	37,600.00 - 37,749.99	398.00	10,348.00
238	37,750.00 - 37,899.99	400.00	10,400.00
239	37,900.00 - 38,049.99	401.00	10,426.00
240	38,050.00 - 38,199.99	403.00	10,478.00
241	38,200.00 - 38,349.99	404.00	10,504.00
242	38,350.00 - 38,499.99	406.00	10,556.00
243	38,500.00 - 38,649.99	408.00	10,608.00
244	38,650.00 - 38,799.99	409.00	10,634.00
245	38,800.00 - 38,949.99	411.00	10,686.00
246	38,950.00 - 39,099.99	412.00	10,712.00
247	39,100.00 - 39,249.99	414.00	10,764.00
248	39,250.00 - 39,399.99	415.00	10,790.00
249	39,400.00 - 39,549.99	417.00	10,842.00
250	39,550.00 - 39,699.99	419.00	10,894.00
251	39,700.00 - 39,849.99	420.00	10,920.00
252	39,850.00 - 39,999.99	422.00	10,972.00
253	40,000.00 - 40,149.99	423.00	10,998.00
254	40,150.00 - and above	424.00	11,024.00

## ARTICLE 10. GENERAL PROVISIONS.

### §21A-10-23. Creation of Unemployment Compensation Insurance Fraud Unit; purpose; duties; and personnel qualifications.

(a) There is hereby established the West Virginia Unemployment Compensation Insurance Fraud Unit within the offices of the commissioner. The commissioner may employ full-time supervisory, legal, and investigative personnel for the unit who shall be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud within and against the unemployment compensation system. The director of the unit is a full-time position and shall be appointed by the commissioner and serve at his or her will and pleasure. The director shall be a certified fraud investigator with experience in computer technology. The commissioner shall provide office space, equipment, and supplies, and shall employ and train personnel.

including legal counsel, investigators, auditors, and clerical staff necessary for the unit to carry out its duties and responsibilities under this article as the commissioner determines is necessary.

(b) The unit shall:

(1) Initiate inquiries and conduct investigations when the unit has reasonable cause to believe violations of any provisions of chapter 21A of this code, West Virginia Unemployment Compensation Insurance Law are occurring, or have occurred;

(2) Review reports or complaints of alleged fraud related to the business of unemployment compensation insurance activities from federal, state, and local law-enforcement and regulatory agencies, persons engaged in the business of insurance, and the general public to determine whether the reports require further investigation;

(3) Conduct independent examinations of alleged fraudulent activity related to the business of unemployment compensation insurance and undertake independent studies to determine the extent of fraudulent insurance acts; and

(4) Perform any other duties related to the purposes of this article assigned to it by the commissioner.

(c) The unit may:

(1) Inspect, copy, or collect records and evidence;

(2) Serve subpoenas issued pursuant to §21A-2-21 of this code;

(3) Administer oaths and affirmations;

(4) Share records and evidence with federal, state, or local law-enforcement or regulatory agencies, and enter into interagency agreements. For purposes of carrying out investigations under this article, the unit shall be considered a criminal justice agency under all federal and state laws, regulations, and rules and as such shall have access to any information that is available to other criminal justice agencies concerning violations of the unemployment

compensation insurance laws of West Virginia or related criminal laws;

(5) Make criminal referrals to the county prosecutors; and

(6) Conduct investigations outside this state. If the information the unit seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the unit to examine at the place where the information is located. The unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the unit, and may respond to similar requests from officials of other states.

(d) Specific personnel of the unit designated by the commissioner may operate vehicles owned or leased for the state displaying Class A registration plates.

(e) Notwithstanding any provision of this code to the contrary, specific personnel of the unit designated by the commissioner may carry firearms in the course of their official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency, and Correction, which shall include the successful completion of handgun training provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in this subsection shall be construed to include any person designated by the commissioner as a law-enforcement officer as that term is defined by the provisions of §30-29-1 of this code.

(f) The unit is not subject to the provisions of §6-9A-1 *et seq.* of this code, and the investigations conducted by the unit and the materials placed in the files of the unit as a result of any investigation are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code.

