ACTS

OF THE

LEGISLATURE

OF

WEST VIRGINIA

Regular Session, 2025

Volume I
Chapters 1 - 130

WEST VIRGINIA HOUSE OF DELEGATES

HONORABLE ROGER HANSHAW

SPEAKER OF THE HOUSE

* *

COMPILED AND PUBLISHED
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OFFICE OF THE CLERK OF THE HOUSE

STATE CAPITOL
CHARLESTON, WEST VIRGINIA

* *

JEFFREY PACK

CLERK OF THE HOUSE

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FOREWORD

These volumes contain the Acts of the First Regular Session of the 87th Legislature, 2025.

Second Regular Session of the 86th Legislature, 2024

The First Regular Session of the 87th Legislature convened on January 8, 2025, and following the election of officers of the two houses, the opening of the returns of the election of state officers at the general election held on the 5th day of November, 2024, as prescribed by Section 18, Article VI of the Constitution of the State, the adoption of rules to govern the proceedings of the two houses and concurrently and separately acting on certain other matters incident to organization, took an adjournment until February 12, 2025, as provided by the aforesaid section of the Constitution. Reconvening, pursuant to the adjournment, the constitutional sixty-day limit on the duration of the session was midnight, April 12, 2025. The Governor issued a proclamation on April 10, 2025, extending the session for a period not to exceed one day for the purpose of considering the Budget Bill, and the Legislature adjourned sine die on April 12, 2025.

Bills totaling 2,459 were introduced in the two houses during the session (1,516 House and 943 Senate). The Legislature passed 355 bills, 253 House and 102 Senate. Ten bills became law without the Governor's signature. H. B. 2347, The Joel Archer Substance Abuse Intervention Act, H.B. 2575, Relating to the establishment of a full-time Dementia Services Director Position, H. B. 2755, Ro provide that the West Virginia Board of Education may promulgate rules or policies to be submitted to the Legislature for review, H. B. 3014, Relating generally to liability of hospital police, H. B. 3144, Wireless infrastructure and facilities sting and co-location, H. B. 3444, Relating to inflammation of the eyes of newborns, S. B. 10, Exempting certain meat processes from consumers sales and services tax, S. B. 22, Applying penalties for nonpayment of royalties under terms of oil and natural gas leases, S. B. 565, Relating generally

to practice of optometry, and S. B. 746, Allowing State Board of Education to delegates it's Medicaid provider status to public charter schools. The Governor vetoed 3 bills, H. B. 2120, Relating to forms and disclosures to the Ethics Commission, H. B. 2351, Relating to compensation for panel attorneys, and H. B. 3111, To provide pay increases to members of the Judiciary leaving a net total of 249 bills, 152 House and 97 Senate, which became law.

There were 125 Concurrent Resolutions introduced during the session, 103 House and 22 Senate, of which 39 House and 14 Senate were adopted. Thirty nine House Joint Resolutions and 16 Senate Joint Resolutions were introduced, proposing amendments to the State Constitution, of which none were adopted. The House introduced 13 House Resolutions and the Senate introduced 50 Senate Resolutions, of which 5 House and 50 Senate were adopted.

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MEMBERS OF THE HOUSE OF DELEGATES

2025

OFFICERS

Speaker: Roger Hanshaw - Wallback
Clerk: Jeffrey Pack - Beckley
Sergeant-at-Arms: Edward Hart II - Fayetteville
Doorkeeper: Robert Stewart - Cross Lanes

Name	District	City	Occupation	Term
Adkins, Stanley (R)	49th	Summersville	Certified Public Accountant	87th
Akers II, James Robert "JB" (R)	55th	Charleston	Lawyer	Appt. 1/9/2024, 87th
Amos, Michael (R)	27th	Kenova	Physcian	87th
Anders, Chris S (R)	97th	Martinsburg	Political Consultant	87th
Anderson, Bill (R)	10th	Williamstown	Educator	71st - 87th
Barnhart, Trenton (R)	9th	St. Marys	Community Banker	Appt. 9/17/2019, 84th; 85th -87th
[1]Bell, William "Bill" (R)	8th		Teacher	Appt. July 7, 2025
Bridges Jordan (R)	33rd	Logan	Coal Miner	85th - 87th
Brooks, Eric (R)	45th	Mount Hope	Retired	87th
Browning, Ryan (R)	28th	Kenova		Appt. 7/1/2024, 87th
Burkhammer, Adam (R)	64th	Horner	Business Owner	85th - 87th
Butler, Jim (R)	18th	Henderson	Excavating Contractor	81st-84th; 87th
Campbell, Jeff (R)	46th	Lewisburg	Teacher/Broadcaster	Appt. 10/30/2017, 83rd; 84th; Appt. 9/15/2023, 86-87th
Cannon, David (R)	89th	Romney		Appt. 1/3/2025, 87th
Cannon, Jarred (R)	21st	Hurricane	Business Owner	Appt. 6/15/2022, 85th-; 87th
Chiarelli, Geno (R)	78th	Morgantown		87th
Clark, Thomas C. (R)	48th	Webster Springs	Appt. January 12, 2024; 87th	
Clark, Wayne (R)	99th	Charles Town	Business Owner	85th - 87th
Clay, Marshall (R)	51st	Fayetteville		87th
Cooper, Roy (R)	40th	Wayside	Retired	81st - 87th
Coop-Gonzalez, Elias (R)	67th	Elkins	College Student	87th
Criss, Vernon (R)	12th	Parkersburg	Executive	69th; 83rd - 87th
Crouse, Kathie Hess (R)	19th	Buffalo		Appt. 12/1/21, 85th; 87th
Dean, Mark (R)	34th	Verner	Home Health Executive	83rd - 87th
DeVault, Mike (R)	74th	Fairmont	Fence Co.; Tire Service	87th
Dillon, Henry C. (R)	29th	Naugatuck	Educator	86th-87th
Dittman, Lori (R)	63rd	Gassaway	Teacher/Small Business Owner	86th-87th
Drennan, Sarah (R)	20th	Winfield	RN NICU	87th
Eldridge, Jeff (R)	30th			76th-78th; 80th-82nd; 87th
Ellington, Joe (R)	38th	Princeton	Physician	80th - 87th
Fehrenbacher, Bob (R)	11th	Vienna	Retired	86th-87th
Ferrell, Dana (R)	60th	Sissonville	Business Owner	85th – 86th-87th
Flanigan, Bill (R)	4th	Wheeling		Appt. Jan 15, 2016; 87th
Fluharty, Shawn (D)	5th	Wheeling	Attorney	82nd - 87th
Foggin, Dave (R)	14th	Belleville	Physics Teacher	86th-87th
Funkhouser, Joe (R)	98th	Charles Town		Appt. Oct. 21, 2024; 87th
Garcia, Rick (D)	76th	Fairmont		87th
Gearheart, Marty (R)	37th	Bluefield	Businessman	80th – 83rd; 85th – 87th
Green, David (R)	36th	Iaeger		Appt. 1/29/2024; 86th
Hall, Walter (R)	58th	St. Albans	Licensed Insurance Agent	86th-87th
Hamilton, Anitra (D)	81st	Morgantown	Healthcare Worker	Appt. 4/26/23, 86th-87th
Hansen, Evan (D)	79th	Morgantown	Company President	84th - 87th
Hanshaw, Roger (R)	62nd	Wallback	Attorney	82nd - 87th
Heckert, Scot (R)	13th	Parkersburg		86th-87th
Hillenbrand, Rick (R)	88th	Romney	Retired	86th-87th
Hite, Michael (R)	92nd	Martinsburg	Business Owner	86th-87th
Holstein, Josh (R)	32nd	Ashford		85th – 87th
Hornbuckle, Sean (D)	25th	Huntington	Financial Advisor	82nd - 87th
Hornby, Michael (R)	93rd	Martinsburg	CEO	86th-87th
Horst, Charles K. "Chuck" (R)	95th	Falling Waters	Business Owner	85th - 87th

Hott II, John Paul (R)	85th	Petersburg	Insurance/Disposal Service	84th - 87th
Howell, Gary G. (R)	87th	Keyser	Business Owner/Mail Order Auto Parts	80th - 87th
Howell, Tresa (R)	52nd	Winifrede		87th
Jeffries, Dean (R)	61st	Elkview	Insurance Agent	Appt. 9/5/2018, 83rd; 84th - 87th
Jennings, D. "Buck" Rolland (R)	84th	Thornton	Self-Employed	Appt. 10/10/2017, 83rd; 84th - 87th
Kimble, Laura (R)	71st	Bridgeport	Homemaker	85th – 87th
Kump, Larry (D)	94th	Falling Waters	Retired	80th – 81st; 84th; 86th-87th
Lewis, Hollis T. II (D)	57th	Charleston	Attorney	Appt. 9/19, 2023, 86th-87th
Linville, Daniel (R)	22nd	Milton	IT Director	Appt. 8/1/2018, 83rd; 84th - 87th
Lucas, Patrick (R)	24th	Barboursville	Real Estate Broker	86th-87th
Mallow, Phil (R)	75th	Kingmont	Retired	85th - 86th-87th
Marple, Keith (R)	69th	Lost Creek	Retired	86th-87th
Martin, Carl "Robbie" (R)	65th	Buckhannon	Business Owner	84th - 87th
Masters, Ian T. (R)	91st	Gerrardstown	Attorney	Appt, Jan 23, 2025; 87th
Maynor, Jordan (R)	41st	Beaver		Appt. 8/19/21, 85th; 86th-87th
Mazzocchi, Margitta (R)	31st	Chapmanville	Business Owner	85th-87th
McCormick, David (R)	82nd	Morgantown	Entreprenuer	87th
McGeehan, Pat (R)	1st	Chester	Business Management; Author	79th; 82nd -87th
Miller, George A. (R)	90th	Berkeley Springs	Retired	85th – 87th
Moore, Erica (R)	15th	Spencer		Appt. 9/6/2023, 86th-87th
Petitto, Mickey (R)	70th	Clarksburg	Accountant; Real Estate Broker and Appraiser	86th-87th
Phillips, Chris (R)	68th	Buckhannon	President, CGP Foods, Inc	84th – 87th
Pinson, Jonathan Adam (R)	17th	Point Pleasant	Pastor	85th – 87th
Pritt, David "Elliott" (R9)	50th	Oak Hill	Teacher	86th-87th
Pushkin, Mike (D)	54th	Charleston	Taxi Driver/Musician	82nd - 87th
Ridenour, Bill (R)	100th	Harpers Ferry	Retired	86th-87th
Riley, Clay (R)	72nd	Shinnston	Professional Engineer	85th – 87th
Rohrbach, Matthew (R)	26th	Huntington	Physician	82nd - 87th
Roop, Carl "Bill" (R)	44th	Beckley	Attorney	Appt. 7/6/2024, 86th
Shamblin, Andy (R)	59th	Nitro	Teacher; Minister; City Council	86th
Sheedy, Charles (R)	7th	Cameron	Retired	86th
Smith, Bryan (R)	73rd	Grafton	Business Owner	87th
Smith, Doug (R)	39th	Princeton	Retired	85th – 86th
Statler, Joe (R)	77th	Core	Retired	82nd – 83rd; 85th – 86th
Steele, Brandon (R)	42nd	Beckley	Attorney	84th – 86th
Stephens, Jeffrey (R)	6th	Wheeling	Teacher/Athletic Director	Appt. 10/25/2023, 86th
Street, George (R)	83rd	Masontown	Explosive Ordinance Technician; Farmer	86th
Toney, Christopher Wayne (R)	43rd	Beckley	School Bus Operator	84th - 86th
Vance, Adam (R)	35th	Brenton	Underground Coal Miner	86th
Ward, Bryan C. (R)	86th	Fisher	Retired	85th – 86th
[2]Watt, Gregory (R)	48th	Hacker Valley	Military Retired	87th
White, Lisa (R)	96th	Indwood	Retired	87th
Williams, John (D)	80th	Morgantown	Financial Advisor	83rd – 86th
Willis, Jimmy (R)	3rd	Wellsburg		86th
Worrell, Evan (R)	23rd	Salt Rock	Chief Operating Officer, In-Home Care Agency	84th – 86th
Young, Kayla (D)	56th	South Charleston	Entrepreneur	85th – 86th
Zatezalo, Mark (R)	2nd	Weirton	Hydrogeologist	82nd - 83rd; 85th – 86th

[1]William "Bill" Bell appointed July 7, 2025 to fill the vacancy created by the June, 2025 resignation of David Kelley.
[2]Watt, Gregory, appointed October 3, 2025 to fill the vacancy created by the September, 2025 resignation of Thomas Clark.

MEMBERS OF THE SENATE

OFFICERS

President: Randy E. Smith - Preston
Clerk: Bruce Lee Cassis, Jr. - Kanawha
Sergeant-at-Arms: Steve Walker – Kanawha
Doorkeeper: Jeffrey L. Branham – Kanawha

Name	District	City	Occupation	Term
Azinger, Michael T. (R)	3rd	Wood	Manager	82nd (House); 83rd – 87th
Barrett, Jason (R)	16th	Berkeley	Business Owner	81st – 82nd (House); 87th
Bartlett, Kevan (R)	8th	Kanawha	Pastor of Maranatha Baptist Church	Appt Oct 21, 2019; 84th (H) Appt Feb 6, 2025; 87th
Boley, Donna J. (R)	3rd	Pleasants	Retired	Appt. May 14, 1985, 67th; 68th - 87th
Chapman, Laura (R)	1st	Ohio	Attorney	87th
Charnock, Anne (R)	17th	Kanawha	Attorney	Appt Feb 8, 2025; 87th
Clements, Charles H. (R)	2nd	New Martinsville	Retired	77th (House); Appt. Jan. 28, 2017, 83rd; 84th – 87th
Deeds, Vince (R)	10th	Renick	Retired	87th
Fuller, Scott (R)	5th	Wayne	Retired	87th
Garcia, Joey (D)	13th	Marion	Attorney	85th- 86th (H); 87th
Grady, Amy N. (R)	4th	Leon	Teacher	87th
Hamilton, Bill (R)	11th	Buckhannon	Retired	76th-83rd (House); 84th – 87th
Hart, Craig (R)	6th	Mingo	Teacher	87th
Helton, Brian (R)	9th	Fayette	Business Owner	87th
Jeffries, Glenn D. (R)	8th	Red House	Businessman	83rd - 87th
Martin, Patrick (R)	12th	Jane Lew	Business Owner	83rd – 84th (House); 87th
Maynard, Mark R. (R)	6th	Wayne	Automobile Dealer	82nd - 87th
Morris, Robert (R)	11th	Randolph	Economic Development Director	87th
Oliverio II, Michael A.	13th	Morgantown	Life Insurance Agent	71st (House); 72nd - 78th; 87th
Phillips, Rupert W., Jr.	7th	Lorado	Sales Manager	80th – 83rd (House); 87th
Queen, Ben (R)	12th	Bridgeport	Business Owner	83rd – 84th (House); 87th
Roberts, Rollan (R)	9th	Beaver	Minister	84th – 87th
Rose, Chris (R)	2nd	Monongalia		87th
Rucker, Patricia Puertas (R)	16th	Harpers Ferry	Home Schooling Mother	83rd – 87th
Smith, Randy E. (R)	14th	Thomas	Coal Miner	81st - 82nd (House); 83rd – 87th
Stuart, Mike (R)	7th	South Charleston		87th
Takubo, Tom (R)	17th	Charleston	Physician	82nd – 87th
Tarr, Eric J. (R)	4th	Scott Depot		84th – 87th
Taylor, Jay (R)	14th	Grafton	Prosecuting Attorney Clerk	87th
Thorne, Darren (R)	15th	Hampshire	Farmer	87th (House) Appt Dec 20, 2024
Weld, Ryan W. (R)	1st	Wellsburg	Attorney	82nd (House); 83rd – 87th
Willis, Tom (R)	15th	Berkeley	Business Owner	87th
Woelfel, Michael A. (D)	5th	Huntington	Attorney	82nd – 87th
Woodrum, Jack David (R)	10th	Hinton	Funeral Director	87th

STANDING COMMITTEES OF THE HOUSE OF DELEGATES

As of July 9, 2025

Speaker: Roger Hanshaw
Speaker Pro Tempore, Deputy Speaker: Matthew Rohrbach
Majority Leader: Pat McGeehan
Majority Whip: Marty Gearheart

Assistant Majority Leaders:
Thomas Clark, David Elliott Pritt, David Green, Erica Moore, David McCormick, Mickey Petitto

Assistant Majority Whips:
Jordan Bridges, Eric Brooks, Jim Butler, Sarah Drennan, Dave Foggin, Joe Funkhouser, Jonathan Pinson, Bill Ridenour

Minority Leader: Sean Hornbuckle

Minority Leader Pro Tempore: Kayla Young

Minority Whip: Shawn Fluharty

Clerk: Jeffrey Pack
Doorkeeper: Robert Stewart
Sergeant-At-Arms: Edward Hart II

EDUCATION

Ellington (Chair), Statler (Vice Chair), Hamilton (Minority Chair), Garcia (Minority Vice-Chair), Barnhart, Campbell, Chiarelli, Clark T., Coop-Gonzalez, Crouse, Dittman, Hornby, Jennings, Kimble, Mallow, Miller, Pritt, Pushkin, Shamblin, Stephens, Toney, Vance, Ward, White and Willis.

EDUCATIONAL CHOICE

Crouse (Chair), Hornby (Vice-Chair), Chiarelli, Clark T, Kimble, Pritt, Pushkin, Shamblin, Statler, Stephens and White.

PUBLIC EDUCATION

Toney (Chair), Campbell (Vice-Chair), Clark T, Coop-Gonzalez, Ellington, Hamilton, Jennings, Miller, Stephens and Ward.

HIGHER EDUCATION

Dittman (Chair), Willis (Vice-Chair), Barnhart, Clark T., Coop Gonzalez, Garcia, Mallow, Miller, Pritt, Vance and White.

ENERGY AND PUBLIC WORKS

Anderson (Chair), Zatezalo (Vice-Chair), Hansen (Minority Chair) Young (Minority Vice-Chair), Bridges, Campbell, Cannon D., Crouse, Devault, Dillon, Eldridge, Fehrenbacher, Green, Hillenbrand, Holstein, Howell G., Leavitt, Linville, Lucas, Moore, Parsons, Riley, Sheedy, Steele and Street.

ECONOMIC DEVELOPMENT

Howell G., (Chair), DeVault (Vice-Chair), Campbell, Cannon D., Green, Leavitt, Lucas, Moore, Parsons, Steele, Street and Young.

ENERGY AND MANUFACTURING

Fehrenbacher (Chair), Street (Vice-Chair), Bridges, Crouse, DeVault, Eldridge, Green, Hansen, Moore, Parsons, Sheedy and Steele.

ENVIROMENT, INFRASTRUCTURE AND TECHNOLOGY

Linville (Chair), Hillenbrand (Vice-Chair), Bridges, Cannon D., Dillon, Eldridge, Green, Hansen, Holstein, Moore and Parsons.

FINANCE

Criss (Chair), Riley (Vice-Chair), Williams (Minority Chair), Hornbuckle (Vice-Chair), Anderson, Barnhart, Cannon J., Canterbury, Cooper, Dittman, Ellington, Fehrenbacher, Gearheart, Hall, Hite, Horst, Hott, Howell G., Jeffries, Linville, Mazzocchi, Rohrbach, Statler, Toney and Worrell.

APPROPRIATIONS

Hott (Chair), Cooper (Vice-Chair), Anderson, Barnhart, Cannon J., Fehrenbacher, Hornbuckle, Jeffries, Riley, Rohrbach.

BANKING AND INSURANCE

Barnhart (Chair), Hall (Vice-Chair), Ellington, Fehrenbacher, Hott, Jeffries, Linville, Riley, Rohrbach and Williams.

INVESTMENTS

Cannon J. (Chair), Canterbury (Vice-Chair), Dittman, Gearheart, Hite, Hornbuckle, Horst, Statler, Toney and Worrell.

REVENUE

Gearheart (Chair), Horst (Vice-Chair), Canterbury, Dittman, Hall, Howell G., Linville, Mazzocchi, Statler and Williams.

GOVERNMENT ORGANIZATION

Phillips (Chair), Smith D. (Vice-Chair), Young (Minority Chair), Lewis (Minority Vice-Chair), Adkins, Brooks, Browning, Burkhammer, Cannon J., Clark W., Clay, Dean, DeVault, Ferrell, Foggin, Hott, Howell T., Kyle, Leavitt, Lucas, McCormick, Pinson, Sheedy, Smith B. and Street.

AGRICULTURE, COMMERCE AND TOURISM

Clark W. (Chair), Lucas (Vice-Chair), Adkins, Brooks, Browning, Foggin, Kyle, Lewis, McCormick and Smith B.

GOVERNMENT ADMINISTRATION

Pinson (Chair), Dean (Vice-Chair), Brooks, Browning, Clay, Foggin, Howell T., Kyle, Leavitt, McCormick, Smith B. and Young.

LOCAL GOVERNEMNTS

Ferrell (Chair), Sheedy (Vice-Chair), Adkins, Brooks, Browning, Burkhammer, Clay Devault, Foggin, Howell T., Kyle, Leavitt, McCormick, Young.

HEALTH AND HUMAN RESOURCES

Worrell (Chair), Hite (Vice-Chair), Pushkin (Minority Chair), Hamilton (Minority Vice-Chair), Amos, Anders, Burkhammer, Chiarelli, Clark W., Dean, Drennan, Hall, Heckert, Jeffries, Lewis, Masters, Mazzocchi, Miller, Petitto, Pinson, Rohrbach, Smith D., Stephens, Vance and Willis,

HEALTH CARE REGULATIONS

Jeffries (Chair), Vance (Vice Chair), Amos, Anders, Chiarelli, Clark W., Drennan, Lewis, Masters and Smith D.

HUMAN SERVICES

Burkhammer (Chair), Mazzocchi (Vice-Chair), Hall, Hamilton, Heckert, Hite, Miller, Petitto, Pinson and Willis.

PUBLIC HEALTH

Heckert (Chair), Chiarelli (Vice-Chair), Amos, Anders, Dean, Drennan, Masters, Miller, Petitto and Pushkin.

JUDICIARY

Akers (Chair), Maynor (Vice-Chair), Fluharty (Minority Chair), Hansen (Minority Vice-Chair), Butler, Ferrell, Flanigan, Funkhouser, Heckert, Hillenbrand, Holstein, Hornby, Jennings, Kimble, Kump, Mallow, Marple, Martin, Phillips, Ridenour, Roop, Shamblin, Ward and Zatezalo.

COURTS

Mallow (Chair), Shamblin (Vice-Chair), Flanigan, Fluharty, Funkhouser, Marple, Roop, Ward, Zatezalo.

HOMELAND SECURITY

Jennings (Chair), Ward (Vice-Chair), Butler, Ferrell, Funkhouser. Hansen, Heckert, Hillenbrand, Phillips and Ridenour.

LEGAL SERVICES

Kimble (Chair), Holstein (Vice-Chair), Butler, Flanigan, Fluharty, Hornby, Marple, Maynor, Ridenour and Roop.

RULES

Hanshaw (Chair), McGeehan (Vice-Chair), Akers, Anderson, Criss, Ellington, Gearheart, Hornbuckle, Hornby, Hott, Howell G., Jeffries, Linville, Phillips, Riley, Rohrbach, Toney, Worrell and Young.

STANDING COMMITTEES OF THE SENATE

86th Legislature

As of July 9, 2025

Senate President – Randy E. Smith
President Pro Tempore - Donna J. Boley
Majority Leader – Patrick S. Martin
Majority Whip – Jay Taylor
Minority Leader - Mike Woelfel
Minority Whip – Joey Garcia

AGRICULTURE

Senators Hart *(Chair),* Thorne *(Vice Chair), Deeds, Hamilton, Queen, Rose, Rucker, Tarr and Woelfel*.

BANKING AND INSURANCE

Senators Azinger *(Chair),* Morris *(Vice Chair),* Barrett, Boley, Chapman, Charnock, Fuller, Garcia and Oliverio.

CONFIRMATIONS

Senators Boley *(Chair),* Charnock *(Vice Chair),* Azinger, Barrett, Rose, Taylor, Weld, Woelfel.

ECONOMIC DEVELOPMENT

Senators Jeffries *(Chair), Morris (Vice Chair),* Barrett, Boley, Charnock, Clements, Hamilton, Hart, Helton, Oliverio, Phillips, Thorne, Weld, Woelfel and Woodrum.

EDUCATION

Senators Grady *(Chair),* Clements *(Vice Chair),* Azinger, Bartlett, Boley, Deeds, Fuller, Garcia, Hart, Morris, Oliverio, Roberts, Stuart, Tarr and Taylor.

ENERGY, INDUSTRY, AND MINING

Senators Rose *(Chair),* Queen *(Vice Chair,* Azinger, Boley, Charnock, Fuller, Garcia, Hart, Helton, Jerffries, Phillips, Stuart and Taylor.

ENROLLED BILLS

Senators Woodrum *(Chair),* Fuller *(Vice Chair),* Jeffries, Maynard, Roberts and Woelfel.

FINANCE

Senators Barrett *(Chair),* Roberts *(Vice Chair)*, Boley, Clements, Grady, Hamilton, Jeffries, Martin, Maynard, Morris, Oliverio, Phillips, Queen, Takubo, Thorne, Woelfel and Woodrum.

GOVERNMENT ORGANIZATION

Senators Rucker *(Chair),* Woodrum *(Vice Chair),* Barrett, Chapman, Charnock, Hamilton, Helton, Jeffries, Maynard, Phillips, Rose, Thorne, Willis and Woelfel.

HEALTH AND HUMAN RESOURCES

Chapman (*Chair),* Deeds *(Vice Chair), Azinger, Bartlett, Garcia, Grady, Martin, Maynard, Queen, Roberts, Rose, Rucker, Takubo, Taylor and Willis*.

INTERSTATE COOPERATION

Senator Oliverio *(Chair),* Helton *(Vice Chair)*, Bartlett, Garcia, Queen, Taylor and Willis.

JUDICIARY

Senators Stuart *(Chair),* Willis *(Vice Chair),* Azinger, Bartlett, Chapman, Charnock, Deeds, Fuller, Garcia, Hart, Helton, Martin, Rose, Rucker, Tarr, Taylor and Weld.

MILITARY

Senators Weld *(Chair),* Fuller *(Vice Chair),* Bartlett, Clements, Deeds, Grady, Tarr, Taylor, Willis and Woelfel.

NATURAL RESOURCES

Senators Hamilton *(Chair),* Deeds *(Vice Chair),* Garcia, Hart, Jeffries, Morris, Queen, Rose, Tarr and Woodrum.

PENSIONS

Senators Oliverio *(Chair),* Bartlett *(Vice Chair),* Barrett, Clements, Hamilton, Takubo, Tarr, Thorne, Willis and Woelfel.

RULES

Senators Smith *(Chair),* Martin *(Vice Chair),* Barrett, Boley, Chapman, Grady, Maynard, Rucker, Stuart, Taylor and Woelfel.

SELECT COMMITTEE ON SUBSTANCE USE DISORDER AND MENTAL HEALTH

Senators Helton *(Chair),* Fuller *(Vice Chair),* Deeds, Takubo, Tarr, Weld and Woelfel.

TRANSPORTATION AND INFRASTRUCTURE

Senators Maynard *(Chair),* Taylor *(Vice Chair),* Clements, Garcia, Hart, Helton, Jeffries, Morris, Oliverio, Rucker and Stuart.

WORKFORCE

Senators Roberts *(Chair),* Woodrum *(Vice Chair),* Deeds, Fuller, Hamilton, Queen, Rose, Tarr, Thorne, Weld and Woelfel.

LEGISLATURE OF WEST VIRGINIA

ACTS

SECOND REGULAR SESSION, 2025

CHAPTER 1

(H. B. 3272 - By Delegates Akers, Leavitt, Flanigan, and Funkhouser)

[Passed April 12, 2025; in effect ninety days from passage. (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §55-3A-1 of the Code of West Virginia, 1931, as amended, relating to eviction proceedings; requiring hearing to be scheduled upon filing the petition; permitting tenants to file and serve written defense to eviction petition within five days of the tenant's receipt of notice of petition; and providing that the hearing shall be scheduled five to 10 judicial days following filing of the petition.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3A. REMEDIES FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.

§55-3A-1. Petition for summary relief for wrongful occupation of residential rental property.

(a) A person desiring to remove a tenant from residential rental property may apply for relief to the magistrate court or the circuit court of the county in which 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 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 the arrearage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) Upon filing the petition, the court shall schedule a hearing, which may not be less than five nor more than 10 judicial days following the filing of the petition.

(c) Immediately upon being apprised of the time and place for hearing the petitioner shall cause a notice of the hearing to be 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. The notice shall inform the tenant that any written defense to the petition may be filed and served upon the petitioner within five days of the receipt by the tenant of the notice. 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 the proof of service.

CHAPTER 2

(H. B. 3275 - By Delegates Akers, Leavitt, Flanigan, Funkhouser, and Kelly)

[Passed April 10, 2025; in effect ninety days from passage. (July 9, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §58-5-4 of the Code of West Virginia, 1931, as amended, relating to time for appeal; providing that the time for filing a notice of appeal, perfecting an appeal, and filing related documents with the Intermediate Court of Appeals and Supreme Court of Appeals shall be in accordance with rules promulgated by the Supreme Court of Appeals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. APPELLATE RELIEF IN THE INTERMEDIATE COURT OF APPEALS AND THE SUPREME COURT OF APPEALS.

§58-5-4. Time for appeal.

The time for filing a notice of appeal, perfecting an appeal, and filing related documents with the Intermediate Court of Appeals and the Supreme Court of Appeals shall be in accordance with rules promulgated by the Supreme Court of Appeals.

CHAPTER 3

(Com. Sub. for H. B. 2897 - By Delegates Ellington, Statler, Hornby, Crouse, Willis, Dittman, Toney, and Campbell)

[Passed April 8, 2025; in effect ninety days from passage. (July 7, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-46; relating to permitting the Joint Committee on Government and Finance, in conjunction with the Legislative Oversight Commission on Education Accountability, to direct the Legislative Auditor to conduct periodic performance audits of the West Virginia Department of Education; allowing granting the Legislative Auditor the power and authority to conduct examinations and inspections; requiring the Legislative Auditor to protect the confidentiality, privacy, and security of protected information; and establishing deadline for initial performance audit and reporting requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

†§18-2-46. Requiring the Legislative Auditor to conduct periodic performance audits of the West Virginia Department of Education.

(a) The Joint Committee on Government and Finance, in conjunction with the Legislative Oversight Commission on Education Accountability ("LOCEA") may, at reasonable and prudent intervals, cause the Legislative Auditor to conduct performance audits of the West Virginia Department of Education, as well as county boards or local districts who utilize state funding: *Provided*, That LOCEA may request the Legislative Auditor

†**NOTE:** H. B. 2897 (Chapter 3) which passed prior to this Act, also created a new a Section 46. Therefore, has been redesignated as Section 46 for the code and S. B. 449, also created a new a Section 48. Therefore, has been redesignated as Section 48 for the code.

perform a review upon a determination by the commission and approval by the Joint Committee on Government and Finance.

(b) The Legislative Auditor shall have the power and authority to conduct a performance audit of the West Virginia Department of Education, which shall allow the Legislative Auditor to inspect all records and accounts of the department and to examine the personnel of the department: *Provided*, That for any legally protected information provided or disclosed to the Legislative Auditor pursuant to this section, the Legislative Auditor shall protect the confidentiality, privacy, or security of the protected information in like manner and with the same duty as is required of the West Virginia Department of Education. Additionally, the Legislative Auditor may review productivity and meeting standards, while ensuring that local control is upheld.

(c) The Legislative Auditor shall complete an initial performance audit of the West Virginia Department of Education by December 1, 2025, and, on that date, deliver a report thereof to the Joint Committee on Government and Finance and to the Legislative Oversight Commission on Education Accountability.

CHAPTER 4

(H. B. 2942 - By Delegates Street, Zatezalo, Anderson, and Fehrenbacher)

[Passed April 12, 2025; in effect ninety days from passage. (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §22-34-2 and §22-34-5 of the Code of West Virginia, 1931, as amended, related to the administration of the West Virginia Department of Environmental Protection Design-Build Pilot Program; extending and revising the sunset provision to December 31, 2027; and increasing from $50 million to $75 million the maximum aggregate value of all ongoing design-build projects that can be active at any time.

Be it enacted by the Legislature of West Virginia:

ARTICLE 34. DEPARTMENT OF ENVIRONMENTAL PROTECTION DESIGN-BUILD PILOT PROGRAM.

§22-34-2. West Virginia Department of Environmental Protection Design-Build Program.

(a) Notwithstanding any provision of this code to the contrary, the secretary of the West Virginia Department of Environmental Protection may expedite the construction of projects by combining the design and construction elements of a project into a single contract as provided in this article.

(b) The secretary shall promulgate procedural rules as the secretary deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature in accordance with the provisions of §29A-3-1 *et seq.* of this code, which must provide at a minimum:

(1) The application process for approval of a design-build project;

(2) The procedure for selecting the most qualified design-builders prior to the release of the invitation for proposals;

(3) The procedure for the preparation and contents of invitations for proposals;

(4) The procedure for preparing and submitting proposals;

(5) The procedure for evaluating proposals;

(6) The procedure for negotiations between the agency and those submitting proposals prior to the acceptance of a proposal, if any such negotiations are contemplated;

(7) The procedure for awarding and executing design-build contracts; and

(8) The procedure for acting on formal protests relating to the solicitation or award of design-build contracts.

(c) A design-build project may be let to contract only in accordance with the secretary's procedural rules promulgated pursuant to the provisions of this article: *Provided*, That only contracts awarded directly by the Department of Environmental Protection may utilize the design-build delivery method authorized pursuant to the provisions of this article: *Provided, however*, design-build delivery projects awarded pursuant to the provisions of this article may not exceed a total aggregate value of $75 million.

§22-34-5. Report to the Legislature; sunset date.

(a) On or before January 15, 2024, annually, the secretary shall prepare and submit to the Joint Committee on Government and Finance a written report, which may be transmitted electronically, evaluating the experience of the West Virginia Department of Environmental Protection with each design-built project completed pursuant to the provisions of this article during the prior calendar year, including whether the department realized any cost or time

savings, the number and cost of change orders, the quality of work performed, the number of bids received, and other issues the secretary considers appropriate.

(b) The provisions of this article expire and shall have no force and effect after December 31, 2027.

CHAPTER 5

(H. B. 2943 - By Delegates Zatezalo, Anderson, Street, and Fehrenbacher)

[Passed April 9, 2025; in effect ninety days from passage. (July 8, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §22-18-22 of the Code of West Virginia, 1931, as amended, related to extending the sunset date of the hazardous waste management fee for five years to allow the agency to generate the required revenue to cover the state match for federal grant funds.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. HAZARDOUS WASTE MANAGEMENT ACT.

§22-18-22. Appropriation of funds; Hazardous Waste Management Fund.

(a) The net proceeds of all fines, penalties and forfeitures collected under this article shall be appropriated as directed by section five, article XII of the Constitution of West Virginia. For the purposes of this section, the net proceeds of the fines, penalties and forfeitures are considered the proceeds remaining after deducting therefrom those sums appropriated by the Legislature for defraying the cost of administering this article. All permit application fees collected under this article shall be paid into the State Treasury into a special fund designated the Hazardous Waste Management Fund. In making the appropriation for defraying the cost of administering this article, the Legislature shall first take into account the sums included in that special fund prior to deducting additional sums as may be needed from the fines, penalties and forfeitures collected pursuant to this article.

(b) Effective on July 1, 2003, there is imposed an annual certification fee for facilities that manage hazardous waste, as defined by the federal Resource Conservation and Recovery Act, as amended. The secretary shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish the certification fee. The rule shall be a product of a negotiated rule-making process with the facilities subject to the rule. The rule shall, at a minimum, establish different fee rates for facilities based on criteria established in the rule. The total amount of fees generated raise no more funds than are necessary and adequate to meet the matching requirements for all federal grants which support the hazardous waste management program, but shall not exceed $700,000 per year.

(c) The revenues collected from the annual certification fee shall be deposited in the State Treasury to the credit of the Hazardous Waste Management Fee Fund, which is continued. Moneys of the fund, together with any interest or other return earned on the fund, shall be expended to meet the matching requirements of federal grant programs which support the hazardous waste management program. Expenditures from the fund are for the purposes set forth in this article 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 §5A-2-1 *et seq.* of this code. Amounts collected which are found, from time to time, to exceed the funds needed for purposes set forth in this article may be transferred to other accounts by appropriation of the Legislature.

(d) The fee provided in subsection (b) of this section and the fund established in subsection (c) of this section shall terminate on June 30, 2030. The department shall, by December 31 of each year, report to the Joint Committee on Government and Finance regarding moneys collected into the Hazardous Waste Management Fee Fund and expenditures by the agency, including any federal matching moneys received and providing an accounting on the collection of the fee by type of permit activity, funds being expended and current and future projected balances of the fund.

CHAPTER 6

(H. B. 3030 - By Delegates Fehrenbacher, Anderson, and Zatezalo)

[Passed April 7, 2025; in effect ninety days from passage. (July 6, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §22-11-10 of the Code of West Virginia, 1931, as amended, relating to the administration of the West Virginia Water Pollution Control Act; and eliminating fee caps on permits.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-10. Water Quality Management Fund established; permit application fees; annual permit fees; dedication of proceeds; rules.

(a) The special revenue fund designated the Water Quality Management Fund established in the State Treasury on July 1, 1989, is continued.

(b) The following shall be deposited into the Water Quality Management Fund: (i) permit application fees and annual permit fees established and collected pursuant to this section; (ii) any interest or surcharge assessed and collected by the secretary; (iii) interest accruing on investments and deposits of the fund; and (iv) any other moneys designated by the secretary. The secretary shall expend the proceeds of the Water Quality Management Fund for the review of initial permit applications, renewal permit applications, and permit issuance activities.

(c) The secretary shall propose rules for legislative approval in accordance with the provisions of §29A-1-1 *et seq.* of this code, to

establish a schedule of application fees for all applications except for surface coal mining operations as defined in §22-3-13 of this code. The applicant shall submit the appropriate fee to the department with the application filed pursuant to this article for any state water pollution control permit or national pollutant discharge elimination system permit. The schedule of application fees shall be designed to establish reasonable categories of permit application fees based upon the complexity of the permit application review process required by the department pursuant to the provisions of this article and the rules promulgated under this article. The department may not process any permit application pursuant to this article until the required permit application fee has been received.

(d) The secretary shall propose rules for legislative approval in accordance with the provisions of §29A-1-1 *et seq.* of this code to establish a schedule of permit fees to be assessed annually upon each person holding a state water pollution control permit or national pollutant discharge elimination system permit issued pursuant to this article except for permits held by surface coal mining operations as defined in §22-3-1 *et seq.* of this code. Each person holding a permit shall pay the prescribed annual permit fee to the department. Any person holding a permit for a home aerator of 600 gallons and under is not required to pay an annual permit fee. The schedule of annual permit fees shall be designed to establish reasonable categories of annual permit fees based upon the relative potential of categories or permits to degrade the waters of the state. The secretary may declare any permit issued pursuant to this article void when the annual permit fee is more than 90 days past due. Voiding of the permit will only become effective upon the date the secretary mails, by certified mail, written notice to the permittee's last known address notifying the permittee that the permit has been voided.

(e) The secretary shall file a quarterly report with the Joint Committee on Government and Finance setting forth the fees established and collected pursuant to this section.

(f) On July 1, 2022, and each year thereafter a $1,000 fee shall be assessed for permit applications and a $3,000 fee shall be assessed for permit renewals for surface coal mining operations, as

defined in §22-3-1 *et seq.* of this code. Annually on July 1, a $2,000 fee shall be assessed for any application for major permit modifications and a $1,000 fee for minor permit modifications for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. On July 1, 2022, and each year thereafter a $3,000 fee shall be assessed for any application for permit reissuance and a $2,000 fee for permit transfer for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. Beginning July 1, 2022, and every year thereafter, an annual permit fee of $2,000 shall be assessed on the issuance anniversary dates of all permits issued pursuant to this article for surface coal mining operations as defined in §22-3-1 *et seq.* of this code. Beginning July 1, 2022, and each year thereafter, an application for a water quality certification for activities covered by United States Army Corps of Engineers permits issued pursuant to 33 U.S.C. § 1344 and 33 C.F.R. Parts 323 or 330, in accordance with the legislative rules entitled Rules for Individual State Certification of Activities Requiring a Federal Permit, 47 C.F.R. 5A, must be accompanied by a $500 fee. For all other categories of permitting actions pursuant to this article related to surface coal mining operations, the secretary shall propose rules for legislative approval in accordance with the provisions of §29A-1-1 *et seq.* of this code to establish a schedule of permitting fees.

CHAPTER 7

(Com. Sub. for S. B. 522 - By Senator Woodrum)

[Passed April 3, 2025; in effect 90 days from passage (July 2, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §31B-8-810 of the Code of West Virginia, 1931, as amended, relating to clarifying the procedure for administrative dissolution of limited liability companies by the Secretary of State; and requiring the Secretary of State to provide notice to limited liability companies subject to administrative dissolution.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. WINDING UP COMPANY'S BUSINESS.

§31B-8-810. Procedure for and effect of administrative dissolution.

(a) If the Secretary of State determines that one or more grounds exist under §31B-8-809 of this code for administratively dissolving a limited liability company, the Secretary of State shall notify the company by certified mail with written notice of the determination pursuant to §31B-1-111 of this code.

(b) If the company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within 60 days after service of the notice is perfected under §31B-1-111 of this code, the Secretary of State shall administratively dissolve the company by signing and filing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall send electronic notice to the company with a copy of the certificate of

dissolution if the Secretary of State has an email address on file for the company.

(c) A company administratively dissolved continues its existence but may carry on only business necessary to wind up and liquidate its business and affairs under §31B-8-802 of this code and to notify claimants under §31B-8-807 and §31B-8-808 of this code.

(d) The administrative dissolution of a company does not terminate the authority of its agent for service of process.

CHAPTER 8

(Com. Sub. for S. B. 525 - By Senator Woodrum)

[Passed April 3, 2025; in effect 90 days from passage (July 2, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §31E-13-1321 of the Code of West Virginia, 1931, as amended, relating to clarifying the procedure for administrative dissolution of nonprofit corporations by the Secretary of State; and requiring the Secretary of State to provide notice to nonprofit corporations subject to administrative dissolution.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. DISSOLUTION.

§31E-13-1321. Procedure for and effect of administrative dissolution.

(a) If the Secretary of State determines that one or more grounds exist under §31E-13-1320 of this code for administratively dissolving a corporation, the Secretary of State shall notify the corporation by certified mail with written notice of the determination pursuant to §31E-5-504 of this code.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within 60 days after service of the notice is perfected under §31E-5-504 of this code, the Secretary of State shall administratively dissolve the corporation by signing and filing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall send electronic notice to the corporation with a copy of the

certificate of dissolution if the Secretary of State has an email address on file for the corporation.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under §31E-13-1305 of this code and notify claimants pursuant to §31E-13-1306 and §31E-13-1307 of this code.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

CHAPTER 9

(Com. Sub. for S. B. 10 - By Senators Smith (Mr. President), Thorne, Hamilton, Phillips, Hart, Rucker, and Rose)

[Passed April 4, 2025; in effect 90 days from passage (July 3, 2025)]
[Approved by the Governor on May 1, 2025.]

AN ACT to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to exempting the processing of beef, pork, goat, or lamb by a slaughterhouse from the consumers sales and service tax.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9. Exemptions.