(g) Neither the state, a political subdivision, an agency, nor an employee of the state acting in an official capacity may be held personally liable for an act of an investigator employed by the unit

if the act or omission was done in good faith while the investigator was performing official duties on behalf of the unit.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 543**—A Bill to amend and reenact §21A-2D-2 and §21A-2D-3 of the Code of West Virginia, 1931, as amended, as contained in Chapter 273, Acts of the Legislature, Regular Session, 2021; to amend said code by adding thereto a new section, designated §21A-2D-2a; to amend said code by adding thereto a new article, designated §21A-3-1, §21A-3-2 and §21A-3-3; to amend and reenact §21A-6-1, §21A-6-3 and §21A-6-10 of said code; to amend said code by adding thereto a new section, designated §21A-6-1d; and to amend said code by adding thereto a new section, designated §21A-10-23, all relating to unemployment compensation generally; indexing unemployment benefits based on the state average unemployment rate; providing for calculating maximum benefit rate; modifying benefit table consistent with adoption of indexing; requiring Workforce West Virginia Commissioner take certain actions to verify unemployment insurance claim program integrity; requiring commissioner to review suspicious or potentially improper claims under certain circumstances; defining state average unemployment rate; limiting the maximum duration of unemployment benefits based on the state average unemployment rate; requiring Workforce West Virginia to promulgate legislative rules; establishing internal effective dates; reducing maximum benefit for each wage class; requiring work search activities to qualify for unemployment benefits; defining what constitutes work search activities; mandating submittal of proof of work search activities; providing for verification of work search activities; granting commissioner of Workforce West Virginia discretion in verification of work search activities; mandating establishment of process to refer individuals seeking unemployment benefits to job opportunities; requiring individuals receiving referrals to suitable work to apply for and accept that work; mandating employers to report refusal of offer of employment to commissioner; allowing



individuals who accept part-time employment to receive unemployment benefits without reduction for wages under certain circumstances; making certain individuals applying for or receiving unemployment benefits exempt from work search requirements; establishing process for notification of work search activity requirements; authorizing the receipt of unemployment benefits by an otherwise eligible person who has left employment due to his or her employer denying his or her request for a medical or religious exemption regarding a COVID-19 vaccination requirement; establishing training and experience requirements; specifying duties; granting certain authorities necessary to conduct investigations into alleged unemployment insurance fraud; authorizing certain personnel to operate a state vehicle and carry a firearm; establishing training requirements for carrying a firearm; exempting the Unemployment Compensation Fraud Unit from the requirements of the Freedom of Information Act and the Open Government Proceedings Act; and creating immunities for acts of an investigator employed by the unit.

Senator Baldwin arose to a point of order that Senator Takubo's amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 543) were not germane to the bill.

Which point of order, the President ruled not well taken.

Senator Baldwin requested that the bill be read fully and distinctly.

The question now being on the adoption of Senator Takubo's amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

Senator Takubo then moved that the Senate concur in the House of Delegates amendments, as amended.

The question being on the adoption of Senator Takubo's aforesated motion, the same was put.

The result of the voice vote being inconclusive, Senator Romano demanded a division of the vote.

A standing vote being taken, there were 19 "yeas" and 11 "nays".

Whereupon, the President declared Senator Takubo's motion that the Senate concur in the House of Delegates amendments, as amended, had prevailed.

Engrossed Committee Substitute for Senate Bill 543, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—20.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Grady, Hamilton, Jeffries, Lindsay, Romano, and Stollings—11.

Absent: Plymale, Smith, and Woelfel—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 543) passed with its Senate amended title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 610**, Relating to duties, powers and responsibilities of DOT Secretary.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 693**, Clarifying meeting voting requirements for political party executive committees.

The Senate 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 4667**, Prohibition on county, city, or municipality restrictions on advanced air mobility aircraft.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

At the request of Senator Swope, as chair of the Committee on Economic Development, and by unanimous consent, the unreported Economic Development committee amendment to the bill was withdrawn.

At the request of Senator Weld, as vice chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF  
1985.**

**ARTICLE 2. DEPARTMENT OF ECONOMIC  
DEVELOPMENT.**

**§5B-2-18. West Virginia Uncrewed Aircraft Systems Advisory  
Council.**

(a) The West Virginia Uncrewed Aircraft Systems Advisory Council is hereby created within the Department of Economic Development.

(b) The council consists of the following nine members, including the chairperson:

(1) The Secretary of the Department of Economic Development or his or her designee, ex officio, who shall serve as

the chair of the council, and who shall vote when necessary in the event the appointed members of the council become deadlocked;

(2) The following eight members shall be appointed by the Governor and serve at his or her will and pleasure:

(A) One member representing the Secretary of the Department of Transportation;

(B) One member from the Adjutant General's Department;

(C) One member representing the uncrewed aircraft system industry with at least five years of experience operating an uncrewed aircraft;

(D) One member representing a national association of the uncrewed aerial vehicle industry;

(E) One member with experience managing a commercial services airport;

(F) One member representing business and industry, generally;

(G) One member representing academia; and

(H) One member representing the advanced air mobility industry developing human transit capabilities.