(a) *Exemptions for which exemption certificate may be issued.* — A person having a right or claim to any exemption set forth in this subsection may, in lieu of paying the tax imposed by this article and filing a claim for refund, execute a certificate of exemption, in the form required by the Tax Commissioner, and deliver it to the vendor of the property or service in the manner required by the Tax Commissioner. However, the Tax Commissioner may, by rule, specify those exemptions authorized in this subsection for which exemption certificates are not required. The following sales of tangible personal property and services are exempt as provided in this subsection:

(1) Sales of gas, steam, and water delivered to consumers through mains or pipes and sales of electricity;

(2) Sales of textbooks required to be used in any of the schools of this state or in any institution in this state which qualifies as a

nonprofit or educational institution subject to the West Virginia Department of Education and the Arts, the Higher Education Policy Commission, or the Council for Community and Technical College Education for universities and colleges located in this state;

(3) Sales of property or services to this state, its institutions or subdivisions, governmental units, institutions, or subdivisions of other states: *Provided*, That the law of the other state provides the same exemption to governmental units or subdivisions of this state and to the United States, including agencies of federal, state, or local governments for distribution in public welfare or relief work;

(4) Sales of vehicles which are titled by the Division of Motor Vehicles and which are subject to the tax imposed by §11-15-3c of this code or like tax;

(5) Sales of property or services to churches which make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food for meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(6) Sales of tangible personal property or services to a corporation or organization which has a current registration certificate issued under §11-12-1 *et seq.* of this code, which is exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, and which is:

(A) A church or a convention or association of churches as defined in Section 170 of the Internal Revenue Code of 1986, as amended;

(B) An elementary or secondary school which maintains a regular faculty and curriculum and has a regularly enrolled body of pupils or students in attendance at the place in this state where its educational activities are regularly carried on;

(C) A corporation or organization which annually receives more than one half of its support from any combination of gifts,

grants, direct or indirect charitable contributions, or membership fees;

(D) An organization which has no paid employees and its gross income from fundraisers, less reasonable and necessary expenses incurred to raise the gross income (or the tangible personal property or services purchased with the net income), is donated to an organization which is exempt from income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended;

(E) A youth organization, such as the Girl Scouts of the United States of America, the Boy Scouts of America, or the YMCA Indian Guide/Princess Program and the local affiliates thereof, which is organized and operated exclusively for charitable purposes and has as its primary purpose the nonsectarian character development and citizenship training of its members;

(F) For purposes of this subsection:

(i) The term "support" includes, but is not limited to:

(I) Gifts, grants, contributions, or membership fees;

(II) Gross receipts from fundraisers which include receipts from admissions, sales of merchandise, performance of services or furnishing of facilities in any activity which is not an unrelated trade or business within the meaning of Section 513 of the Internal Revenue Code of 1986, as amended;

(III) Net income from unrelated business activities, whether or not the activities are carried on regularly as a trade or business;

(IV) Gross investment income as defined in Section 509(e) of the Internal Revenue Code of 1986, as amended;

(V) Tax revenues levied for the benefit of a corporation or organization either paid to or expended on behalf of the organization; and

(VI) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code of 1986, as amended, to an organization without charge. This term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset or the value of an exemption from any federal, state, or local tax or any similar benefit;

(ii) The term "charitable contribution" means a contribution or gift to, or for the use of, a corporation or organization, described in Section 170(c)(2) of the Internal Revenue Code of 1986, as amended; and

(iii) The term "membership fee" does not include any amounts paid for tangible personal property or specific services rendered to members by the corporation or organization;

(G) The exemption allowed by this subdivision does not apply to sales of gasoline or special fuel or to sales of tangible personal property or services to be used or consumed in the generation of unrelated business income as defined in Section 513 of the Internal Revenue Code of 1986, as amended. The exemption granted in this subdivision applies only to services, equipment, supplies, and materials used or consumed in the activities for which the organizations qualify as tax-exempt organizations under the Internal Revenue Code and does not apply to purchases of gasoline or special fuel which are taxable as provided in §11-14C-1 *et seq.* of this code;

(7) An isolated transaction in which any taxable service or any tangible personal property is sold, transferred, offered for sale or delivered by the owner of the property or by his or her representative for the owner's account, the sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of like character by the owner or on his or her account by the representative: *Provided*, That nothing contained in this subdivision may be construed to prevent an owner who sells, transfers, or offers for sale tangible personal property in

an isolated transaction through an auctioneer from availing himself or herself of the exemption provided in this subdivision, regardless of where the isolated sale takes place. The Tax Commissioner may propose a legislative rule for promulgation pursuant to §29A-3-1 *et seq.* of this code which he or she considers necessary for the efficient administration of this exemption;

(8) Sales of tangible personal property or of any taxable services rendered for use or consumption in connection with the commercial production of an agricultural product the ultimate sale of which is subject to the tax imposed by this article or which would have been subject to tax under this article: *Provided*, That sales of tangible personal property and services to be used or consumed in the construction of, or permanent improvement to, real property and sales of gasoline and special fuel are not exempt: *Provided, however*, That nails and fencing may not be considered as improvements to real property;

(9) Sales of tangible personal property to a person for the purpose of resale in the form of tangible personal property: *Provided*, That sales of gasoline and special fuel by distributors and importers are taxable except when the sale is to another distributor for resale: *Provided, however*, That sales of building materials or building supplies or other property to any person engaging in the activity of contracting, as defined in this article, which are to be installed in, affixed to, or incorporated by that person or his or her agent into any real property, building, or structure are not exempt under this subdivision;

(10) Sales of newspapers when delivered to consumers by route carriers;

(11) Sales of drugs, durable medical goods, mobility-enhancing equipment, and prosthetic devices dispensed upon prescription and sales of insulin to consumers for medical purposes;

(12) Sales of radio and television broadcasting time, preprinted advertising circulars, and newspaper and outdoor advertising space for the advertisement of goods or services;

(13) Sales and services performed by day care centers;

(14) Casual and occasional sales of property or services not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character by a corporation or organization which is exempt from tax under subdivision (6) of this subsection on its purchases of tangible personal property or services. For purposes of this subdivision, the term "casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character" means sales of tangible personal property or services at fundraisers sponsored by a corporation or organization which is exempt, under subdivision (6) of this subsection, from payment of the tax imposed by this article on its purchases when the fundraisers are of limited duration and are held no more than six times during any 12-month period and "limited duration" means no more than 84 consecutive hours: *Provided*, That sales for volunteer fire departments and volunteer school support groups, with duration of events being no more than 84 consecutive hours at a time, which are held no more than 18 times in a 12-month period for the purposes of this subdivision are considered "casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of a like character";

(15) Sales of property or services to a school which has approval from the Higher Education Policy Commission or the Council for Community and Technical College Education to award degrees, which has its principal campus in this state and which is exempt from federal and state income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended: *Provided*, That sales of gasoline and special fuel are taxable as provided in §11-15-18, §11-15-18b, and §11-14C-1 *et seq.* of this code;

(16) Sales of lottery tickets and materials by licensed lottery sales agents and lottery retailers authorized by the State Lottery Commission, under the provisions of §29-22-1 *et seq.* of this code;

(17) Leases of motor vehicles titled pursuant to the provisions of §17A-3-1 *et seq.* of this code to lessees for a period of 30 or more consecutive days;

(18) Notwithstanding the provisions of §11-15-18 or §11-15-18b of this code or any other provision of this article to the contrary, sales of propane to consumers for poultry house heating purposes, with any seller to the consumer who may have prior paid the tax in his or her price, to not pass on the same to the consumer, but to make application and receive refund of the tax from the Tax Commissioner pursuant to rules which are promulgated after being proposed for legislative approval in accordance with chapter 29A of this code by the Tax Commissioner;

(19) Any sales of tangible personal property or services purchased and lawfully paid for with food stamps pursuant to the federal food stamp program codified in 7 U. S. C. § 2011, *et seq*., as amended, or with drafts issued through the West Virginia special supplement food program for women, infants, and children codified in 42 U. S. C. § 1786;

(20) Sales of tickets for activities sponsored by elementary and secondary schools located within this state;

(21) Sales of electronic data processing services and related software: *Provided*, That, for the purposes of this subdivision, "electronic data processing services" means:

(A) The processing of another's data, including all processes incident to processing of data such as keypunching, keystroke verification, rearranging or sorting of previously documented data for the purpose of data entry or automatic processing, and changing the medium on which data is sorted, whether these processes are done by the same person or several persons; and

(B) Providing access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to the computer equipment;

(22) Tuition charged for attending educational summer camps;

(23) (A) Dispensing of services performed by one corporation, partnership, or limited liability company for another corporation, partnership, or limited liability company when the entities are members of the same controlled group or are related taxpayers as defined in Section 267 of the Internal Revenue Code of 1986, as amended. For purposes of this subdivision, "control" means ownership, directly or indirectly, of stock, equity interests, or membership interests possessing 50 percent or more of the total combined voting power of all classes of the stock of a corporation, equity interests of a partnership, or membership interests of a limited liability company entitled to vote or ownership, directly or indirectly, of stock, equity interests, or membership interests possessing 50 percent or more of the value of the corporation, partnership, or limited liability company;

(B) Leases of heavy equipment or machinery among corporations, partnerships, or limited liability companies when the entities are members of the same control group or are related taxpayers as defined in Section 267 of the Internal Revenue Code of 1986, as amended;

(24) Food for the following is exempt:

(A) Food purchased or sold by a public or private school, school-sponsored student organizations, or school-sponsored parent-teacher associations to students enrolled in the school or to employees of the school during normal school hours; but not those sales of food made to the general public;

(B) Food purchased or sold by a public or private college or university or by a student organization officially recognized by the college or university to students enrolled at the college or university when the sales are made on a contract basis so that a fixed price is paid for consumption of food products for a specific period of time without respect to the amount of food product actually consumed by the particular individual contracting for the sale and no money is paid at the time the food product is served or consumed;

(C) Food purchased or sold by a charitable or private nonprofit organization, a nonprofit organization, or a governmental agency under a program to provide food to low-income persons at or below cost;

(D) Food sold by a charitable or private nonprofit organization, a nonprofit organization or a governmental agency under a program operating in West Virginia for a minimum of five years to provide food at or below cost to individuals who perform a minimum of two hours of community service for each unit of food purchased from the organization;

(E) Food sold in an occasional sale by a charitable or nonprofit organization, including volunteer fire departments and rescue squads, if the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is actually expended for that purpose;

(F) Food sold by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenue obtained from selling the food is actually used in carrying out those functions and activities: *Provided*, That purchases made by the organizations are not exempt as a purchase for resale; or

(G) Food sold by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, when the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

(25) Sales of food by little leagues, midget football leagues, youth football or soccer leagues, band boosters, or other school or athletic booster organizations supporting activities for grades kindergarten through 12 and similar types of organizations, including scouting groups and church youth groups, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenues obtained from

selling the food is actually used in supporting or carrying on functions and activities of the groups: *Provided*, That the purchases made by the organizations are not exempt as a purchase for resale;

(26) Charges for room and meals by fraternities and sororities to their members: *Provided*, That the purchases made by a fraternity or sorority are not exempt as a purchase for resale;

(27) Sales of or charges for the transportation of passengers in interstate commerce;

(28) Sales of tangible personal property or services to any person which this state is prohibited from taxing under the laws of the United States or under the Constitution of this state;

(29) Sales of tangible personal property or services to any person who claims exemption from the tax imposed by this article or §11-15A-1 *et seq.* of this code, or pursuant to the provision of any other chapter of this code;

(30) Charges for the services of opening and closing a burial lot;

(31) Sales of livestock, poultry, or other farm products in their original state by the producer of the livestock, poultry, or other farm products or a member of the producer's immediate family who is not otherwise engaged in making retail sales of tangible personal property; and sales of livestock sold at public sales sponsored by breeders or registry associations or livestock auction markets: *Provided*, That the exemptions allowed by this subdivision may be claimed without presenting or obtaining exemption certificates provided the farmer maintains adequate records;

(32) Sales of motion picture films to motion picture exhibitors for exhibition if the sale of tickets or the charge for admission to the exhibition of the film is subject to the tax imposed by this article and sales of coin-operated video arcade machines or video arcade games to a person engaged in the business of providing the machines to the public for a charge upon which the tax imposed by this article is remitted to the Tax Commissioner: *Provided*, That

the exemption provided in this subdivision may be claimed by presenting to the seller a properly executed exemption certificate;

(33) Sales of aircraft repair, remodeling, and maintenance services when the services are to an aircraft operated by a certified or licensed carrier of persons or property, or by a governmental entity, or to an engine or other component part of an aircraft operated by a certified or licensed carrier of persons or property, or by a governmental entity and sales of tangible personal property that is permanently affixed or permanently attached as a component part of an aircraft owned or operated by a certified or licensed carrier of persons or property, or by a governmental entity, as part of the repair, remodeling, or maintenance service and sales of machinery, tools, or equipment directly used or consumed exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines, or aircraft component parts for a certified or licensed carrier of persons or property or for a governmental entity;

(34) Charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs;

(35) Sales of services by individuals who babysit for a profit: *Provided*, That the gross receipts of the individual from the performance of baby-sitting services do not exceed $5,000 in a taxable year;

(36) Sales of services by public libraries or by libraries at academic institutions or by libraries at institutions of higher learning;

(37) Commissions received by a manufacturer's representative;

(38) Sales of primary opinion research services when:

(A) The services are provided to an out-of-state client;

(B) The results of the service activities, including, but not limited to, reports, lists of focus group recruits, and compilation of data are transferred to the client across state lines by mail, wire, or

other means of interstate commerce, for use by the client outside the state of West Virginia; and

(C) The transfer of the results of the service activities is an indispensable part of the overall service.

For the purpose of this subdivision, the term "primary opinion research" means original research in the form of telephone surveys, mall intercept surveys, focus group research, direct mail surveys, personal interviews, and other data-collection methods commonly used for quantitative and qualitative opinion research studies;

(39) Sales of property or services to persons within the state when those sales are for the purposes of the production of value-added products: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, and materials directly used or consumed by those persons engaged solely in the production of value-added products: *Provided, however*, That this exemption may not be claimed by any one purchaser for more than five consecutive years, except as otherwise permitted in this section.

For the purpose of this subdivision, the term "value-added product" means the following products derived from processing a raw agricultural product, whether for human consumption or for other use. For purposes of this subdivision, the following enterprises qualify as processing raw agricultural products into value-added products: Those engaged in the conversion of:

(A) Lumber into furniture, toys, collectibles, and home furnishings;

(B) Fruits into wine;

(C) Honey into wine;

(D) Wool into fabric;

(E) Raw hides into semifinished or finished leather products;

(F) Milk into cheese;

(G) Fruits or vegetables into a dried, canned, or frozen product;

(H) Feeder cattle into commonly accepted slaughter weights;

(I) Aquatic animals into a dried, canned, cooked, or frozen product; and

(J) Poultry into a dried, canned, cooked, or frozen product;

(40) Sales of music instructional services by a music teacher and artistic services or artistic performances of an entertainer or performing artist pursuant to a contract with the owner or operator of a retail establishment, restaurant, inn, bar, tavern, sports or other entertainment facility, or any other business location in this state in which the public or a limited portion of the public may assemble to hear or see musical works or other artistic works be performed for the enjoyment of the members of the public there assembled when the amount paid by the owner or operator for the artistic service or artistic performance does not exceed $3,000: *Provided*, That nothing contained herein may be construed to deprive private social gatherings, weddings or other private parties from asserting the exemption set forth in this subdivision. For the purposes of this exemption, artistic performance or artistic service means and is limited to the conscious use of creative power, imagination, and skill in the creation of aesthetic experience for an audience present and in attendance and includes, and is limited to, stage plays, musical performances, poetry recitations and other readings, dance presentation, circuses, and similar presentations and does not include the showing of any film or moving picture, gallery presentations of sculptural or pictorial art, nude or strip show presentations, video games, video arcades, carnival rides, radio or television shows, or any video or audio-taped presentations or the sale or leasing of video or audio tapes, air shows, or any other public meeting, display, or show other than those specified herein: *Provided, however*, That nothing contained herein may be construed to exempt the sales of tickets from the tax imposed in this article. The State Tax Commissioner shall propose a legislative rule pursuant to §29A-3-1 *et seq.* of this code establishing definitions and eligibility criteria for asserting this exemption which is not inconsistent with the provisions set forth herein:

Provided further, That nude dancers or strippers may not be considered as entertainers for the purposes of this exemption;

(41) Charges to a member by a membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, for membership in the association or organization, including charges to members for newsletters prepared by the association or organization for distribution primarily to its members, charges to members for continuing education seminars, workshops, conventions, lectures, or courses put on or sponsored by the association or organization, including charges for related course materials prepared by the association or organization or by the speaker or speakers for use during the continuing education seminar, workshop, convention, lecture, or course, but not including any separate charge or separately stated charge for meals, lodging, entertainment, or transportation taxable under this article: *Provided*, That the association or organization pays the tax imposed by this article on its purchases of meals, lodging, entertainment, or transportation taxable under this article for which a separate or separately stated charge is not made. A membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, may elect to pay the tax imposed under this article on the purchases for which a separate charge or separately stated charge could apply and not charge its members the tax imposed by this article or the association or organization may avail itself of the exemption set forth in subdivision (9) of this subsection relating to purchases of tangible personal property for resale and then collect the tax imposed by this article on those items from its member;

(42) Sales of governmental services or governmental materials by county assessors, county sheriffs, county clerks or circuit clerks in the normal course of local government operations;

(43) Direct or subscription sales by the Division of Natural Resources of the magazine currently entitled Wonderful West Virginia and by the Division of Culture and History of the

magazine currently entitled Goldenseal and the journal currently entitled West Virginia History;

(44) Sales of soap to be used at car wash facilities;

(45) Commissions received by a travel agency from an out-of-state vendor;

(46) The service of providing technical evaluations for compliance with federal and state environmental standards provided by environmental and industrial consultants who have formal certification through the West Virginia Department of Environmental Protection or the West Virginia Bureau for Public Health or both. For purposes of this exemption, the service of providing technical evaluations for compliance with federal and state environmental standards includes those costs of tangible personal property directly used in providing such services that are separately billed to the purchaser of such services and on which the tax imposed by this article has previously been paid by the service provider;

(47) Sales of tangible personal property and services by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, if the sole purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

(48) Lodging franchise fees, including royalties, marketing fees, reservation system fees, or other fees assessed that have been or may be imposed by a lodging franchiser as a condition of the franchise agreement;

(49) Sales of the regulation size United States flag and the regulation size West Virginia flag for display;

(50) Sales of an aircraft sold in this state on or after July 1, 2020, as evidenced by a Federal Aviation Administration Bill of Sale AC Form 8050-2 and registered outside of this state as evidenced by Federal Aviation Administration Aircraft

Registration AC Form 8050-1 shall be exempt, so long as the aircraft is removed from this state within 60 days of the date of purchase on the bill of sale. The time between the date of purchase and the removal of the aircraft shall not be counted for purposes of determining whether the aircraft is subject to use tax; and

(51) Sales of services providing the processing of beef, pork, goat, or lamb by a slaughterhouse.

(b) *Refundable exemptions*. — Any person having a right or claim to any exemption set forth in this subsection shall first pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a refund or credit, or as provided in §11-15-9d of this code give to the vendor his or her West Virginia direct pay permit number. The following sales of tangible personal property and services are exempt from tax as provided in this subsection:

(1) Sales of property or services to bona fide charitable organizations who make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food, meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(2) Sales of services, machinery, supplies, and materials directly used or consumed in the activities of manufacturing, transportation, transmission, communication, production of natural resources, gas storage, generation or production or selling electric power, provision of a public utility service or the operation of a utility service or the operation of a utility business, in the businesses or organizations named in this subdivision and does not apply to purchases of gasoline or special fuel;

(3) Sales of property or services to nationally chartered fraternal or social organizations for the sole purpose of free distribution in public welfare or relief work: *Provided*, That sales of gasoline and special fuel are taxable;

(4) Sales and services, firefighting or station house equipment, including construction and automotive, made to any volunteer fire

department organized and incorporated under the laws of the State of West Virginia: *Provided*, That sales of gasoline and special fuel are taxable; and

(5) Sales of building materials or building supplies or other property to an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, which are to be installed in, affixed to, or incorporated by the organization or its agent into real property or into a building or structure which is or will be used as permanent low-income housing, transitional housing, an emergency homeless shelter, a domestic violence shelter, or an emergency children and youth shelter if the shelter is owned, managed, developed, or operated by an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended.

(c) *Effective date*. — The amendments to this section in 2018 shall take effect beginning July 1, 2018, and apply to former sales made on and after that date: *Provided*, That the amendments to subdivision (6), subsection (b) of this section take effect upon passage of this act of the Legislature and shall be construed to prohibit on and after January 1, 2018, all transfers to the State Road Fund established in the State Treasury pursuant to section 52, article VI of the Constitution of West Virginia, of the taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code.

CHAPTER 10

(Com. Sub. for S. B. 844 - By Senators Rucker, Hart, and Deeds)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §20-2-47 of the Code of West Virginia, 1931, as amended, relating to licenses for private game farm for propagating animals and birds for commercial purposes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-47. License for private game farm for propagating animals and birds for commercial purposes.

(a) The director may issue a license for the operation of a private game preserve for propagation of wild animals and wild birds for commercial purposes. The license shall authorize the holder to breed or raise animals and birds as specified by the license, to sell the same dead or alive, or to sell the eggs of birds in accordance with regulations prescribed by the director.

(b) Application for a license under this section shall designate the property whereon the preserve is to be established. Before the license is issued, the director shall determine that the property is properly enclosed, that the provisions for housing and sanitation are proper and adequate, and that the safety of the public is protected.

(c) The annual license fee shall be $10.

(d) (1) For purposes of this section, domesticated poultry possessed for agricultural purposes are not considered wild birds and are not subject to the licensure requirements for a private game preserve. Any quail or partridge that will be released into the wild are not possessed for agricultural purposes and are not exempt from said licensure requirements.

(2) As used in this subsection:

(A) "Domesticated poultry" means non-native quail or partridge.

(B) "Agricultural purposes" means use of domesticated poultry for purposes including, but not limited to, meat and egg production, propagation for meat and egg production, and sales for meat and egg production.

CHAPTER 11

(S. B. 941 - By Senators Rose, Queen, Azinger, Charnock, Fuller, Hart, Helton, Jeffries, Phillips, Taylor, and Garcia)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §19-21A-8 of the Code of West Virginia, 1931, as amended, relating to clarifying certain authority regarding dams owned or sponsored by local conservation districts; providing that any alteration, improvement, or agreement related to a dam owned or sponsored by a local conservation district is subject solely to the authority of the Department of Environmental Protection; and providing that the provisions of this subsection may not be construed to affect or alter any state or federal funding to the West Virginia Conservation Agency.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21A. CONSERVATION DISTRICTS.

§19-21A-8. Powers and duties of conservations districts and supervisors.

A conservation district organized under the provisions of this article and the supervisors thereof shall have the following powers and duties, in addition to others granted in other sections of this article:

(1) To hold public meetings, to conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damage, and nonpoint source water pollution, and to the conservation, development, utilization, water quality, disposal of water, and the preventive and control measures needed to

publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement to the public: *Provided*, That in order to avoid duplication of research activities, a district may not initiate any research program or publish the results except with the approval of the state committee and in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies: *Provided, however,* That any alteration, improvement, or agreement related to a dam owned or sponsored by a local conservation district is subject solely to the authority of the Department of Environmental Protection. The provisions of this subsection may not be construed to affect or alter any state or federal funding to the West Virginia Conservation Agency;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of the lands or the necessary rights or interests in the lands in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved and soil erosion in the form of soil washing may be prevented and controlled, water quality may be improved, and works of improvement may be carried out;

(3) To carry out preventive and control measures and works of improvement within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land; drainage, irrigation, and other agricultural water management operations and measures for the prevention of floodwater and sediment damages, or for the control and abatement of nonpoint sources of water pollution; and the measures listed in §19-21A-2 of this code on lands owned or controlled by this state or any of its agencies with the consent and cooperation of the agency administering and having jurisdiction thereof and on any other lands within the district upon obtaining

the consent of the owner and occupier of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of erosion-control and prevention operations, operations for the control and abatement of nonpoint sources of water pollution, and works of improvement within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this article;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to institute condemnation proceedings to acquire any property, real or personal, or rights or interests therein, whether or not located in the district, required for works of improvement; to maintain, administer, and improve any properties acquired, to receive income from such properties, and to expend such income in carrying out the purposes and provisions of this article; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this article;

(6) To accept and receive donations, gifts, contributions, grants, and appropriations in money, services, materials, or otherwise from the United States or any of its agencies, from the state of West Virginia, or from other sources and use or expend the money, services, materials, or other contributions in carrying out the policy and provisions of this article;

(7) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources, and for the prevention and control of soil erosion, and for flood prevention or the conservation, development, utilization, water quality, and disposal of water;

(8) To construct, improve, operate, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this article;

(9) To develop and submit to the state committee its proposed long range program and annual work plans related to the conservation of soil resources, and for the control and prevention of soil erosion, and for flood prevention and water quality improvement, or the conservation, development, utilization, and disposal of water within the district. The plans shall specify, in as much detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(10) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, located within its boundaries, undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to accept donations, gifts, contributions, and grants in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source and to use or expend such money, services, materials, or other contributions in carrying on its operations;

(11) To sue and be sued in the name of the district; to have a seal, which shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make and, from time to time, amend and repeal rules and regulations not inconsistent with this article to carry into effect its purposes and powers;

(12) As a condition to extending any benefits under this article to, or the performance of work upon any lands, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damage thereon;

(13) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder in its acquisition, operation, and disposition of property unless the Legislature shall specifically so state;

(14) To enter into contracts and other arrangements with agencies of the United States, with persons, firms, or corporations, including public and nonprofit corporations, with the state government of this state or other states, or any department or agency thereof, with governmental divisions, with soil conservation, drainage, flood control, soil erosion, or other improvement districts in this state or other states, for cooperation or assistance in constructing, improving, operating, or maintaining works of improvement within the district, or in preventing floods, or in conserving, developing, utilizing, and disposing of water in the district, or for making surveys, investigations, or reports thereof; and to obtain options upon and acquire property, real or personal, or rights or interests therein, in other districts or states required for flood prevention and water quality improvement, or the conservation, development, utilization, and disposal of water within the district and to construct, improve, operate, or maintain thereon or therewith works of improvement.

(15) Each district shall, through public meetings, publications, or other means, keep the public, agencies, and occupiers of the land within the district informed of the works and activities planned and administered by the district, of the purposes these will serve, and of the results achieved annually by the districts.

CHAPTER 12

(Com. Sub. for H. B. 2054 - By Delegates W. Clark, Maynor, and Masters)

[Passed April 12, 2025; in effect ninety days from passage. (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §60-4-3a, §60-7-2, §60-7-3, §60-7-8c, §60-7-8d, §60-7-8e, §60-7- 8g, §60-8-2, and §60-8-32a of the Code of West Virginia, 1931, as amended, amending liquor sampling requirements; revising definitions; addressing and making minor corrections in the Alcohol Beverage Control Administration ("ABCA") code sections correcting mistakes relating to a $100 requirement for canned or packaged food; removing the requirement that a private farmers market or private food court with two or more unrelated vendors applying for a license must certify that all vendors have agreed to liability responsibility therein and removing the requirement that a private farmers market or private food court provide a written copy of the agreement between all vendors acknowledging that each vendor is jointly and severally liable for any violations; authorizing the use of self-pour automated systems for nonintoxicating beer, cider, and wine by the drink on licensee premises; removing the requirement that a joint and several liability agreement be executed between the multiple vendors at a multi-vendor fair or festival; regulating private clubs sale and service of alcoholic and non-intoxicating beverages; providing limitations on sealed craft cocktail or wine growlers sold to persons who have dined in an establishment, or a patron who is in vehicle while picking up food or a meal and ordered a sealed craft cocktail or wine growler; clarifying and expanding the types of licensed entities authorized to participate in a duly permitted private outdoor designated area (“PODA”); defining terms; exempting certain licensees from certain fees; authorizing consumer activity

within a PODA; authorizing a new S4N license for qualified nonprofits; authorizing S1, S2, and S3 licensees to participate in a private outdoor designated area on the premises of a participating Class S4 permit holder upon written invitation of the Class 2 S4 permit holder; correcting mistaken listed percentage for fortified wine; all generally relating to the licensing, sale and service of alcoholic liquor, nonintoxicating beer or nonintoxicating craft beer, wine, cider, craft and cocktails as beverages or sealed containers, and where same may be sold and served.

Be it enacted by the Legislature of West Virginia:

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 4. LICENSES.

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

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

(b) Retail on-premises and off-premises consumption sales. — Every licensed distillery, mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq*., §60-4-1 *et seq*., and §60-7-1 *et seq.* of this code, applicable to liquor retailers, and distillers. In the interest of promoting tourism throughout the state, every licensed distillery, mini-distillery, or micro-distillery manufacturing liquor in this state is authorized, with a limited off-site retail privilege at private fairs and festivals, for on-premises consumption sales served by the drink or glass, and off-premises consumption sales by the bottle of only the licensed distillery, mini-distillery, or micro-distillery's sealed liquor. At least five days prior to an approved private fair and festival, an authorized distillery, mini-distillery, or micro-distillery shall provide a copy of a written agreement to sell only liquor manufactured by the licensed distillery, mini-distillery, or micro-distillery at the private fair and festival's licensed premises. If approved, an authorized distillery, mini-distillery, or micro-distillery may conduct on-premises and off-premises consumption sales of its liquor from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved distilleries, mini-distilleries, and micro-distilleries' off-premises consumption sales shall comply with all retail requirements in §60-3A-1 *et seq.* of this code, and specifically §60-3A-17 of this code with respect to all markups, taxes, and fees and also all retail requirements of §60-7-1 *et seq.* of this code when applicable. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide samples to patrons who are 21 years of age and older and who are not intoxicated. The liquor samples of the licensed distillery, mini-distillery, or micro-distillery's product on any sampling day shall not exceed six ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed six ounces.

(c) Payment of taxes and fees. — The distillery, mini-distillery, or micro-distillery shall pay all taxes and fees required of licensed

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

(d) Payments to market zone retailers. — Each distillery, mini-distillery, or micro-distillery shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for the value of all sales at the distillery, mini-distillery, or micro-distillery each month. Any sales by a distillery, mini-distillery, or micro-distillery at a private fair and festival are treated as occurring on their licensed premises for purposes of this market zone calculation. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone retailer's annual gross prior years pretax value sales. The maximum amount of market zone payments that a distillery, mini-distillery, or micro-distillery shall submit to the commissioner is $15,000 per annum.

(e) Limitations on licensees. — A distillery, mini-distillery, or micro-distillery may not produce more than 50,000 gallons per calendar year. The commissioner may issue more than one distillery, mini-distillery, or micro-distillery license to a single person or entity and a person may hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery, or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as otherwise specified in the code.

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

property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

(g) A political subdivision of this state may not regulate any of the following activities of a distillery, mini-distillery, or micro-distillery licensed and operating in accordance with this section:

(1) The on-premises sale, tasting, or consumption of liquor during business hours set forth in §60-7-12 of this code;

(2) The storage, warehousing, and wholesaling of liquor in accordance with the rules of the commissioner and federal law or regulations; or

(3) The sale of liquor related items including but not limited to the sale of pre-packaged food not requiring kitchen preparation that are incidental to the sale of liquor and on-premises consumption.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses.

Unless the context in which used clearly requires a different meaning, as used in this article:

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

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

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

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

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

(A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

(B) Is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

(C) Is organized and operated for legitimate purposes, which has at least 100 duly- elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which are admitted only duly- elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or

(D) Is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park, or at any airport, in which a club has been established, to which are admitted only duly-elected and approved

dues-paying members in good standing and their guests while in the company of a member and to which the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

"Private bakery" means an applicant for a private club or licensed private club license that has a primary function of operating a food preparation business that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods where the applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, included: (A) In the icing, syrup, drizzle, or some other topping; (B) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (C) from an infusion packet containing alcohol no greater than 10 milliliters where the purchaser adds the alcohol. The applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises or off-premises consumption. The applicant or licensee may sell the baked goods with alcohol added as authorized for on-premises and off-premises consumption. Further, the applicant or licensee shall:

(i) Have at least 50 members;

(ii) Operate a kitchen that produces baked goods, as specified in this subdivision, including at least: (I) A baking oven and a four-burner range or hot plate; (II) a sink with hot and cold running water; (III) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (IV) baking utensils and pans, kitchen utensils, and other food consumption apparatus as determined by the commissioner; and (V) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(iii) Maintain, at any one time, a food inventory capable of being prepared in the private bakery's kitchen. In calculating the

food inventory, the commissioner shall include bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, baking items such as flour, sugar, icing, and other confectionary items, or canned prepared foods;

(iv) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private bakery are not sold items containing alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine. A person under 21 years of age may enter the shop and purchase other items not containing alcoholic liquors; and

(v) Meet and be subject to all other private club requirements.

"Private cigar shop" means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu, which may be met by using a private caterer, for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the applicant or licensee shall:

(A) Have at least 50 members;

(B) Operate a cigar shop and bar with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintain, at any one time, not less than a food inventory capable of being prepared in the private club bar's kitchen or have

on hand at least $150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 21 years of age is not accompanied by a parent or legal guardian, refuse to admit that person as a guest; and

(E) Meet and be subject to all other private club requirements.

"Private caterer" means a licensed private club restaurant, private hotel, or private resort hotel authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

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

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

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

(D) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer who have received certified training in verifying the legal identification, the age of a purchasing

person, and the signs of visible, noticeable, and physical intoxication;

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

(i) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

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

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

(iv) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period and where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises: *Provided*, That the unlicensed private venue shall: (I) Be inside a building or structure; (II) have other facilities to prepare and serve food and alcohol; (III) have adequate restrooms and sufficient building facilities for the number of members and guests expected to attend the private catering event; and (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

(F) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

(G) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

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

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

"Private club bar" means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer and wine when licensed for those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subdivision which:

(A) Has at least 100 members;

(B) Operates a bar with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintains, at any one time, a food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian. If a person under 18 years of age is not

accompanied by a parent or legal guardian that person may not be admitted as a guest; and

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

"Private food truck" means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals for sale at various locations within the state while using a propane or electric generator powered kitchen. The private food truck applicant shall obtain county or municipal approval to operate a private food truck for food and liquor, wine, hard cider, and nonintoxicating beer or nonintoxicating craft beer sales and service, while providing a food menu for members and guests. The private food truck applicant shall:

(A) Have at least 10 members;

(B) Operate with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; and (iv) plastic or metal kitchen utensils and other food consumption apparatus as determined by the commissioner;

(C) Maintain, at any one time, not less than $200 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(D) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operated. Each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(E) Provide the commissioner with a list of all locations, including a main business location, where the private food truck

operates, and is approved for sales pursuant to paragraph (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

(F) Require all nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from the licensed distributor where the private food truck has its home location or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code.

(G) Require wine or hard cider sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(H) Require liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private food truck has its main business location, all in accordance with §60-3A-1 *et seq.* of this code.

(I) A licensee authorized by this section shall use bona fide employees to sell, furnish, tender, or serve the nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(J) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery may obtain a private food truck license;

(K) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(L) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are not permitted to be

served any alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine but may be permitted to purchase food or other items;

(M) Obtain all permits required by §60-6-12 of this code; and

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

"Private club restaurant" means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled within the restaurant where seating requirements for members and guests are met by including the restaurant area. The applicant for a private club restaurant license is an applicant which:

(A) Has at least 100 members;

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

(C) Maintains, at any one time, fresh food capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years who is not accompanied by a parent or legal guardian, but may allow

that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant:

(E) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to $10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3 (j) of this code and the legislative rules for carrying unconsumed wine off the licensed premises;

(F) Has at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written waiver supplied to commissioner of the requirement from the historic association or district with jurisdiction over a historic building: *Provided, further*, That in no event may a private club restaurant have less than one restroom; and

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

"Private manufacturer club" means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufacturers liquor, wine, nonintoxicating beer or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which:

(A) Has at least 100 members;

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

(C) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves food: *Provided*, That a licensee required by the provisions of this code to serve food on premises in order to lawfully serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, wine, or hard cider may meet the requirement of having on-premises food preparation facilities by, during all hours alcoholic liquors, beer, wine, and hard cider are offered for sale or sampling, having on-site an operating food truck or other portable kitchen: *Provided, however*, That the approval of the commissioner and the appropriate health department is required to operate as allowed by subsection (a) of this section;

(D) Maintains, at any one time fresh food capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may include bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(E) Owns or leases, controls, operates, and uses space which is contiguous, bounded, or fenced real property sufficient to safely operate the licensed premises that would be listed on the licensee's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, hard cider, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer

club's licensed premises, and as noted on the private manufacturer club's floorplan;

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

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

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

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

(A) Has at least 100 members;

(B) Has been sponsored, endorsed, or approved, in writing, by the governing body, or its duly elected or appointed officers, of either the municipality or of the county in which the festival, fair, or other event is to be conducted;

(C) Prepares, provides, or engages a food vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further provides any documentation or agreements to the commissioner prior to approval;

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

(E) Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(F) Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and

egress of stated members and guests who will be attending the festival, fair, or other event;

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

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

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

(A) Has at least 2,000 members;

(B) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(C) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 20 hours per week;

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

(E) Owns or leases, controls, operates, and uses acreage amounting to more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service,

and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private hotel's licensed premises and as noted on the private hotel's floorplan;

(G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

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

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

(J) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have secure access via key or key card to an in-room mini-bar in their rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of 1.6 cubic feet for the sale of nonintoxicating beer or nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding 750 ml of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, and 200 ml, with any combination of those liquor bottles not exceeding 750 ml; and (iv) any combination of canned or packaged food valued at least $50. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, liquor, and hard cider. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be

checked daily and replenished as needed to benefit the member and guest.

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

(A) Has at least 5,000 members;

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

(C) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 25 hours per week;

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

(E) Owns or leases, controls, operates, and uses acreage amounting to at least 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for destination, resort, and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private resort hotel's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises;

(G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

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

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

(J) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and samples at the resident brewery; and

(K) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml with any combination of such liquor bottles not exceeding one and a half liters; and (iv) any combination of canned or packaged food. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

"Private golf club" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 100 members;

(B) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(D) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf club's floorplan and could be used for golfing events and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(E) Lists the entire property from paragraph (D) of this subsection and all adjoining buildings and structures on the private golf club's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer, wine, hard cider, or nonintoxicating craft beer throughout the licensed premises whether these activities are conducted in a building or structure or outdoors while on the private golf club's licensed premises;

(F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises;

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

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

"Private nine-hole golf course" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 50 members;

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

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(D) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private nine-hole golf course's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private nine-hole golf course's licensed premises;

(F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

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

(A) Has at least 100 members;

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

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

(D) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private tennis club's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private tennis club's licensed premises;

(F) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

"Private college sports stadium" means an applicant for a private club or licensed private club licensee that operates a college or university stadium or coliseum for Division I, II, or III sports and that involves a college, public or private, or university that is a member of the National Collegiate Athletic Association, or its successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant.

The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when conducting or temporarily hosting non-collegiate sporting events. This license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All alcohol sales shall take place within the confines of the college or university stadium: *Provided*, That any outside area approved for alcohol sales and nonintoxicating beer or nonintoxicating craft beer shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the alcohol sales area is closed in order to prevent entry and access by the general public. Further the applicant shall:

(A) Have at least 100 members;

(B) Maintain an open-air or enclosed stadium or coliseum venue primarily used for sporting events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also weddings, reunions, conferences, meetings, or other events where parties shall reserve the college stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or greater than a private club restaurant, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private college stadium's floorplan and could be used for contracted-for temporary non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the

private college sports stadium's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private college sports stadium's licensed premises and as noted on the private college sports stadium's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

"Private professional sports stadium" means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when the events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may not sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when conducting or hosting non-professional sporting events, and further the applicant shall:

(A) Have at least 1,000 members;

(B) Maintain an open-air or enclosed stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions, conferences, meetings, or other events where parties reserve the stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises which is capable of serving freshly prepared food or meals to serve its

stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least three contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted- for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private professional sports stadium's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private professional sports stadium's licensed premises;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

"Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, and retailers who sell West Virginia- made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other

special events and does not maintain daily or regular operating hours as a bar or restaurant. All businesses that are members of the association shall agree in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, wine, and hard cider occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas. The applicant shall also:

(A) Have at least 100 members;

(B) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serve freshly prepared food at least 15 hours per week;

(C) Have one or more members operating a private club restaurant who maintain, at any one time, fresh food capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted-for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

(E) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises

whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(G) Have at least two separate and unrelated vendors applying for the private farmers market license;

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

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

(J) Provide a 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;

(K) Use an age verification system approved by the commissioner; and

(L) Meet and be subject to all other private club requirements.

"Private wedding venue or barn" means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

(A) Has at least 25 members;

(B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events

where parties reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food, or engages a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(D) Owns or leases, controls, operates, and uses space sufficient to safely operate the licensed premises. The applicant or licensee shall verify that, the property is not less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's or barn’s floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises and which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private wedding venue or barn's licensed premises;

(F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

"Private multi-sport complex" means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(A) Has at least 100 members;

(B) Maintains an open-air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties reserve parts of the sports complex in advance of the sporting or other event;

(C) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises which is capable of serving freshly prepared food, or meals to its stated members, guests, and patrons who will be attending the event at the private multi-sport complex. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

(D) Maintains, at any one time, fresh food capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may not include bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(E) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private multi-sport complex's floorplan and could be used for contracted-for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private multi-sport complex's floorplan which would comprise the licensed premises, and which would be authorized for the lawful sales, service, and consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, and hard cider throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private multi-sport complex's licensed premises, as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

(G) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

(I) Uses an age verification system approved by the commissioner.

"Private coliseum or center" means an applicant for a private club or licensed private club licensee that is open for various events including, but not limited to, musical concerts, bands, sporting events, monster trucks, sports entertainment events, circuses, expos, hobby events, tradeshows, health events, reserved weddings, reunions, retreats, conventions, conferences, meetings, or other special events. The licensee may not sell alcoholic liquors, nonintoxicating beer or wine when conducting or hosting events focused on patrons who are less than 21 years of age. The applicant shall also:

(A) Have at least 5,000 members;

(B) Maintain an enclosed coliseum or center venue with at least 80,000 square feet of event space primarily used for events where

parties reserve the coliseum or center venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and be capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending events at the private coliseum or center;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private coliseum or center's floorplan and could be used for contracted-for events, or a private fair and festival, as authorized by the commissioner per dual licensing requirements as set forth in §60-7-2a of this code;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private coliseum or center's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on private coliseum or center's licensed premises;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

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

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

"Private food court" means an applicant who qualifies for a private club restaurant or licensed private club restaurant license that operates in a facility within a licensed premises with one licensed floorplan that includes an association of other inter-

connected licensed private club restaurants or unlicensed restaurants that operate legally without alcohol sales, where all businesses that are licensed members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private food court. The applicant shall also:

(A) Have at least 100 members;

(B) Have at least one member of its association who qualifies for a private club restaurant containing a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and be capable of serving freshly prepared food at least 15 hours per week in the private food court;

(C) Have at least one member of its association who qualifies for a private club restaurant license who maintains, at any one time, fresh food capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory the commissioner may not include bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Have an association that owns or leases, controls, operates, and uses a facility that meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its licensed premises;

(E) Have an association that lists in the application for licensure the entire facility and any inter-connected and adjoining structures on the private food court's floorplan which would compromise the licensed premises, and which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a

building or structure while on the private food court's licensed premises as noted on the private food court's licensed floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(G) Have at least one separate and unrelated business applying for private food court license;

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

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members, patrons, and guests who will be attending the private food court;

(J) Provide a security plan indicating all businesses who will be selling and serving alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated, and a plan to provide for the public health and safety of members, patrons, and guests;

(K) Use an age verification system approved by the commissioner; and

(L) Meet and be subject to all other private club requirements.

The Division of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation, or public authority operating any park or airport may lease, as lessor, a building or portion thereof or other limited premises in any park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-3. Sale of alcoholic liquors and nonintoxicating beer by licensee authorized.

(a) Notwithstanding any other provisions of this code to the contrary, licensees may sell, tender, and serve alcoholic liquors by the drink and as otherwise authorized by the provisions of §60-1-1 *et seq.*, §60-8-1 *et seq.*, and §60-8A-1 *et seq.* of this code, other than in sealed packages, for consumption on the premises of the licensees, to their members and their guests in accordance with the provisions of this article, rules of the commissioner and as authorized under §60-6-8 of this code. The licensees may keep and maintain on their premises a supply of those lawfully acquired alcoholic liquors in such quantities as may be appropriate for the conduct of their operations.

(b) Authorization for use of self-pour automated systems for nonintoxicating beer, hard cider, and wine.

(1) A licensee authorized pursuant to this article to sell alcoholic liquor and/or nonintoxicating beer, hard cider, or wine for on-premises consumption may use a self-pour automated system that, upon activation of a payment card by the licensee, may be operated to dispense nonintoxicating beer, hard cider, and wine to the following: (A) An employee of the licensee who is authorized by law to serve alcoholic beverages, or (B) a person whom the licensee has verified to be 21 years of age or older who displays a government-issued identification card that matches the name on the payment card. The verification that a person is 21 years of age or older shall be recorded by the licensee or an employee of the licensee.

(2) A self-pour automated system authorized by subsection (a) of this section may not dispense a serving of more than (1) 32 ounces of nonintoxicating beer, (2) 32 ounces of hard cider, or (3) 10 ounces of wine, before the payment card is reactivated by the licensee or an employee of the licensee.

§60-7-8c. Special license for a multi-vendor private fair and festival; license fee and application; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S3 private multivendor fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption at an event where multiple vendors shall share liability and responsibility, and apply for the license. Each vendor may temporarily purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) To be eligible for the license authorized by subsection (a) of this section, the private multivendor fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private multivendor fair and festival or other event is located;

(2) Jointly apply to the commissioner for the special license at least 15 days prior to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of $500 per event that may be divided among all the vendors attending the event;

(4) Be approved by the commissioner to operate the private multivendor fair, festival, or other event;

(5) Be limited to no more than 15 consecutive days;

(6) Have at least two separate and unrelated vendors applying for the license and certifying that at least 100 members will be in attendance;

(7) Freshly prepare and provide food or meals, or engage a food vendor to prepare and provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and provide any written documentation or agreements with a food caterer to the commissioner prior to approval of the license;

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

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members, patrons, and guests who will be attending the private multi-vendor festival, fair, or other event;

(10) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members', patrons', and guests' ages, and whether a member, patron, or guest is intoxicated, to provide for the public health and safety of members, patrons, and guests;

(11) Provide a floorplan for the proposed premises with one defined and bounded indoor and/or outdoor area to safely account for the ingress and egress of stated members, patrons, and guests who will be attending the festival, fair, or other event, and the floorplan that would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure, or outdoors while on the licensed premises and as noted on the floorplan;

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

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

(c) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from the licensed distributor that services the area in which the private multi-vendor fair and festival will be held or from a resident brewer acting in a limited capacity as a distributor, in accordance with §11-16-1 *et seq.* of this code.

(d) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed

distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(e) Liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private multi-vendor fair or festival will be held, all in accordance with §60-3A-1 *et seq.* of this code.

(f) A licensee authorized by this section may use bona fide employees, independent contractors, or volunteers to sell, furnish, tender, or serve the liquor, wine, nonintoxicating beer, or nonintoxicating craft beer: *Provided*, That the licensee shall train all employees, independent contractors, or volunteers to verify legal identification and to verify signs of intoxication.