(3) Members of the council will receive no compensation but are entitled to reimbursement for mileage expenses while attending meetings of the committee to the extent that funds are available through the Department of Economic Development.

(c) The council shall:

(1) Identify trends and technologies driving innovation in uncrewed aircraft systems;

(2) Develop comprehensive strategies, including, but not limited to, the promotion of research and development, education, economic growth, and jobs in the uncrewed aircraft system industry in West Virginia; public acceptance of the uncrewed

aircraft system industry; business planning; air vehicle technology and manufacturing; and airspace management and national airspace system integration; and

(3) Develop recommended legislation addressing specific issues and in furtherance of the comprehensive strategies identified in subdivision (2), subsection (c) of this section.

(d) The council shall meet at least annually and may convene public meetings to gather information or receive public comments.

(e) The council shall report on the status of its duties, goals, accomplishments, and recommendations to the Legislature on at least an annual basis.

**§5B-2-18a. Applicability of federal laws and Federal Aviation Administration regulations; permissible use of uncrewed aircraft.**

(a) Notwithstanding any provision of this article to the contrary, any person or entity operating an uncrewed aircraft system may do so in compliance with applicable federal law and applicable regulations of the Federal Aviation Administration.

(b) Except as authorized by law, a political subdivision of the state shall not enact or adopt an ordinance, policy, or rule that relates to the ownership or operation of an advanced air mobility aircraft or advanced air mobility system, and shall not otherwise engage in the regulation of any uncrewed aircraft system, advanced air mobility aircraft, or advanced air mobility system. Any ordinance, policy, or rule, to the extent that it violates any provision of this subsection, whether enacted or adopted by the political subdivision before or after the effective date of this section, is void.

(c) As used in this section, "advanced air mobility aircraft" or "advanced air mobility system" means a system that transports people and property by air between points in the United States using aircraft, as defined in §29-2A-1 of this code, including electric aircraft and electric vertical takeoff and landing aircraft, in both controlled and uncontrolled airspace.

Engrossed Committee Substitute for House Bill 4667, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Lindsay, and Romano—7.

Absent: Jeffries and Plymale—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4667) passed.

At the request of Senator Swope, as chair of the Committee on Economic Development, and by unanimous consent, the unreported Economic Development committee amendment to the title of the bill was withdrawn.

At the request of Senator Weld, as vice chair of the Committee on the Judiciary, unanimous consent being granted, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4667**—A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5B-2-18 and §5B-2-18a, all relating to uncrewed aircraft operation in the state; establishing the West Virginia Uncrewed Aircraft Systems Advisory Council within the Department of Economic Development; establishing membership, expense reimbursement, and duties of Council; clarifying that all uncrewed aircraft operation in the state must comply with federal regulations; prohibiting political subdivisions from regulating

advanced air mobility aircraft or advanced air mobility systems; and defining terms.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

On motion of Senator Takubo, at 8:02 p.m., the Senate recessed.

The Senate reconvened at 8:33 p.m. and, at the request of Senator Beach, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4668**, Relating to air bag fraud.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 11, 2022, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 15. EQUIPMENT.**

##### **§17C-15-50. Deployed restraint systems resale or reinstallation Air bag fraud; counterfeit and nonfunctional air bags prohibited; penalties; applicability; exceptions.**

~~A person who knowingly installs or reinstalls any object in lieu of an air bag or anything other than a not previously deployed air bag that was designed in accordance with federal safety regulations for the make, model and year of vehicle, as part of a vehicle inflatable restraint system, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand nor~~

~~more than \$5,000, or imprisoned in the county or regional jail not more than one year, or both fined and imprisoned.~~

(a) For purposes of this section:

(1) "Air bag" means an inflatable occupant supplemental restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.208 for the make, model, and model year of the motor vehicle.

(2) "Counterfeit air bag" means an air bag or component of an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer or supplier of parts to a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer or supplier, respectively.

(3) "Disable" means to deliberately disconnect or otherwise render inoperable and includes the failure to replace a previously deployed airbag with a functional airbag.

(4) "Nonfunctional air bag" means any of the following:

(A) A replacement air bag that has been previously deployed or damaged;

(B) A replacement air bag that has an electric fault that is detected by the vehicle's air bag diagnostic system when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) A counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed; or

(D) An air bag subject to the prohibitions of 49 U.S.C. §30120(j).

