(g) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor brokers may attend a private multi-vendor festival or fair and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any liquor, wine, nonintoxicating beer, or nonintoxicating craft beer.

(h) A licensee licensed under this section is subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may, by rule or order, allow certain waivers or exceptions with respect to those provisions, rules, or orders as required by the circumstances of each private multi-vendor fair and festival. The commissioner may revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

§60-7-8d. Where private clubs may sell and serve alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer.

(a) With prior approval of the commissioner, a private club licensee may sell, serve, and furnish alcoholic liquor and, if licensed to also sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may include a temporary private outdoor dining area or temporary private outdoor street dining area. A temporary private outdoor street dining area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The private club licensee shall submit to the commissioner: (1) the municipal or county approval of the private outdoor dining area or private outdoor street dining area; and, (2) a revised floorplan requesting to sell alcoholic liquors, and when licensed, for nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved and bounded outdoor area. The approved and bounded area need not be adjacent to the licensee's licensed premises, but in close proximity, for private outdoor street dining or private outdoor dining. For purposes of this subsection, "close proximity" means an available area within 300 feet of a licensee's licensed premises and under the licensee's control and with right of ingress and egress.

(c) This private outdoor dining or private outdoor street dining may be operated in conjunction with a private wine outdoor dining or private wine outdoor street dining area set forth in §60-8-32a of this code and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, private outdoor dining and private outdoor street dining include dining areas that are:

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

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any area where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) A private club restaurant or a private manufacturer club licensed for craft cocktail growler sales shall provide food or a meal along with sealed craft cocktail growler sales as set forth in this article to a patron who is (i) in-person or in-vehicle while picking up food or a meal, or (ii) in-person having dined on food or a meal, and (iii) has ordered a sealed craft cocktail growler to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-7-8e. Private club restaurant or private manufacturer club licensee's authority to sell craft cocktail growlers.

(a) *Legislative findings*. — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of liquor and its industry in this state to protect the public health, welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed private club restaurant or private manufacturer club, to have certain abilities to promote the sale of liquor manufactured in this state for the benefit of the citizens of this state, the state's growing distilling industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of craft cocktail growlers*. — A licensed private club restaurant or private manufacturer club may under a current and valid license that meets the requirements of this section may offer a craft cocktail growler in the ratio of up to one fluid ounce of liquor to four fluid ounces of nonalcoholic beverages or mixers, not to exceed 128 fluid ounces for the entire beverage in the craft

cocktail growler, for retail sale to patrons from their licensed premises in a sealed craft cocktail growler for personal consumption only off of the licensed premises. Prior to the sale, the licensee shall verify in-person, using proper identification, that any patron purchasing the craft cocktail growler is 21 years of age or older and that the patron is not visibly or noticeably intoxicated. There is a $100 non-prorated, non-refundable annual fee to sell craft cocktail growlers.

(c) *Retail sales*. — Every licensee licensed under this section shall comply with all the provisions of this chapter applicable to retail sale of liquor at retail liquor outlets, shall comply with markup specified in §60-3A-17(e)(2) of this code when conducting sealed craft cocktail growler sales, and is subject to all applicable requirements and penalties in this article.

(d) *Payment of taxes*. — Every licensee licensed under this section shall pay all sales taxes required of retail liquor outlets, in addition to any other taxes required, and meet any applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) *Advertising.* — Every licensee licensed under this section may only advertise a particular brand or brands of liquor manufactured by a distillery, mini-distillery, or micro-distillery upon written approval from the distillery, mini-distillery, micro-distillery, or an authorized and licensed broker to the licensee. Advertisements may not encourage intemperance or target minors.

(f) *Craft cocktail growler defined*. — For purposes of this chapter, "Craft Cocktail Growler" means a container or jug that is made of glass, ceramic, metal, plastic, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and must be capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-premises sales only of liquor and a nonalcoholic mixer or beverage for personal consumption not on a licensed premise. Notwithstanding any other provision of this code to the contrary, a securely sealed craft cocktail growler is not an open container under state and local law. A craft cocktail growler with a broken seal is an open

container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. A craft cocktail growler is not an original container of liquor, but once sanitized, filled, properly sealed, and sold, all as set forth in this article, is a sealed container.

(g) *Craft cocktail growler requirements*. — A licensee licensed under this section shall prevent patrons from accessing the secure area where the filling of the craft cocktail or craft cocktail growler occurs. A licensee licensed under this section shall sanitize, fill, securely seal, and label any craft cocktail growler prior to its sale. A licensee licensed under this section may refill a craft cocktail growler subject to the requirements of this section. A licensee licensed under this section shall visually inspect any craft cocktail growler before filling or refilling it. A licensee licensed under this section may not fill or refill any craft cocktail growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container. For purposes of this article, a secure sealing means using a tamper-evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of craft cocktail growler to form a seal that must be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the craft cocktail growler is opened.

(h) *Craft cocktail growler labeling*. — A licensee licensed under this section selling craft cocktail growlers shall affix a conspicuous label on all sold and securely sealed craft cocktail growlers listing the name of the licensee selling the craft cocktail growler, the brand of the liquor in the craft cocktail growler, the type of craft cocktail or name of the craft cocktail, the alcohol content by volume of the liquor in the craft cocktail growler, and the date the craft cocktail growler was filled or refilled. All labeling on the craft cocktail growler shall be consistent with all federal labeling and warning requirements.

(i) *Craft cocktail growler sanitation*. — A licensee licensed under this section shall clean and sanitize all craft cocktail growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensee licensed under this section shall sanitize, in accordance with all

state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill craft cocktail growlers. Failure to comply with this subsection may result in penalties under this article: *Provided*, That, if the reuse or refilling of a craft cocktail growler would violate federal law such craft cocktail growler may only be used one-time, for one filling, and shall be discarded after the one-time use.

(j) *Pre-mixing of craft cocktail*. — A licensee licensed under this section may pre-mix the nonalcoholic beverages or mixers in the advance of a craft cocktail growler purchase and sealing, and add the liquor, as set forth in this section, upon a member or guest's purchase of a craft cocktail growler. A licensee licensed under this section shall dispose of any expired premixed nonalcoholic beverages or mixers pursuant to Bureau for Public Health requirements when such premixed nonalcoholic beverages or mixers are no longer fit for human consumption. A licensee authorized under §60-6-8(7) of this code may use a premixed beverage meeting the requirements of that section and is also subject to the requirements of this section for a craft cocktail growler.

(k) *Limitations on licensees*. — A licensee licensed under this section shall not sell craft cocktail growlers to other licensees, but only to its members and guests. A licensee licensed under this section shall provide food or a meal along with one sealed craft cocktail growler to a patron who is in-person or in-vehicle while picking up food or a meal, or who dined in-person on food or a meal and has ordered and a sealed craft cocktail growler-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly or noticeably intoxicated, and as otherwise specified in this article. A licensee licensed under this section may only sell one sealed craft cocktail growler to a patron or one craft cocktail growler per food or meal in the order delivered per §60-7-8f of this code. A licensee licensed under this section shall be subject to the applicable penalties under this article for violations of this article.

(l) *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 the purposes of this section.

§60-7-8g. Special permit for a qualified permit holder in a private outdoor designated area; license fee and application; license subject to provisions of article.

(a) There is hereby created a special permit, designated Class S4, for the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that has been approved by a municipality pursuant to §8-12-26 of this code. Each Class S4 permittee may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) Definitions:

(1) "Private outdoor designated area" means public property that has become a legally demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

(2) "Qualified permit holder" means the holder of any of the following:

(i) A Class A private club type license or Class S2 or Class S3 license issued under this article;

(ii) A Class A tavern or brewpub license or Class S or Class S1 license issued under §11-16-1 *et seq.* of this code;

(iii) A Class A private wine restaurant, private wine bed and breakfast, or private wine spa license issued under §60-8-1 *et seq.* of this code;

(iv) A Class A hard cider license issued under §60-8A-1 *et seq.* of this code; or

(v) A Class S4N permit issued under §60-7-8h of this code.

(c) To be eligible for the special Class S4 permit authorized by subsection (a) of this section, the qualified permit holder shall:

(1) Operate in a private outdoor designated area created by municipal ordinance as set forth in §8-12-26 of this code, and provide the commissioner a copy of the certified ordinance from the municipality;

(2) Apply to the commissioner for the special permit prior to operating in an approved private outdoor designated area on an application provided by the commissioner;

(3) Pay a nonrefundable non-prorated annual special permit fee of $100 to the commissioner: *Provided*, That this fee does not apply to qualified permit holders with a Class S1, Class S2, or Class S3 license, which are subject only to the applicable fees in §11-16-1 *et seq.* and §60-7-1 *et seq.* of this code;

(4) Be in compliance with all state and federal laws and be in good standing with the commissioner;

(5) Be approved by the municipality to operate in the private outdoor designated area;

(6) Provide the days and hours of operation in the private outdoor designated area;

(7) Provide, in conjunction with the municipality, adequate restroom facilities, whether permanent or portable, to serve the members, patrons, and guests who will be attending the private outdoor designated area;

(8) Provide a security plan for the private outdoor designated area indicating: All qualified permit holders' licensed premises where alcohol will be served in approved non-glass containers; all entrances and exits in order to verify members', patrons', and guests' ages, and to assess whether a member, patron, or guest is under 21 years of age or intoxicated; and a plan to provide for the public health and safety of members, patrons, and guests;

(9) Provide a floorplan for the private outdoor designated area indicating a legally demarcated area that is bounded or uses signage to safely account for the ingress and egress of members, patrons, and guests who will be within the private outdoor designated area and also be permitted to carry liquor, wine, nonintoxicating beer, and nonintoxicating craft beer on and off of the qualified permit holders' licensed premises and within the private outdoor designated area when contained in an approved non-glass container: *Provided*, That customers within the private outdoor designated area may carry alcoholic beverages purchased from any holder of a Class S4 or S4N permit and served in an approved non-glass container into and out of, and consume the beverages within, the establishment of any other holder of a Class S4 or S4N permit within the applicable private outdoor designated area. The private outdoor designated area's floorplan does comprise a separate licensed premises authorized only for the lawful consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises when lawfully purchased from a qualified permit holder;

(10) Meet and be subject to all other applicable license requirements;

(11) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or selling alcohol not in an approved non-glass container in the private outdoor designated area; and

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

(d) Notwithstanding the requirement to acquire a Class S4 or S4N permit to operate within a private outdoor designated area set forth in §60-7-8g(c) of this code, the holder of a Class S, Class S1, Class S2, or Class S3 license may participate in a private outdoor designated area on the premises of a Class S4 or S4N permit holder if that Class S4 or S4N permit holder grants permission, in writing, for the Class S, Class S1, Class S2, or Class S3 licensee to participate. A Class S, Class S1, Class S2, or Class S3 licensee may not participate in a private outdoor designated area pursuant to such written permission unless it has first met all applicable permit and

fee requirements found in §11-16-1 *et seq.* and §60-7-1 *et seq.* of this code.

(e) As set forth in §8-12-26 of this code a municipality may, by ordinance, establish a private outdoor designated area where the municipality may zone, set requirements, and establish conditions for safe operation of a private outdoor designated area by qualified permit holders.

(f) A municipality is responsible for the enforcement of any criminal violations occurring in a private outdoor designated area and shall report such violations to the commissioner for a determination of any violation of §11-16-1 *et seq.* and chapter 60 of this code.

(g) The commissioner shall enforce any violations of §11-16-1 *et seq.* and §60-1-1 *et seq.* of this code committed by individual qualified permit holders against their permit and any other current license issued by the commissioner to the qualified permit holder alleged to be in violation.

(h) A qualified permit holder that is separately authorized for an outdoor dining area or sidewalk dining area may continue to operate those areas in conjunction with the private outdoor designated area subject to the commissioner's requirements. Notwithstanding any other section of the code, a private outdoor designated area is authorized to simultaneously host multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code.

(i) A licensee permitted under this section is subject to all other provisions of the article under which the licensee's license is issued, as well as to the rules and orders of the commissioner: *Provided*, That the commissioner may, by rule or order, allow certain waivers or exceptions with respect to those provisions, rules, or orders as required by the circumstances of the operation of qualified permit holders in each private outdoor designated area. The commissioner may revoke or suspend immediately any permit issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may

the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

§60-7-8h. Special permit for a qualified non-profit permit holder in a private outdoor designated area; license fee and application; license subject to provisions of article.

(a) There is hereby created a special permit, designated Class S4N, for the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that has been approved by a municipality pursuant to §8-12-26 of this code by qualified non-profit corporate entities organized pursuant to §31E-1-1 *et seq.* of this code. Each Class S4N permittee may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) Definitions:

Except as set forth in this section, the definitions of §60-7-8g of this code also apply to this section.

"Qualified non-profit permit holder" means a non-profit corporate entity organized pursuant to §31E-1-1 *et seq.* of this code that elects to operate its events solely within a private outdoor designated area, and who has applied and been approved for a Class S4N special permit pursuant to §60-7-1 *et seq.* of this code.

(c) To be eligible for the special S4N permit authorized by subsection (a) of this section, the qualified non-profit permit holder shall:

(1) Have an approved outdoor location that operates solely in a private outdoor designated area created by a municipal ordinance as set forth in §8-12-26 of this code, provide the commissioner a copy of the certified ordinance from the municipality, and operate only on dates designated within the dates of operation for the private outdoor designated area;

(2) Apply to the commissioner for the special S4N permit prior to operating in an approved private outdoor designated area on an application provided by the commissioner which will provide

verification of non-profit corporate status with the West Virginia Secretary of State;

(3) Pay a one-time, nonrefundable non-prorated annual special permit fee of $1,500 to the commissioner: *Provided*, That in the first year following the effective date of this section, this special permit fee may be pro-rated for the period between effective date and June 30 of that year. The one-time permit covers as many approved events that can be held during the permit annual time period;

(4) Be in compliance with all state and federal laws and be in good standing with the commissioner;

(5) Provide the dates, days, and hours of operation of all events to be held in the private outdoor designated area between July 1 of the application year and June 30 of the year following the application year within the dates of operation of the private outdoor designated area within that timeframe: *Provided*, That the S4N permit applicant may list future dates within the permit annual time period as to be determined so long as the qualified non-profit permit holder notifies the commissioner of the specific future event dates not later than 60 days prior to the event.

(d) The commissioner shall enforce any violations of §11-16-1 *et seq.* and §60-1-1 *et seq.* of this code committed by qualified non-profit permit holders against their permit and their Class A, Class B, Class S, Class S1, Class S2 or Class S3 license.

ARTICLE 8. SALE OF WINES.

§60-8-2. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

"Commissioner" or "commission" means the West Virginia Alcohol Beverage Control Commissioner.

"Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases

from a supplier to sell or distribute wine to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops and that sells or distributes nonfortified dessert wine, port, sherry, and Madeira wines to wine specialty shops, private wine restaurants, private clubs, or retailers under authority of this article and maintains a warehouse in this state for the distribution of wine. For the purpose of a distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Fortified wine" means any wine to which brandy or other alcohol has been added where the alcohol content by volume does not exceed 24 percent, and includes nonfortified dessert wines where the alcohol content by volume is greater than 17 percent and does not exceed 24 percent.

"Grocery store" means any retail establishment, commonly known as a grocery store, supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than $500 and an average monthly inventory (exclusive of inventory of wine) of not less than $500. The term "grocery store" also includes and means a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises with average monthly sales with respect to the separate or segregated portion, exclusive of sales of wine, of not less than $500 and an average monthly inventory, exclusive of inventory of wine, of not less than $500.

"Hard Cider" means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey, or another

fruit, or from apple, pear, peach, or another fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent and less than 12 and one-half percent alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as wine, wine product, or as a substitute for wine.

"Hard Cider Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute hard cider, but not other types of wine, to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops under authority of this code and maintains a warehouse in this state for the distribution of hard cider, but not other types of wine. For the purpose of a hard cider distributor, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee, or any other person or persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Licensee" means the holder of a license granted under the provisions of this article.

"Nonfortified dessert wine" means a wine that is a dessert wine to which brandy or other alcohol has not been added, and which has an alcohol content by volume of at least 15.6 percent and less than or equal to 17 percent.

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

"Private wine bed and breakfast" means any business with the sole purpose of providing, in a residential or country setting, a

hotel, motel, inn, or other such establishment properly zoned as to its municipality or local ordinances, lodging and meals to its customers in the course of their stay at the establishment, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public.

"Private wine restaurant" means a restaurant which: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which has, as its principal purpose, the business of serving meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public. Private clubs that meet the private wine restaurant requirements in this definition shall be considered private wine restaurants: *Provided*, That, a private wine restaurant shall have at least two restrooms: *Provided, however*, That the two restroom requirement may be waived by a written waiver provided from a local health department to the commissioner: *And provided further*, That a private wine restaurant located in an historic building may also be relieved of the two restroom requirement if a historic association or district with jurisdiction over a historic building provides a written waiver of the requirement to the commissioner: *And provided further*, That in no event shall a private wine restaurant have less than one restroom: *And provided further*, That a winery or farm winery holding a private wine restaurant license or a multi-capacity winery or farm winery license is not subject to the food service requirements of this subdivision.

"Private wine spa" means any business with the sole purpose of providing commercial facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and relaxation, and may also be a licensed massage parlor or a salon with licensed beauticians or stylists, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve up to two glasses of wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member, and does not admit the general public.

"Retailer" means any person licensed to sell wine at retail to the public at his or her established place of business for off-premises consumption and who is licensed to do so under authority of this article.

"Supplier" means any manufacturer, producer, processor, winery, farm winery, national distributor, or other supplier of wine who sells or offers to sell or solicits or negotiates the sale of wine to any licensed West Virginia distributor.

"Table wine" means a wine with an alcohol content by volume between 0.5 percent and 15.5 percent.

"Tax" includes within its meaning interest, additions to tax, and penalties.

"Taxpayer" means any person liable for any tax, interest, additions to tax, or penalty under the provisions of this article, and any person claiming a refund of tax.

"Varietal wine" means any wine labeled according to the grape variety from which the wine is made.

"Vintage wine" or "vintage-dated wine" means wines from which the grapes used to produce the wine are harvested during a

particular year, or wines produced from the grapes of a particular harvest in a particular region of production.

"Wine" means any alcoholic beverage obtained by the natural fermentation of the natural content of grapes, other fruits, or honey or other agricultural products containing sugar to which no alcohol has been added and includes table wine, hard cider, nonfortified dessert wine, wine coolers, and other similar wine-based beverages. Fortified wine and any product defined as or contained within the definition of nonintoxicating beer under the provisions of §11-16-1 *et seq*., of this code are excluded from this definition of wine.

"Wine specialty shop" means a retailer who deals principally in the sale of table wine, nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine and: (1) Who maintains a representative number of wines for sale in his or her inventory which are designated by label as varietal wine, vintage, generic, and/or according to region of production and the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle count; and (2) who, any other provisions of this code to the contrary notwithstanding, may maintain an inventory of port, sherry, and Madeira wines having an alcoholic content of not more than 24 percent alcohol by volume and which have been matured in wooden barrels or casks. All wine available for sale shall be for off-premises consumption except where wine tasting or wine sampling is separately authorized by this code.

§60-8-32a. Where wine may be sold and consumed for on-premises consumption.

(a) With prior approval of the commissioner, a Class A wine licensee may sell, serve, and furnish wine for on premises consumption in a legally demarcated area which may include a temporary private wine outdoor dining area or a temporary private wine outdoor street dining area. A temporary private wine outdoor street area shall be approved by the municipal government or county commission in which the licensee operates. The

commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The Class A wine licensee shall submit to a municipality or county commission for the approval of the private wine outdoor dining area or private wine outdoor street dining area and submit to the municipality or county commission a revised floorplan requesting to sell wine, subject to the commissioner's requirements, in an approved and bounded outdoor area. For private wine outdoor street dining or private wine outdoor dining the approved and bounded outdoor area need not be adjacent to the licensee's licensed premises, but in close proximity and under the licensee's control and with right of ingress and egress. For purposes of this section, "close proximity," means an available area within 300 feet of the licensee's licensed premises.

(c) This private wine outdoor dining or private wine outdoor street dining may be operated in conjunction with a private outdoor dining or private outdoor street dining area set forth in §60-7-8d of this code, and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, "private wine outdoor dining and private wine outdoor street dining" include dining areas that are:

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

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any areas where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) Class A licensees licensed for on-premises sales shall provide food, which may be pre-packaged food not requiring kitchen preparation, or a meal along with sealed wine in the original container or a sealed wine growler sales and service as set forth in this section and in §60-8-3 of this code, to a patron who is (i) in-person or in-vehicle while picking up food and sealed wine in the original containers or sealed wine growlers ordered-to-go, or (ii) in-person to a patron who dined on food or a meal and has ordered sealed wine in the original containers of sealed wine growlers to-go subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(f) West Virginia farm wineries possessing a Class A license may serve and sell wine by the glass or by the bottle in accordance with §60-4-3b and §60-8-32a of this code.

CHAPTER 13

(Com. Sub. for H. B. 3000 - By Delegate W. Clark
(By Request of the Department of Agriculture))

[Passed April 12, 2025; in effect ninety days from passage. (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §19-14-2, §19-14-5, §19-14-10, and §19-14-14, of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §19-14-17, relating to West Virginia commercial feed law; updating definitions; removing sunset date for deposit of pet food registration fee into spay neuter assistance fund; clarifying changes to feed adulteration standards; authorizing Commissioner of Agriculture of State of West Virginia to promulgate regulations that adopt certain regulations under Federal Food, Drug, and Cosmetic Act; clarifying prohibited acts; and providing severability clause.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. WEST VIRGINIA COMMERCIAL FEED LAW.

§19-14-2. Definitions.

(a) "Brand name" means any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor, guarantor, or manufacturer and distinguishing it from all others.

(b) "Bulk" refers to commercial feed or feed ingredients distributed in nonpackaged form where a label cannot be attached and accompanied by an invoice or delivery slip.

(c) "Commercial feed" means all materials or combinations of materials which are distributed, or intended for distribution, for use as feed or for mixing in feed, unless such materials are specifically exempted, for animals, other than humans, except: (1) Unmixed or unprocessed whole seeds when such whole or unprocessed seeds are not chemically changed or adulterated; (2) unprocessed hay, straw, stover, silage, cobs, husks, hulls, and raw meat when not mixed with other materials and when not adulterated; (3) individual chemical commodities, compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are therefore not adulterated within the meaning of §19-14-10 of this code. The term commercial feed shall include the categories of feed ingredients, customer-formula feeds, pet foods and specialty pet foods.

(d) "Commissioner" refers to the commissioner of agriculture of the State of West Virginia or a duly authorized employee of the commissioner.

(e) "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract and the commercial feed is supplied, furnished, or provided to the independent contractor and such contractor's remuneration is determined all or in part by feed consumption, mortality, profits, or the amount or quality of the product.

(f) "Customer-formula feed" means a commercial feed that consists of a mixture of commercial feed and/or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(g) "Distribute" means to offer for sale, sell, exchange, or barter commercial feed; or to supply, furnish, or provide commercial feed to a contract feeder.

(h) "Distributor" means any person who distributes. a commercial feed.

(i) "Drug" means any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in

animals, other than humans; and any substance intended to affect the structure or any function of the animal body.

(j) "Feed" means any material consumed, or intended to be consumed, by animals other than humans, or any element of that material that contributes nutrition, taste, or aroma, or otherwise has a technical effect on the consumed material. The term "feed" includes raw materials, ingredients, and finished product.

(k) "Feed ingredient" means each constituent material making up feed, including individual chemical compounds labeled for use as a feed ingredient.

(l) "Guarantor" means any person whose name appears on a label and who is therefore responsible for the product and its labeling.

(m) "Label" means a display of written, printed, or graphic matter printed upon or otherwise affixed to the container in which commercial feed is distributed; or printed upon or otherwise affixed to the invoice, delivery slip, or other shipping document which accompanies bulk shipments of commercial feed or customer-formula feed. All such labels shall be legible and in English.

(n) "Labeling" means and includes all labels as well as all other written, printed, or graphic matter found: (1) upon a commercial feed or any of its containers or wrappers, or (2) accompanying such commercial feed.

(o) "Manufacture" means to grind, mix, blend, package, pack, repackage, repack, or otherwise process a commercial feed for distribution.

(p) "Medicated feed" means any feed which contains one or more drugs. Antibiotics included in a feed growth promotion and/or efficiency level are drug additives and feeds containing such antibiotics are included in the definition of "medicated feed".

(q) "Mineral feed" means a commercial feed designed or intended to supply primarily mineral elements or inorganic nutrients.

(r) "Official sample" means any sample of feed taken by the commissioner in accordance with the provisions of this article and rules promulgated hereunder.

(s) "Percent" or "percentage" means percentage by weights.

(t) "Person" means an individual, partnership, association, fiduciary, firm, company, corporation, or any organized group of persons whether incorporated or not.

(u) "Pet" means dog (Canis familiaris) or cat (Felis catus).

(v) "Pet food" means any commercial feed manufactured and distributed for consumption by pets.

(w) "Process" means a method used to prepare, treat, convert, or transform materials into feed or feed ingredients. The word "processed" can be used to further describe an ingredient name, so long as the ingredient is not nutritionally altered from the original form of the ingredient.

(x) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.

(y) "Quantity statement" means the net weight (mass), liquid measure, or count.

(z) "Repack" or "repackaging" means to pack and label a previously manufactured feed.

(aa) "Specialty pet" means any animal normally maintained in a household, such as rodents, ornamental birds, fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits not raised for food or fur.

(bb) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(cc) "Ton" means a net weight of two thousand pounds avoirdupois.

§19-14-5. Permits; registration.

(a) Permits and registrations shall not be transferrable with respect to persons or locations.

(b) A person must apply for a permit or registration at least 30 days prior to the expiration of the current permit or registration; or at least 30 days prior to the date that the person intends to engage in the business of selling or marketing commercial feed products in this state. All applications shall be accompanied by the required fee. A penalty shall be added to the fee for all permits or registrations that are not applied for or renewed within the time limit.

(c) Persons manufacturing commercial feed or customer-formula feed in this state must obtain a Commercial Feed Manufacturing Permit from the commissioner, except for persons manufacturing feed for only his or her animals on his or her premises, or those producing pet food. Application forms shall be provided by the commissioner and include such information as established by rules. A separate permit shall be obtained for each manufacturing facility or location in this state. Each Commercial Feed Manufacturing Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.

(d) Each person distributing commercial feed in West Virginia must obtain a Commercial Feed Distributor Permit from the commissioner, except:

(1) Persons distributing pet food exclusively;

(2) Persons holding a valid Commercial Feed Manufacturing Permit issued by the commissioner; and

(3) Persons holding a Commercial Feed Guarantor Permit issued by the commissioner;

Application forms shall be provided by the commissioner and include such information as established by rules. Each Commercial Feed Distributor Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.

(e) Each person whose name appears on the label of a commercial feed or customer-formula feed as guarantor must obtain a Commercial Feed Guarantor Permit from the commissioner for each manufacturing facility or location that distributes feed in or into the state, except those facilities or locations for which a Commercial Feed Manufacturing Permit has already been issued by the commissioner. Application forms shall be provided by the commissioner and include such information as established by rules. Each Commercial Feed Guarantor Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.

(f) Pet food in packages over 10 pounds or bulk shall be registered annually. Each application for registration shall be accompanied by the required registration fee. Each registration shall expire on August 31 next following the date of issue: *Provided*, That an additional registration fee of $50 per product shall accompany each application for registration and the additional registration fee shall be deposited into the West Virginia Spay Neuter Assistance Fund for spay and neutering services performed within this state by licensed veterinarians.

(g) Pet food packaged in packages of 10 pounds and under shall be registered annually. Each application for registration shall be accompanied by the required registration fee. Each registration shall expire on December 31, next following the date of issue: *Provided*, That an additional registration fee of $35 per product shall accompany each application for registration and the additional registration fee shall be deposited into the West Virginia

Spay Neuter Assistance Fund for spay and neutering services performed within this state by licensed veterinarians.

(h) Specialty pet food shall be registered annually. Each application for registration shall be accompanied by the required registration fee. Each registration shall expire on December 31, next following the date of issue.

(i) A person is not required to register any brand name or product name of commercial feed which is already registered by another person.

(j) Alteration of a pet food or specialty pet food that changes the label requires a new application for registration be made and approved before distribution.

§19-14-10. Adulteration.

Commercial feed or feed ingredients is adulterated:

(1) If it bears or contains any poisonous or deleterious substance, which may render it injurious to human or animal health; unless the substance is not an added substance, in which case such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to human or animal health;

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is: (A) A pesticide chemical in or on a raw commodity; or (B) a food additive;

(3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act: *Provided*,

That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act;

(5) If it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act;

(6) If it is, or it bears or contains, any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act;

(7) If it consists, in whole or part, of any filth, putrid, or decomposed substance, or if it is otherwise unfit for feed;

(8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(9) If it is, in whole or in part, the product of a diseased animal, or of an animal that has died other than by slaughter that is unsafe within the meaning of Section 402(a)(1) or (a)(2) of the Federal Food, Drug, and Cosmetic Act;

(10) If the container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(12) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom or any less valuable substance substituted therefor;

(13) If its composition or quality falls below or differs from that which it is purported or represented to possess by its labeling; or

(14) If it contains a drug, and the methods used in the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner to assure that the drug meets the requirements of this law as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the commissioner may adopt the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act;

(15) If it contains viable weed seeds in amounts exceeding the limits which the commissioner shall establish by legislative rule.

§19-14-14. Prohibited acts.

It shall be unlawful:

(a) To manufacture or distribute any commercial feed that is adulterated or misbranded.

(b) To adulterate or misbrand any commercial feed.

(c) To distribute, use, remove, or dispose of commercial feed in violation of an embargo order, or condemnation and confiscation order provided for under this article.

(d) To manufacture, distribute, or use any commercial feed containing a drug or drugs that cause or may cause residue of the drug or drugs in the edible tissues, milk, or eggs of the animals fed such feed in excess of the acceptable residue levels set by the commissioner by rules.

(e) To fail or refuse to register pet foods or specialty pet foods.

(f) To fail or refuse to obtain permits required under this article.

(g) To fail to make an accurate statement of tonnage.

(h) To fail to pay inspection fees as required under this article.

(i) To distribute or knowingly use any commercial feed that has not had an accurate statement of tonnage reported to the commissioner in the previous reporting period.

(j) To use or imply the name West Virginia Department of Agriculture, or reference any inspection or sample findings made by the West Virginia Department of Agriculture on labels or labeling of commercial feed.

(k) To interfere with the commissioner's official duties.

(l) To distribute raw milk for use as commercial feed for any species, unless:

(1) It has been decharacterized using a sufficient quantity of food coloring as designated by the commissioner;

(2) It has been decharacterized using food coloring approved by the U.S. Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the U.S. Department of Agriculture;

(3) It has been decharacterized and the nutritive value of the milk has not been adversely affected by the decharacterization;

(4) The packaging of the raw milk does not resemble that used for the packaging of milk for human consumption;

(5) It is not stored at retail with, or in the vicinity of, milk or milk products intended for human consumption; and

(6) It does not otherwise violate this section.

(m) To distribute agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of §19-14-10 of this code.

§19-14-17. Severability.

If any clause, sentence, paragraph, or part of this law shall for any reason be judged invalid by any court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgement shall be rendered.

CHAPTER 14

(H. B. 3504 - By Delegates Burkhammer, Horst, and G. Howell)

[Passed April 11, 2025; in effect ninety days from passage. (July 10, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §61-10-34 of the Code of West Virginia, 1931, as amended, relating to protecting critical infrastructure; and defining terms.

Be it enacted by the Legislature of West Virginia:

CHAPTER 61. CRIMES AND THEIR PUNISHMENT

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-34. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; criminal penalties; and civil action.

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

(b) For purposes of this section:

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

"Critical infrastructure facility" means one of the following:

(1) A petroleum or alumina refinery;

(2) An electrical power generating facility, substation, switching station, electrical control center or electric power lines, and associated equipment infrastructure;

(3) A chemical, polymer, or rubber manufacturing facility;

(4) A water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(5) A natural gas compressor station;

(6) A liquid natural gas terminal or storage facility;

(7) Wireline and wireless telecommunications infrastructure;

(8) A port, railroad switching yard, trucking terminal, or other freight transportation facility;

(9) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(10) A transmission facility used by a federally licensed radio or television station;

(11) A steelmaking facility that uses an electric arc furnace to make steel;

(12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program;

(13) A dam that is regulated by the state or federal government;

(14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below-or above-ground pipeline or piping and truck loading or offloading facility, a natural gas storage

facility, a natural gas transmission facility, or a natural gas utility distribution facility;

(15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline or piping, and truck loading or offloading facility;

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

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

(18) Health care facilities;

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

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

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

(22) Any licensed livestock stockyard facility; any licensed livestock slaughter facility; or any commercial poultry production and processing facility; or

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

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof

is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $250 nor more than $1,000, or confined in jail not less than 30 days nor more than one year, or both fined and confined. If the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with the physical or digital equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000, or confined in a jail for not more than one year, or both fined and confined.

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

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

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

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

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

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

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

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

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

bargaining agreements, and the terms to be included in those agreements; or

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

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

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

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

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

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

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

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

(C) A bona fide security interest or other valid lien in any conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence

that the holder of the security interest or lien either knew, or had reason to know, that the conveyance was being used or was likely to be used in a violation of this section.

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

CHAPTER 15

(Com. Sub. for H. B. 2011 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 11, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Human Services, Health Care Provider Tax, Medical State Share Fund, fund 5090, fiscal year 2025, organization 0511 by supplementing and amending the appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Human Services, Health Care Provider Tax, Medical State Share Fund, fund 5090, fiscal year 2025, organization 0511, that is available for expenditure during the fiscal year ending June 30, 2025, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore:

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 5090, fiscal year 2025, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF HUMAN SERVICES.

261 - Department of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(W.V. Code Chapter 11)

Fund 5090 FY 2025 Org 0511

	Appro-priation	Other Funds
Medical Services	18900	$ 123,000,000

CHAPTER 16

(H. B. 3347 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 4, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Division of General Services, fund 0230, fiscal year 2025, organization 0211, by supplementing and amending the appropriations for the fiscal year ending June 30, 2025, by adding a new item of appropriation.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated surplus balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0230, fiscal year 2025, organization 0211, be supplemented and amended adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF ADMINISTRATION

21 - Division of General Services

(W.V. Code Chapter 5A)

Fund 0230 FY 2025 Org 0211

		Appro-priation	General Revenue Fund
9a	Capital Outlay, Repairs and Equipment – Surplus.....	67700	$15,000,000.

CHAPTER 17

(H. B. 3349 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, State Excess Lottery Revenue Fund, by adding a new item of appropriation to the Department of Human Services, fund 5365, fiscal year 2025, organization 0511 for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Excess Lottery Revenue Fund, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025; and

WHEREAS, It appears from the Governor's Statement of the State Excess Lottery Revenue Fund, there now remains an unappropriated surplus balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 5365, fiscal year 2025, organization 0511, be

supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 5. Appropriations from State Excess Lottery Revenue Fund.

362 - Department of Human Services

(W.V. Code Chapters 9, 48, and 49)

Fund 5365 FY 2025 Org 0511

	Appro-priation	**Excess Lottery Funds**
2 Medical Services – Lottery Surplus	68100	$45,022,906

CHAPTER 18

(Com. Sub. for H. B. 3350 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 9, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Department of Homeland Security, Division of Corrections and Rehabilitation – Correctional Units, fund 0450, fiscal year 2025, organization 0608, and to the Department of Homeland Security, Division of Corrections and Rehabilitation – Bureau of Juvenile Services, fund 0570, fiscal year 2025, organization 0608, by increasing the appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended supplemental appropriations from the balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0450, fiscal year 2025, organization 0608, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HOMELAND SECURITY

109 - Division of Corrections and Rehabilitation –

Correctional Units

(W.V. Code Chapter 15A)

Fund 0450 FY 2025 Org 0608

		Appro-priation	General Revenue Fund
17	Special Services	68700	$5,483,314
18	Directed Transfer	70000	$5,885,255

And that the total appropriation for the fiscal year ending June 30, 2025, to fund 0570, fiscal year 2025, organization 0608, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HOMELAND SECURITY

110 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(W.V. Code Chapter 15A)

Fund 0570 FY 2025 Org 0608

		Appro-priation	General Revenue Fund
4	Central Office	70100	$1,769,890

CHAPTER 19

(H. B. 3352 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Human Services, Bureau for Medical Services – Policy and Programming, fund 0484, fiscal year 2025, organization 0511, by adding a new item of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated surplus balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0484, fiscal year 2025, organization 0511, be supplemented and amended adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HUMAN SERVICES

84 - Bureau for Medical Services –

Policy and Programming

(W.V. Code Chapter 16)

Fund 0484 FY 2025 Org 0511

		Appro-priation	General Revenue Fund
1a	Medical Services – Surplus	63300	$39,376,837

CHAPTER 20

(H. B. 3356 - By Delegate Hanshaw (Mr. Speaker))

[By Request of the Executive]

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the State Board of Education – State Department of Education, fund 0313, fiscal year 2025, organization 0402, by increasing an existing item of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0313, fiscal year 2025, organization 0402, be

supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF EDUCATION

45 - State Board of Education –

State Department of Education

(W.V. Code Chapter 18 and 18A)

Fund 0313 FY 2025 Org 0402

		Appro-priation		General Revenue Fund
12	Hope Scholarship Program	30401	$	28,400,666

CHAPTER 21

(H. B. 3357 - By Delegate Hanshaw (Mr. Speaker))

[By Request of the Executive]

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, Lottery Net Profits, by adding a new item of appropriation to the State Board of Education, fund 3951, fiscal year 2025, organization 0402 for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of Lottery Net Profits, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025; and

WHEREAS, It appears from the Governor's Statement of Lottery Net Profits, there now remains an unappropriated surplus balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 3951, fiscal year 2025, organization 0402, be

supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 4. Appropriations from lottery net profits.

343 - State Board of Education

(W.V. Code Chapters 18 and 18A)

Fund 3951 FY 2025 Org 0402

		Appro-priation		Lottery Funds
1a	Hope Scholarship Program – Lottery Surplus	30498	$	33,804,764

CHAPTER 22

(H. B. 3358 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 7, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Human Services – Temporary Assistance for Needy Families, fund 8816, fiscal year 2025, organization 0511 by supplementing and amending the appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2025, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 8816, fiscal year 2025, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 7. Appropriations from federal block grants.

433 - Department of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2025 Org 0511

		Appro-priation	Federal Funds
5	Current Expenses	13000	21,000,000

CHAPTER 23

(H. B. 3359 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, by decreasing an existing item of appropriation to the Economic Development Authority – Economic Development Project Fund, fund 9065, fiscal year 2025, organization 0944, and increasing an existing item of appropriation to the Department of Human Services, fund 5365, fiscal year 2025, organization 0511 for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Excess Lottery Revenue Fund, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025; and

WHEREAS, It appears from the Governor's Statement of the State Excess Lottery Revenue Fund, there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 9065, fiscal year 2025, organization 0944, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 5. Appropriations from State Excess Lottery Revenue Fund.

368 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2025 Org 0944

		Appro-priation		Excess Lottery Funds
1	Debt Service - Total.....	31000	$	9,506,440

And, that the total appropriation for the fiscal year ending June 30, 2025, to fund 5365, fiscal year 2025, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 5. Appropriations from State Excess Lottery Revenue Fund.

362 - Department of Human Services

Fund 5365 FY 2025 Org 0511

		Appro-priation		Excess Lottery Funds
1	Medical Services.....	18900	$	9,506,440

CHAPTER 24

(H. B. 3360 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

[By Request of the Executive]

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2025, in the amount of $28,693,181.72 from the balance of moneys remaining as an unappropriated balance in the West Virginia Economic Development Authority, Economic Development Project Bridge Loan Fund, fund 9066, organization 0944.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenues for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, The Governor finds that the account balance in the West Virginia Economic Development Authority, Economic Development Project Bridge Loan Fund, fund 9066, organization 0944 exceeds that which is necessary for the purposes for which the account was established; therefore

Be it enacted by the Legislature of West Virginia:

That the balance of the funds available for expenditure in the fiscal year ending June 30, 2025, in the West Virginia Economic Development Authority, Economic Development Project Bridge Loan Fund, fund 9066, organization 0944, be decreased by expiring the amount of $28,693,181.72. To the unappropriated surplus balance of the State Fund, General Revenue to be available for appropriation during the fiscal year ending June 30, 2025.

CHAPTER 25

(H. B. 3361 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle (By Request of the Executive))

[Passed April 9, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Department of Health, Bureau for Public Health – Office of Maternal, Child, and Family Health – West Virginia Birth to Three, fund 0426, fiscal year 2025, organization 0506, by increasing an existing item of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0426, fiscal year 2025, organization 0506, be

supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH

70 - Bureau for Public Health –

Office of Maternal, Child, and Family Health –

West Virginia Birth to Three

(W.V. Code Chapter 16)

Fund 0426 FY 2025 Org 0506

		Appro-priation		General Revenue Fund
1	West Virginia Birth to Three	30009	$	6,589,343

CHAPTER 26

(H. B. 3363 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 4, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, the Department of Administration, Public Defender Services, fund 0226, fiscal year 2025, organization 0221, by increasing existing items of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0226, fiscal year 2025, organization 0221, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF ADMINISTRATION

27 - Public Defender Services

(W.V. Code Chapter 29)

Fund 0226 FY 2025 Org 0221

		Appro-priation	General Revenue Fund
6	Public Defender Corporations	35200	2,600,000
7	Appointed Counsel Fees (R).....	78800	20,000,000

CHAPTER 27

(H. B. 3365 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 7, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Health, West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2025, organization 0506 by supplementing and amending the appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Health, West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2025, organization 0506, that is available for expenditure during the fiscal year ending June 30, 2025, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 5214, fiscal year 2025, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF HEALTH

256 - Department of Health –

West Virginia Birth-to-Three Fund

(W.V. Code Chapter 16)

Fund 5214 FY 2025 Org 0506

		Appro-priation	Other Funds
3	Current Expenses.....	13000	5,888,483

CHAPTER 28

(H. B. 3366 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 7, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Health, Office of the Inspector General, fund 8211, fiscal year 2025, organization 0513, by supplementing and amending the appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2025, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 8211, fiscal year 2025, organization 0513, be supplemented and amended by increasing existing items of appropriation and by adding new lines of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF HEALTH

404 - Office of the Inspector General

(W.V. Code Chapter 16B)

Fund 8211 FY 2025 Org 0513

		Appro-priation		Federal Funds
1	Personal Services and Employee Benefits.....	00100	$	859,900
1a	Repairs and Alterations.....	06400		500
1b	Equipment.....	07000		500
3	Current Expenses.....	13000		118,297
3a	Other Assets.....	69000		500

CHAPTER 29

(H. B. 3367 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 7, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Commerce, Division of Natural Resources – License Fund – Wildlife Resources, fund 3200, fiscal year 2025, organization 0310 by increasing and decreasing appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Commerce, Division of Natural Resources – License Fund – Wildlife Resources, fund 3200, fiscal year 2025, organization 0310, that is available for expenditure during the fiscal year ending June 30, 2025, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 3200, fiscal year 2025, organization 0310, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF COMMERCE

213 - Division of Natural Resources –

License Fund – Wildlife Resources

(W.V. Code Chapter 20)

Fund 3200 FY 2025 Org 0310

		Appro-priation	Other Funds
1	Wildlife Resources.....	02300	$ 605,639
2	Administration	15500	406,656
4	Law Enforcement.....	80600	1,304,898

And, That the total appropriation for the fiscal year ending June 30, 2025, to fund 3200, fiscal year 2025, organization 0310, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF COMMERCE

213 - Division of Natural Resources –

License Fund – Wildlife Resources

(W.V. Code Chapter 20)

Fund 3200 FY 2025 Org 0310

		Appro-priation	Other Funds
1	Capital Improvements and Land Purchase (R)	24800	2,317,193

CHAPTER 30

(H. B. 3368 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 4, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Department of Administration, Office of the Secretary, fund 0186, fiscal year 2025, organization 0201, by increasing an existing item of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0186, fiscal year 2025, organization 0201, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(W.V. Code Chapter 5F)

Fund 0186 FY 2025 Org 0201

		Appro-priation	General Revenue Fund
9	Lease Rental Payments.....	51600	$581,900

CHAPTER 31

(Com. Sub. for H. B. 3369 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2025, organization 0402, adding a new item of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated surplus balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0313, fiscal year 2025, organization 0402, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF EDUCATION

45 - State Board of Education –

State Department of Education

(W.V. Code Chapters 18 and 18A)

Fund 0313 FY 2025 Org 0402

		Appro-priation	General Revenue Fund
6a	Increased Enrollment – Surplus.....	05900	596,981

CHAPTER 32

(H. B. 3370 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 7, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Human Services, fund 8722, fiscal year 2025, organization 0511, by increasing existing items of appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2025, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 8722, fiscal year 2025, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF HUMAN SERVICES

405 - Department of Human Services

(W.V. Code Chapter 9, 48, and 49)

Fund 8722 FY 2025 Org 0511

		Appro-priation	Federal Funds
5	Current Expenses.....	13000	$27,000,000
8	CHIP Administrative Costs	85601	$677,086
9	CHIP Services.....	85602	$4,455,143

CHAPTER 33

(H. B. 3371 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation to the Department of Health Facilities, Health Facilities – Welch Community Hospital, fund 0412, fiscal year 2025, organization 0512, and increasing an existing item of appropriation to the Department of Health, Office of the Inspector General, fund 0437, fiscal year 2025, organization 0513 by supplementing and amending appropriations for the fiscal year ending June 30, 2025.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the revised estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025; and

WHEREAS, It appears from the Executive Budget document, Statement of the State Fund, General Revenue, and this legislation, there remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 0412, fiscal year 2023, organization 0512, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH FACILITIES

101 - Health Facilities –

Welch Community Hospital

(WV Code Chapter 16)

Fund 0412 FY 2025 Org 0512

		Appro-priation		**General Revenue Fund**
1	Personal Services and Employee Benefits (R)	00100	$	58,632

And, That the total appropriation for the fiscal year ending June 30, 2025, to fund 0437, fiscal year 2025, organization 0513, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH

78 - Office of the Inspector General

(WV Code Chapter 16B)

Fund 0437 FY 2025 Org 0513

		Appro-priation		General Revenue Fund
1	Personal Services and Employee Benefits.....	00100	$	58,632

CHAPTER 34

(H. B. 3372 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 7, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2025, to the Department of Veterans' Assistance, Department of Veterans' Assistance Fund, fund 8858, fiscal year 2025, organization 0613, by increasing an existing appropriation for the fiscal year ending June 30, 2025.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2025, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2025, to fund 8858, fiscal year 2025, organization 0613, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF VETERANS' ASSISTANCE

416 - Department of Veterans' Assistance

(W.V. Code Chapter 9A)

Fund 8858 FY 2025 Org 0613

		Appro-priation		Federal Funds
1	Personal Services and Employee Benefits.....	00100	$	60,700

CHAPTER 35

(H. B. 3373 - By Delegates Riley and W. Clark)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §5B-2E-11 of the Code of West Virginia, 1931, as amended, extending and revising the sunset provision to December 31, 2030; and correcting titles of affected divisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2E. WEST VIRGINIA TOURISM DEVELOPMENT ACT.

§5B-2E-11. Termination.

The Division of Economic Development may not accept any new project application after December 31, 2030, and all applications submitted prior to January 1, 2031, that have not been previously approved or not approved, shall be deemed not approved and shall be null and void as of January 1, 2031.

CHAPTER 36

(H. B. 3522 - By Delegates Dittman, Fehrenbacher, Hott, Barnhart, Howell, Horst, Cooper, Rohrbach, Mazzocchi, and Linville)

[Passed April 10, 2025; in effect from passage]
[Approved by the Governor on April 17, 2025.]

AN ACT supplementing and amending Chapter 11, Acts of the Legislature, Regular Session, 2024, known as the budget bill, in Title II from the appropriations of public moneys out of the Treasury from the balance remaining as an unappropriated balance in the State Fund, General Revenue, to the Department of Arts Culture and History – Division of Culture and History, fund 0293, fiscal year 2025, organization 0432, by supplementing and amending the appropriations for the fiscal year ending June 30, 2025, by adding a new item of appropriation.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on February 12, 2025, containing a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2024, and further included the estimate of revenue for the fiscal year 2025, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2025, and further included recommended expirations to the unappropriated surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2025; therefore

Be it enacted by the Legislature of West Virginia:

That Chapter 11, Acts of the Legislature, Regular Session, 2024, known as the budget bill, fund 0293, fiscal year 2025, organization 0432 be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

51 - Division of Culture and History –

(W.V. Code Chapter 29)

Fund 0293 FY 2025 Org 0432

	Appro-priation	General Revenue Fund
16a Directed Transfer	$ 70000	$ 2,000,000

The total amount of the above appropriation for Directed Transfer (fund 0293, appropriation 70000) shall be transferred to the Cultural Facilities and Capital Resources Matching Grant Program Fund (fund 3537).

CHAPTER 37

(Com. Sub. for H. B. 2026 - By Speaker Hanshaw and Delegate Hornbuckle)

(By Request of the Executive)

[Passed April 11, 2025; in effect from passage]
[Approved by the Governor on April 12, 2025.]

AN ACT making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

Be it enacted by the Legislature of West Virginia:

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 2026.

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 2026" shall mean the period from July 1, 2025, through June 30, 2026.

"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.V. 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.V. 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,* Notwithstanding any previous provision no more than twenty-five percent of the general revenue funds appropriated to the following funds 0401, 0402, 0408, 0409, 0410, 0411, 0412, 0413, 0414 and 0415 within the Department of Health Facilities may be transferred between the aforementioned funds: *Provided further*, Notwithstanding any previous provision no general revenue funds appropriated to the following funds 0403, 0481, 0482, 0483, 0484, 0485, 0486, 0487, 0488, 0489, 0492, 0493, 0494, 0495 and 0496 within the Department of Human Services may be transferred between the aforementioned funds: 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," "Buildings," "Contract Nursing", and "Unclassified" 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 2026, and upon approval from the State Budget Office, agencies with the appropriation "Salary and Benefits of Cabinet Secretary and Agency Heads" and "Salary and Benefits of Elected Officials" 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, 2026, 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 creates new, 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 2026.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2026 Org 2100

	Appro-priation		General Revenue Fund
Compensation of Members (R).....	00300	$	1,010,000
Compensation and Per Diem of Officers and Employees (R).....	00500		4,111,332
Current Expenses and Contingent Fund (R).....	02100		821,392
Repairs and Alterations (R).....	06400		35,000
Technology Repair and Modernization (R).....	29800		80,000
Expenses of Members (R).....	39900		550,000
BRIM Premium (R).....	91300		44,482
Total.....		$	6,652,206

The appropriations for the Senate for the fiscal year 2025 are to remain in full force and effect and are hereby reappropriated to June 30, 2026. Any balances so reappropriated may be transferred and credited to the fiscal year 2025 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 2026 Org 2200

Compensation of Members (R).....	00300	$	3,500,000
Compensation and Per Diem of Officers and Employees (R)	00500		575,000
Current Expenses			

and Contingent Fund (R)	02100	6,500,000
Expenses of Members (R).....	39900	1,350,000
Capital Outlay, Repairs and Equipment (R).....	58900	500,000
BRIM Premium (R)	91300	60,000
Total.....		$ 12,485,000

The appropriations for the House of Delegates for the fiscal year 2025 are to remain in full force and effect and are hereby reappropriated to June 30, 2026. Any balances so reappropriated may be transferred and credited to the fiscal year 2025 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*

(W.V. Code Chapter 4)

Fund 0175 FY 2026 Org 2300

Joint Committee on Government and Finance (R).....	10400	$	9,725,138
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		60,569
Total.....		$	12,240,457

The appropriations for the Joint Expenses for the fiscal year 2025 are to remain in full force and effect and are hereby reappropriated to June 30, 2026. Any balances reappropriated may be transferred and credited to the fiscal year 2025 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 2026 Org 2400

Personal Services and Employee Benefits (R).....	00100	$ 140,730,477
Repairs and Alterations (R)	06400	45,000
Equipment (R).....	07000	1,600,000
Military Services Members Court (R) .	09002	0
Judges' Retirement System (R).....	11000	1,247,000
Current Expenses (R).....	13000	23,326,564
Buildings (R).....	25800	165,000
Other Assets (R).....	69000	80,000
BRIM Premium (R)	91300	1,032,409
Total.....		$ 168,226,450

The appropriations to the Supreme Court of Appeals for the fiscal years 2022, 2023, 2024, and 2025 are to remain in full force and effect and are hereby reappropriated to June 30, 2026. Any balances so reappropriated may be transferred and credited to the fiscal year 2025 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.

From the appropriation for Current Expenses (fund 0180, appropriation 13000) $1,000,000 shall be used for facility maintenance for magistrate courts.

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*

(W.V. Code Chapter 5)

Fund 0101 FY 2026 Org 0100

Personal Services and Employee Benefits	00100	$	3,357,899
Salary and Benefits of Elected Officials	00200		266,594
Repairs and Alterations	06400		25,000
Equipment	07000		1,000
National Governors Association	12300		60,700
Current Expenses (R)	13000		799,000
Community Food Program	18500		1,000,000
Office of Resiliency (R)	18600		626,650
BRIM Premium	91300		183,645
Total		$	6,320,488

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), Office of Resiliency (fund 0101, appropriation 18600), Posey Perry Emergency Food Bank Fund (fund 0101, appropriation 42303), and Posey Perry Emergency Food Bank Fund – Surplus (fund 0101, appropriation 42399) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

6 - *Governor's Office – Custodial Fund*

(W.V. Code Chapter 5)

Fund 0102 FY 2026 Org 0100

Personal Services and Employee Benefits	00100	$	431,755
Repairs and Alterations	06400		5,000

Equipment	07000		1,000
Current Expenses (R)	13000		182,158
Total		$	619,913

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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

(W.V. Code Chapter 5)

Fund 0105 FY 2026 Org 0100

Civil Contingent Fund (R)	61400	$	5,000,000
Local Economic Development Assistance (R)	81900		5,000,000
Total		$	10,000,000

Any unexpended balances remaining in the appropriations Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Congressional Earmark Maintenance of Effort – Surplus (fund 0105, appropriation 22599), 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), Civil Contingent Fund – Rural Hospitals – Surplus (fund 0105, appropriation 40199), 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), Local Economic Development Assistance

(fund 0105, appropriation 81900), and Federal Funds/Grant Match – Surplus (fund 0105, appropriation 85700) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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

(W.V. Code Chapter 12)

Fund 0116 FY 2026 Org 1200

Personal Services and Employee Benefits	00100	$	2,566,274
Salary and Benefits of Elected Officials	00200		192,704
Current Expenses (R)	13000		13,429
BRIM Premium	91300		12,077
Total		$	2,784,484

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

9 - *Treasurer's Office*

(W.V. Code Chapter 12)

Fund 0126 FY 2026 Org 1300

Personal Services

and Employee Benefits	00100	$	2,706,621
Salary and Benefits of Elected Officials	00200		192,704
Unclassified	09900		31,463
Abandoned Property Program	11800		41,794
Current Expenses (R)	13000		572,684
Other Assets	69000		10,000
ABLE Program	69201		150,000
BRIM Premium	91300		59,169
Total		$	3,764,435

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

10 - Department of Agriculture

(W.V. Code Chapter 19)

Fund 0131 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	7,246,666
Salary and Benefits of Elected Officials	00200		192,704
Animal Identification Program	03900		141,212
State Farm Museum	05500		87,759
Gypsy Moth Program (R)	11900		1,175,979
WV Farmers Market	12801		150,467
Current Expenses (R)	13000		588,115
Black Fly Control	13700		463,870
HEMP Program	13701		400,007
Donated Foods Program	36300		45,000
Veterans to Agriculture Program (R)	36301		278,420
SNAP Stretch Program	xxxxx		360,000
Predator Control (R)	47000		176,400
Bee Research	69100		78,450
Microbiology Program	78500		110,995
Moorefield Agriculture Center	78600		1,121,739

Chesapeake Bay Watershed	83000	129,485
Livestock Care Standards Board	84300	8,820
Agriculture Programs	XXXXX	0
WVDA FFA Secretary	XXXXX	100,000
BRIM Premium	91300	138,905
State FFA-FHA Camp and Conference Center	94101	820,592
Threat Preparedness	94200	81,513
WV Food Banks	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program	97000	56,328
Total		$ 14,379,426

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), 2024 Drought Relief – Surplus (fund 0131, appropriation 40499), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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.

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.

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

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

(W.V. Code Chapter 19)

Fund 0132 FY 2026 Org 1400

Personal Services			
and Employee Benefits	00100	$	927,240
Unclassified	09900		77,059
Soil Conservation Projects (R)	12000		10,937,786
Current Expenses (R)	13000		317,848
BRIM Premium	91300		34,428
Total		$	12,294,361

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), Current Expenses (fund 0132, appropriation 13000), and Soil Conservation Projects – Surplus (fund 0132, appropriation 26900) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

12 - Department of Agriculture –

Meat Inspection Fund

(W.V. Code Chapter 19)

Fund 0135 FY 2026 Org 1400

Personal Services			
and Employee Benefits	00100	$	1,097,727
Unclassified	09900		7,090
Current Expenses	13000		82,605
Total		$	1,187,422

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

(W.V. Code Chapter 19)

Fund 0136 FY 2026 Org 1400

Programs and Awards for			
4-H Clubs and FFA/FHA.....	57700	$	15,000

14 - Department of Agriculture –

West Virginia Agricultural Land Protection Authority

(W.V. Code Chapter 8A)

Fund 0607 FY 2026 Org 1400

Personal Services			
and Employee Benefits.....	00100	$	109,515
Unclassified.....	09900		950
Total.....		$	110,465

15 - Attorney General

(W.V. Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2026 Org 1500

Personal Services			
and Employee Benefits (R).....	00100	$	3,647,491
Salary and Benefits			
of Elected Officials.....	00200		192,704
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		7,500
Unclassified (R).....	09900		24,428
Current Expenses (R).....	13000		681,295
Criminal Convictions			
and Habeas Corpus Appeals (R)....	26000		1,018,132
Better Government Bureau	74000		293,418
BRIM Premium.....	91300		120,654
Total.....		$	5,986,622

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), and Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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

(W.V. Code Chapters 3, 5, and 59)

Fund 0155 FY 2026 Org 1600

Salary and Benefits of Elected Officials	00200	$	192,704
Unclassified (R)	09900		8,352
Current Expenses (R)	13000		781,584
BRIM Premium	91300		34,500
Total		$	1,017,140

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

17 - State Election Commission

(W.V. Code Chapter 3)

Fund 0160 FY 2026 Org 1601

Personal Services and Employee Benefits	00100	$	2,477
Unclassified	09900		75
Current Expenses	13000		4,956
Total		$	7,508

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(W.V. Code Chapter 5F)

Fund 0186 FY 2026 Org 0201

Personal Services and Employee Benefits	00100	$	498,187
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		153,400
Repairs and Alterations	06400		100
Equipment	07000		1,000
Unclassified	09900		9,177
Current Expenses	13000		86,009
Financial Advisor (R)	30400		27,546
Lease Rental Payments	51600		15,431,900
Design-Build Board	54000		4,000
Other Assets	69000		100
BRIM Premium	91300		5,736
Total		$	16,217,155

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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

19 - Consolidated Public Retirement Board

(W.V. Code Chapter 5)

Fund 0195 FY 2026 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

(W.V. Code Chapter 5A)

Fund 0203 FY 2026 Org 0209

Personal Services and Employee Benefits	00100	$	68,694
Unclassified	09900		1,400
GAAP Project (R)	12500		671,260
Current Expenses	13000		61,563
BRIM Premium	91300		12,675
Total		$	815,592

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

21 - Division of General Services

(W.V. Code Chapter 5A)

Fund 0230 FY 2026 Org 0211

Personal Services and Employee Benefits	00100	$	3,190,973
Repairs and Alterations	06400		500

Equipment	07000		5,000
Unclassified	09900		20,000
Fire Service Fee	12600		14,000
Current Expenses	13000		1,148,349
Capital Outlay, Repairs and Equipment (R)	58900		21,610,888
BRIM Premium	91300		379,983
Total		$	26,369,693

Any unexpended balance remaining in the appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Consolidated State Laboratory – Surplus (fund 0230, appropriation 37799) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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*

(W.V. Code Chapter 5A)

Fund 0210 FY 2026 Org 0213

Personal Services and Employee Benefits	00100	$	997,655
Repairs and Alterations	06400		200
Unclassified	09900		144
Current Expenses	13000		1,285
BRIM Premium	91300		6,922
Total		$	1,006,206

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

23 - Travel Management

(W.V. Code Chapter 5A)

Fund 0615 FY 2026 Org 0215

Personal Services and Employee Benefits	00100	$	774,858
Repairs and Alterations	06400		1,000
Equipment	07000		5,000
Unclassified	09900		12,032
Current Expenses	13000		440,247
Buildings	25800		100
Other Assets	69000		100
Total		$	1,233,337

24 - Commission on Uniform State Laws

(W.V. Code Chapter 29)

Fund 0214 FY 2026 Org 0217

Current Expenses	13000	$	65,550

To pay expenses for members of the Commission on Uniform State Laws.

25 - West Virginia Public Employees Grievance Board

(W.V. Code Chapter 6C)

Fund 0220 FY 2026 Org 0219

Personal Services and Employee Benefits	00100	$	1,050,241
Equipment	07000		50
Unclassified	09900		1,000
Current Expenses	13000		136,035

BRIM Premium	91300		8,000
Total		$	1,195,326

26 - Ethics Commission

(W.V. Code Chapter 6B)

Fund 0223 FY 2026 Org 0220

Personal Services and Employee Benefits	00100	$	563,393
Repairs and Alterations	06400		500
Unclassified	09900		2,200
Current Expenses	13000		105,501
Other Assets	69000		100
BRIM Premium	91300		4,574
Total		$	676,268

27 - Public Defender Services

(W.V. Code Chapter 29)

Fund 0226 FY 2026 Org 0221

Personal Services and Employee Benefits	00100	$	1,987,292
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Unclassified	09900		313,300
Current Expenses	13000		12,740
Public Defender Corporations	35200		25,274,849
Appointed Counsel Fees (R)	78800		17,691,113
BRIM Premium	91300		10,575
Total		$	45,408,869

Any unexpended balance remaining in the appropriation for Public Defender Corporations – Surplus (fund 0226, appropriation 35299), Appointed Counsel Fees - Surplus (fund 0226, appropriation 43500), and Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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 - Division of Personnel

(W.V. Code Chapter 29)

Fund 0206 FY 2026 Org 0222

Directed Transfer	70000	$	900,000

The above appropriation for Directed Transfer (fund 0206, appropriation 70000) shall be transferred to the Division of Personnel (fund 2440).

29 - Committee for the Purchase of Commodities and Services from the Handicapped

(W.V. Code Chapter 5A)

Fund 0233 FY 2026 Org 0224

Personal Services and Employee Benefits	00100	$	3,187
Current Expenses	13000		868
Total		$	4,055

30 - West Virginia Prosecuting Attorneys Institute

(W.V. Code Chapter 7)

Fund 0557 FY 2026 Org 0228

Forensic Medical Examinations (R)	68300	$	572,276
Federal Funds/Grant Match (R)	74900		118,204
Total		$	690,480

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

31 - Office of Technology

(W.V. Code Chapter 5A)

Fund 0204 FY 2026 Org 0231

Directed Transfer	70000	$	7,200,000

The above appropriation for Directed Transfer (fund 0204, appropriation 70000) shall be transferred to the Office of Technology Fund (fund 2220).

32 - Real Estate Division

(W.V. Code Chapter 5A)

Fund 0610 FY 2026 Org 0233

Personal Services			
and Employee Benefits	00100	$	724,702
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
Unclassified.....	09900		124
Current Expenses	13000		138,881
BRIM Premium.....	91300		8,284
Total.....		$	874,591

DEPARTMENT OF COMMERCE

33 - Division of Forestry

(W.V. Code Chapter 19)

Fund 0250 FY 2026 Org 0305

Personal Services			
and Employee Benefits	00100	$	5,263,504
Salary and Benefits of Cabinet Secretary			
and Agency Heads	00201		111,674

Repairs and Alterations	06400		80,000
Unclassified	09900		21,435
Current Expenses	13000		558,024
BRIM Premium	91300		98,754
Total		$	6,133,391

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

Any unexpended balances remaining in the appropriations for Current Expenses – Surplus (fund 0250, appropriation 13099) and Equipment – Surplus (fund 0250, appropriation 34100) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

34 - Geological and Economic Survey

(W.V. Code Chapter 29)

Fund 0253 FY 2026 Org 0306

Personal Services and Employee Benefits	00100	$	1,898,787
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		112,753
Repairs and Alterations	06400		968
Unclassified	09900		27,678
Current Expenses	13000		51,524
Mineral Mapping System (R)	20700		1,232,093
BRIM Premium	91300		24,486
Total		$	3,348,289

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

The above Unclassified and Current Expenses 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.

35 - Division of Economic Development

(W.V. Code Chapter 5B)

Fund 0256 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	3,856,055
Unclassified	09900		108,055
Current Expenses	13000		4,052,861
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		997,499
Mainstreet Program	79400		142,525
Marshall University Research Corporation	80701		500,000
BRIM Premium	91300		3,157
Hatfield McCoy Recreational Trail	96000		198,415
Total		$	11,411,152

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 Partnerships (fund 0256, appropriation 20201), and Guaranteed Work Force Grant (fund 0256, appropriation 24200), and Current Expenses – Surplus (fund 0256, appropriation 13099) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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 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 Division 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.V. Code §5B-2-14. The Division of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed $50,000 per county served by an economic development or redevelopment corporation or authority.

36 - Office of Energy

(W.V. Code Chapter 5B)

Fund 0612 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	600,000
Current Expenses	13000		685,603
Total		$	1,285,603

37 - Division of Labor

(W.V. Code Chapters 21 and 47)

Fund 0260 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	1,471,794
Repairs and Alterations	06400		28,000
Unclassified	09900		15,000
Current Expenses	13000		212,000
BRIM Premium	91300		8,500
Total		$	1,735,294

38 - Division of Natural Resources

(W.V. Code Chapter 20)

Fund 0265 FY 2026 Org 0310

Personal Services and Employee Benefits	00100	$ 21,367,002
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	113,188
Repairs and Alterations	06400	100
Equipment	07000	100
Unclassified	09900	184,711
Current Expenses	13000	449,654
Buildings (R)	25800	100
Capital Outlay – Parks (R)	28800	3,434,945
Litter Control Conservation Officers	56400	157,746
Upper Mud River Flood Control (R)	65400	179,084
Other Assets	69000	100
Land (R)	73000	100
Law Enforcement	80600	2,751,584
BRIM Premium	91300	45,141
Total		$ 28,683,555

Any unexpended balances remaining in the appropriations for Equine Enrichment –Surplus (fund 0265, appropriation 22899), Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Upper Mud River Flood Control (fund 0265, appropriation 65400), Current Expenses – Surplus (fund 0265, appropriation 13099), Capital Outlay, Repairs and Equipment – Surplus (fund 0265, appropriation 67700), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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.

39 - Division of Miners' Health, Safety and Training

(W.V. Code Chapter 22A)

Fund 0277 FY 2026 Org 0314

Personal Services and Employee Benefits	00100	$	10,131,184
Unclassified	09900		111,016
Current Expenses	13000		1,396,141
Coal Dust and Rock Dust Sampling	27000		517,987
BRIM Premium	91300		80,668
Total		$	12,236,996

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.

40 - Board of Coal Mine Health and Safety

(W.V. Code Chapter 22A)

Fund 0280 FY 2026 Org 0319

Personal Services and Employee Benefits	00100	$	235,177
Unclassified	09900		3,480
Current Expenses	13000		118,138
Total		$	356,795

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.

41 - WorkForce West Virginia

(W.V. Code Chapter 21A)

Fund 0572 FY 2026 Org 0323

Personal Services and Employee Benefits	00100	$	51,433
Unclassified	09900		584
Current Expenses	13000		23,683
Total		$	75,700

42 - Department of Commerce –

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 0606 FY 2026 Org 0327

Personal Services and Employee Benefits	00100	$	1,501,592
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		153,750
Unclassified	09900		1,490
Current Expenses	13000		353,147
Directed Transfer	70000		0
Total		$	2,009,979

43 - State Board of Rehabilitation –

Division of Rehabilitation Services

(W.V. Code Chapter 18)

Fund 0310 FY 2026 Org 0932

Personal Services and Employee Benefits	00100	$	12,970,625
Independent Living Services	00900		429,418
Current Expenses	13000		558,815
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		77,464

Total.....		$ 16,397,112

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

44 - Department of Tourism –

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 0246 FY 2026 Org 0304

Tourism – Brand Promotion (R).....	61803	$ 15,000,000
Tourism – Public Relations (R)	61804	1,500,000
Tourism – Events and Sponsorships (R).....	61805	500,000
Tourism – Industry Development (R)..	61806	3,050,000
State Parks and Recreation Advertising (R).....	61900	1,500,000
Total.....		$ 21,550,000

Any unexpended balances remaining in the appropriations for Tourism – Development Opportunity Fund (fund 0246, 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), State Parks and Recreation Advertising (fund 0246, appropriation 61900), Tourism – Brand Promotion – Surplus (fund 0246, appropriation 61893), and Tourism – Industry Development – Surplus (fund 0246, appropriation 61896) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

From the above appropriation of Tourism – Industry Development (fund 0246, appropriation 61806) $250,000 shall be used for Appalachian Outlaw Trails, and $300,000 shall be used for Mountwood Park.

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

45 - *Division of Culture and History*

(W.V. Code Chapter 29)

Fund 0293 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	4,345,222
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		0
Repairs and Alterations	06400		1,000
Equipment	07000		1
Unclassified (R)	09900		28,483
Current Expenses	13000		3,175,898
WV Humanities Council	16800		250,000
Buildings	25800		1
Other Assets	69000		1
Educational Enhancements	69500		55,500
Land	73000		1
Culture and History Programming	73200		173,573
Capital Outlay and Maintenance (R)	75500		19,600
Historical Highway Marker Program	84400		43,548
BRIM Premium	91300		39,337
Total		$	8,132,165

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), 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), Capital Outlay and Maintenance (fund 0293, appropriation 75500), and Current Expenses – Surplus (fund 0293,

appropriation 13099) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

From the above appropriation for Current Expenses (fund 0293, appropriation 13000) $1,250,000 shall be used for roof repair for the Cultural Center, $500,000 shall be used for completion of the Cultural Center outdoor exhibit, and $750,000 shall be used to meet existing grant obligations.

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500), $55,500 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 W.V. Code.

46 - Library Commission

(W.V. Code Chapter 10)

Fund 0296 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	1,023,402
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		112,000
Repairs and Alterations	06400		6,500
Current Expenses	13000		1,639,624
Services to Blind & Handicapped	18100		161,717
BRIM Premium	91300		18,205
Total		$	2,961,448

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

47 - Educational Broadcasting Commission

(W.V. Code Chapter 10)

Fund 0300 FY 2026 Org 0439

Personal Services and Employee Benefits	00100	$	3,091,165
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		47,727
Total		$	3,872,092

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

DEPARTMENT OF EDUCATION

48 - State Board of Education –

School Lunch Program

(W.V. Code Chapters 18 and 18A)

Fund 0303 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$	383,204
Current Expenses	13000		2,118,865
Total		$	2,502,069

49 - State Board of Education –

State Department of Education

(W.V. Code Chapters 18 and 18A)

Fund 0313 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$ 4,983,544
Teachers' Retirement Savings Realized	09500	39,831,000
Unclassified (R)	09900	420,000
Current Expenses (R)	13000	3,517,816
Increased Enrollment	14000	13,653,041
Safe Schools	14300	7,443,900
Attendance Incentive Bonus (R)	15001	2,262,389
National Teacher Certification (R)	16100	100,000
Jobs & Hope – Childhood Drug Prevention Education	21901	2,000,000
Technology Repair and Modernization	29800	951,003
Hope Scholarship Program (R)	30401	24,610,523
HVAC Technicians	35500	555,872
Early Retirement Notification Incentive	36600	300,000
MATH Program	36800	836,532
Assessment Programs (R)	39600	3,750,759
Governor's Honors Academy (R)	47800	979,853
English as a Second Language	52800	96,000
Teacher Reimbursement	57300	297,188
Hospitality Training	60000	281,051
Youth in Government	61600	100,000
High Acuity Special Needs (R)	63400	2,700,000
Computer Science Education	xxxxx	2,000,000
Foreign Student Education	63600	102,133
State Board of Education Administrative Costs	68400	200,000
Early Literacy Program	75600	5,724,015
School Based Truancy Prevention (R).	78101	2,000,000
Communities in Schools (R)	78103	4,912,637
Mastery Based Education	78104	125,000
Mountain State Digital Literacy Program	86401	1,300,000
21st Century Learners (R)	88600	1,675,127
BRIM Premium	91300	342,859
Allowance for Extraordinary		

Sustained Growth	94300	71,980
Education Programs	XXXXX	0
21st Century Assessment and Professional Development	93100	2,015,254
21st Century Technology Infrastructure Network Tools and Support (R)	93300	9,256,714
Special Olympic Games	96600	25,000
Educational Program Allowance	99600	716,250
Total		$ 140,137,440

The above appropriations include funding for the State Board of Education and its 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), Hope Scholarship Program (fund 0313, appropriation 30401), 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), 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300), and Communities in Schools – Surplus (fund 0313, appropriation 78199) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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.

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

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

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; $250,000 shall be for the Randolph County Board of Education for Pickens School; $100,000 shall be for the Randolph County Board of Education for the Harman 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.

50 - State Board of Education –

Aid for Exceptional Children

(W.V. Code Chapters 18 and 18A)

Fund 0314 FY 2026 Org 0402

Special Education – Counties	15900	$	7,425,757
Special Education – Institutions.....	16000		4,397,051
Education of Juveniles			
Held in Predispositional			
Juvenile Detention Centers	30200		766,204
Education of Institutionalized			
Juveniles and Adults (R).....	47200		23,353,698

Total		$ 35,942,710

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 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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.

51 - State Board of Education –

State Aid to Schools

(W.V. Code Chapters 18 and 18A)

Fund 0317 FY 2026 Org 0402

Other Current Expenses	02200	$ 197,669,392
Advanced Placement	05300	825,149
Professional Educators	15100	956,210,509
Service Personnel	15200	399,892,987
Fixed Charges	15300	117,003,609
Transportation	15400	100,315,326
Improved Instructional Programs	15600	63,626,561
Professional Student Support Services	65500	65,568,543
21st Century Strategic Technology Learning Growth	93600	49,747,886
Teacher and Leader Induction	93601	28,783,005
Basic Foundation Allowances		1,979,642,967
Less Local Share		(566,787,626)
Adjustments		(3,422,328)
Total Basic State Aid		1,409,433,013
Public Employees' Insurance Matching	01200	317,566,529
Teachers' Retirement System	01900	68,086,596
Retirement Systems – Unfunded Liability	77500	223,829,404
Total		$ 2,018,915,542

52 - State Board of Education –

Vocational Division

(W.V. Code Chapters 18 and 18A)

Fund 0390 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$	1,462,725
Unclassified	09900		268,800
Current Expenses	13000		883,106
Wood Products – Forestry Vocational Program	14600		88,600
Albert Yanni Vocational Program	14700		95,578
Vocational Aid	14800		24,826,517
Adult Basic Education	14900		5,905,442
Jobs & Hope (R)	14902		3,502,531
Program Modernization	30500		884,313
High School Equivalency Diploma Testing (R)	72600		616,572
FFA Grant Awards	83900		11,496
Pre-Engineering Academy Program	84000		22,914
Vocational Programs	XXXXX		0
Total		$	38,568,594

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901), Jobs and Hope (fund 0390, appropriation 14902), High School Equivalency Diploma Testing (fund 0390, appropriation 72600), and Jobs & Hope – Surplus (fund 0390, appropriation 14099) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

53 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(W.V. Code Chapters 18 and 18A)

Fund 0320 FY 2026 Org 0403

Personal Services			
and Employee Benefits	00100	$	11,225,286
Repairs and Alterations	06400		164,675
Equipment	07000		77,000
Unclassified (R)	09900		110,000
Current Expenses (R)	13000		2,150,696
Capital Outlay and Maintenance (R)	75500		670,000
BRIM Premium	91300		130,842
Total		$	14,528,499

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

54 - State Board of Education –

School Building Authority

(W.V. Code Chapters 18 and 18A)

Fund 0318 FY 2026 Org 0404

School Building Authority	45300	$	24,000,000

The above appropriation for School Building Authority (fund 0318, appropriation 45300) shall be transferred to the School Construction Fund (fund 3952).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

55 - Environmental Quality Board

(W.V. Code Chapter 20)

Fund 0270 FY 2026 Org 0311

Personal Services			
and Employee Benefits	00100	$	101,968
Repairs and Alterations	06400		800

Equipment	07000		500
Current Expenses	13000		28,453
Other Assets	69000		400
BRIM Premium	91300		791
Total		$	132,912

56 - Division of Environmental Protection

(W.V. Code Chapter 22)

Fund 0273 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	4,488,900
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Water Resources Protection and Management	06800		604,369
Current Expenses	13000		85,816
Environmental Response and Cleanups	27101		91,922
Dam Safety	60700		261,746
West Virginia Stream Partners Program	63700		77,396
West Virginia Drinking Water Treatment Revolving Fund – Transfer	68900		647,500
W.V. Contributions to River Commissions	77600		148,485
Office of Water Resources Non-Enforcement Activity	85500		1,131,366
Total		$	7,705,500

Any unexpended balance remaining in the appropriation for Current Expenses – Surplus (fund 0273, appropriation 13099) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

57 - Air Quality Board

(W.V. Code Chapter 16)

Fund 0550 FY 2026 Org 0325

Personal Services and Employee Benefits	00100	$	61,581
Repairs and Alterations	06400		800
Equipment	07000		400
Current Expenses	13000		11,612
Other Assets	69000		200
BRIM Premium	91300		2,304
Total		$	76,897

DEPARTMENT OF HEALTH

58 - Department of Health –

Central Office

(W.V. Code Chapter 16)

Fund 0407 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	429,073
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		358,460
Unclassified	09900		6,459
Current Expenses	13000		5,239,831
Pregnancy Centers	xxxxx		3,000,000
Capital Outlay and Maintenance (R)	75500		70,000
BRIM Premium	91300		169,791
Total		$	9,273,614

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

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), Tobacco Education Program (fund 0407, appropriation 90600), Tobacco Education Program – Surplus (fund

0407, appropriation xxxxx) and Pregnancy Centers – Surplus (fund 0407, appropriation 49999) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

59 - Department of Health –

Office of the Shared Administration

(W.V. Code Chapter 16)

Fund 0404 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	4,337,763
Unclassified	09900		62,815
Current Expenses	13000		1,214,699
Total		$	5,615,277

60 - Bureau for Public Health –

Office of the Commissioner

(W.V. Code Chapter 16)

Fund 0405 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	2,892,926
Unclassified	09900		594,893
Current Expenses	13000		66,099
Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (R)	57500		300,000
Total		$	3,853,918

Any unexpended balances remaining in the appropriations for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0405, appropriation 57500), at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

61 - Bureau for Public Health –

Health Statistics Center

(W.V. Code Chapter 16)

Fund 0406 FY 2026 Org 0506

Personal Services			
and Employee Benefits	00100	$	539,560
Current Expenses	13000		76,026
Total		$	615,586

62 - *Bureau for Public Health –*

Office of Community Health and Health Promotion

(W.V. Code Chapter 16)

Fund 0438 FY 2026 Org 0506

Black Lung Clinics	46700	$	170,885
Primary Care Support	62800		2,032,635
Health Right Free Clinics	72700		5,250,000
Healthy Lifestyles	77800		612,419
Diabetes Education and Prevention	87300		97,125
Total		$	8,163,064

From the above appropriation for Primary Care Support (fund 0438, appropriation 62800), an amount not less than $100,000 shall be used for the West Virginia Cancer Coalition.

From the above appropriation for Health Right Free Clinics (fund 0438, appropriation 72700), $1,000,000 shall be used to support Health Right Free Clinics operating mobile medical primary care and mobile dental care clinics.

63 - *Bureau for Public Health –*

Office of Environmental Health Services

(W.V. Code Chapter 1

Fund 0417 FY 2026 Org 0506

Environmental Health Services (R)	30002	$	3,171,119

Any unexpended balances remaining in the appropriation for Environmental Health Services (fund 0417, appropriation 30002) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

64 - Bureau for Public Health –

Office of Epidemiology and Prevention Services

(W.V. Code Chapter 16)

Fund 0418 FY 2026 Org 0506

Cancer Registry.....	22500	$	231,607
Vaccine for Children (R)	55100		341,261
Tuberculosis Control.....	55300		305,048
Epidemiology Support	62600		1,984,635
Total.....		$	2,862,551

From the above appropriation for Epidemiology Support (fund 0418, appropriation 62600), $50,000 shall be used for the West Virginia AIDS Coalition; and $100,000 shall be used for Adolescent Immunization Education.

Any unexpended balances remaining in the appropriation for Vaccine for Children (fund 0418, appropriation 55100) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

65 - Bureau for Public Health –

Office of Laboratory Services

(W.V. Code Chapter 16)

Fund 0419 FY 2026 Org 0506

Laboratory Services	30003	$	3,775,633

66 - Bureau for Public Health –

Office of Maternal, Child, and Family Health –

Children's Specialty Care

(W.V. Code Chapter 16)

Fund 0421 FY 2026 Org 0506

Children's Specialty Care (R).....	30004	$	1,667,975

Any unexpended balances remaining in the appropriation Children's Specialty Care (fund 0421, appropriation 30004) at the close of fiscal year 2025 are hereby reappropriated for expenditure during fiscal year 2026.

67 - Bureau for Public Health –

Office of Maternal, Child, and Family Health –

Infant, Child, Adolescent, and Young Adult Health

(W.V. Code Chapter 16)

Fund 0422 FY 2026 Org 0506

Sexual Assault Intervention and Prevention	72300	$	2,000,000
Infant, Child Adolescent and Young Adult Health and Administration	30005		30,040
Total.....		$	2,030,040

68 - Bureau for Public Health –

Office of Maternal, Child, and Family Health –

Maternal, Child, and Family Health Epidemiology

(W.V. Code Chapter 16)

Fund 0423 FY 2026 Org 0506

Maternal Mortality Review.....	83400	$	53,031
Maternal, Child and Family Health Epidemiology (R).....	30006		411,683
Total.....		$	464,714

Any unexpended balances remaining in the appropriation Maternal, Child and Family Health Epidemiology (fund 0423, appropriation 30006) at the close of fiscal year 2025 are hereby reappropriated for expenditure during fiscal year 2026.

69 - Bureau for Public Health –

Office of Maternal, Child and Family Health –

Community Health

(W.V. Code Chapter 16)

Fund 0424 FY 2026 Org 0506

Maternal and Child Health Community Health (R).....	30007	$	429,832

From the above appropriation for Maternal and Child Health Community Health and Fees (fund 0424, appropriation 30007) $11,000 shall be used for the Marshall County Health Department for dental services.

Any unexpended balances remaining in the appropriation Maternal and Child Health Community Health (fund 0424, appropriation 30007) at the close of fiscal year 2025 are hereby reappropriated for expenditure during fiscal year 2026.

70 - Bureau for Public Health –

Office of Maternal Child and Family Health –

Women's and Family Health

(W.V. Code Chapter 16)

Fund 0425 FY 2026 Org 0506

Women's and Family Health (R)..... 30008 $ 2,556,146

From the above appropriation for Women's and Family Health (fund 0425, appropriation 30008) up to $400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197).

Any unexpended balances remaining in the appropriation Women's and Family Health (fund 0425, appropriation 30008) at the close of fiscal year 2025 are hereby reappropriated for expenditure during fiscal year 2026.

71 - Bureau for Public Health –

Office of Maternal Child and Family Health –

West Virginia Birth to Three

(W.V. Code Chapter 16)

Fund 0426 FY 2026 Org 0506

West Virginia Birth to Three (R)..... 30009 $ 17,156,198

Any unexpended balances remaining in the appropriation West Virginia Birth to Three (fund 0426, appropriation 30009) at the close of fiscal year 2025 are hereby reappropriated for expenditure during fiscal year 2026.

72 - Bureau for Public Health –

Office of Medical Cannabis

(W.V. Code Chapter 16)

Fund 0427 FY 2026 Org 0506

Office of Medical Cannabis (R)..... 42001 $ 1,137,238

Any unexpended balances remaining in the appropriations for Office of Medical Cannabis (fund 0427, appropriation 42001) and Office of Medical Cannabis – Surplus (fund 0427, appropriation

42099) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

73 - Bureau for Public Health –

Office of Nutrition Services

(W.V. Code Chapter 16)

Fund 0428 FY 2026 Org 0506

Women, Infants, and Children.....	21000	$	38,621

74 - Deaf and Hard of Hearing

(W.V. Code Chapter 16)

Fund 0429 FY 2026 Org 0506

Commission for Deaf and Hard of Hearing	70400	$	241,270

75 - Center for Local Health

(W.V. Code Chapter 16)

Fund 0431 FY 2026 Org 0506

State Aid for Local and Basic Public Health Services.....	18400	$	19,038,864

76 - Office of Chief Medical Examiner

(W.V. Code Chapter 16)

Fund 0432 FY 2026 Org 0506

Chief Medical Examiner (R).....	04500	$	14,071,667

Any unexpended balance remaining in the appropriation for Chief Medical Examiner (fund 0432, appropriation 04500) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

77 - Office of Emergency Medical Services

(W.V. Code Chapter 16)

Fund 0434 FY 2026 Org 0506

Statewide EMS Program Support (R)..	38300	$	1,681,427
State Trauma and Emergency Care System.....	91800		1,975,140
WVU Charleston Poison Control Hotline	94400		712,942
Telestroke.....	30010		1,000,000
Total.....		$	5,369,509

Any unexpended balances remaining in the appropriations for Statewide EMS Program Support (fund 0434, appropriation 38300) and Statewide EMS Program Support – Surplus (fund 0434, appropriation 38399) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

78 - Office of Threat Preparedness

(W.V. Code Chapter 16)

Fund 0435 FY 2026 Org 0506

Threat Preparedness and Administration	30011	$	5,595

79 - Human Rights Commission

(W.V. Code Chapter 5)

Fund 0416 FY 2026 Org 0510

Personal Services and Employee Benefits (R).....	00100	$	1,118,596
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		114,091
Unclassified (R)	09900		4,024
Current Expenses (R).....	13000		331,304
BRIM Premium.....	91300		10,764

Total		$ 1,578,779

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0416, appropriation 00100), Unclassified (fund 0416, appropriation 09900), and Current Expenses (fund 0416, appropriation 13000) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

80 - Office of the Inspector General

(W.V. Code Chapter 16B)

Fund 0437 FY 2026 Org 0513

Personal Services and Employee Benefits (R)	00100	$ 6,811,769
Repairs and Alterations	06400	1
Equipment	07000	1
Unclassified (R)	09900	57,469
Current Expenses (R)	13000	812,466
Other Assets	69000	1
BRIM Premium	91300	121,134
Total		$ 7,802,841

From the above appropriation for Current Expenses (fund 0437, appropriation 13000), $73,065 shall be used for informal dispute resolution relating to nursing home administrative appeals.

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0437, appropriation 00100), Unclassified (fund 0437, appropriation 09900), Current Expenses (fund 0437, appropriation 13000), and Current Expenses – Surplus (fund 0437, appropriation 13099) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

DEPARTMENT OF HUMAN SERVICES

81 - Division of Human Services

(W.V. Code Chapters 9, 48, and 49)

Fund 0403 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$ 32,219,482
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	162,850
Unclassified	09900	5,632,055
Current Expenses	13000	6,113,150
Child Care Development	14400	3,167,767
Jobs & Hope (R)	14902	2,357,000
Social Services	19500	46,136
Behavioral Health Program (R)	21900	64,469,814
Family Resource Networks	27400	1,762,464
Substance Abuse Continuum of Care (R)	35400	1,821,600
Office of Drug Control Policy (R)	35401	592,652
James “Tiger” Morton Catastrophic Illness Fund	45500	377,544
In-Home Family Education	68800	1,100,000
WV Works Separate State Program	69800	1,519,650
Child Support Enforcement	70500	7,236,632
Temporary Assistance for Needy Families/ Maintenance of Effort	70700	25,819,096
Child Care – Maintenance of Effort Match	70800	5,693,743
Capital Outlay and Maintenance (R)	75500	11,875
Medical Services Administrative Costs	78900	98,472
Indigent Burials (R)	85100	1,550,000
CHIP Administrative Costs	85601	706,386
CHIP Services	85602	13,469,298
BRIM Premium	91300	945,891
Children’s Trust Fund – Transfer	95100	220,000
Total		$ 177,093,557

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 Jobs & Hope (fund 0403, appropriation 14902), Behavioral Health Program (fund 0403, appropriation 21900), Behavioral Health Program – Surplus (fund 0403, appropriation 63100), Substance Abuse Continuum of Care (fund 0403, appropriation 35400), Office of Drug Control Policy (fund 0403, appropriation 35401), Capital Outlay and Maintenance (fund 0403, appropriation 75500), Indigent Burials (fund 0403, appropriation 85100), and Office of Drug Control Policy – Surplus (fund 0403, appropriation 35402) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

Notwithstanding the provisions of Title I, section three of this bill, the Secretary of the Department of Human Services 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.

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 WV 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 Human Services.

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.

Included in the appropriation for Behavioral Health Program (fund 0403, appropriation 21900), is $100,000 for Recovery Point of Huntington.

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

From the above appropriation for Substance Abuse Continuum of Care (fund 0403, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

82 - *Department of Human Services –*

Office of the Shared Administration

(W.V. Code Chapter 16)

Fund 0481 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	10,709,072
Unclassified	09900		252,842
Current Expenses	13000		7,500,296
PATH	95400		7,368,389
Total		$	25,830,599

83 - *Bureau for Medical Services –*

Office of the Commissioner

(W.V. Code Chapter 16)

Fund 0482 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	448,112
Current Expenses	13000		446,183

Total		$	894,295

84 - Bureau for Medical Services –

Medical Services Administration

(W.V. Code Chapter 16)

Fund 0483 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	9,658
Current Expenses	13000		1,175
Medical Services Administrative Costs	78900		47,116,150
Total		$	47,126,983

85 - Bureau for Medical Services –

Policy and Programming

(W.V. Code Chapter 16)

Fund 0484 FY 2026 Org 0511

Medical Services	18900	$	79,174,335
WV Teaching Hospitals Tertiary/Safety Net	54700		6,356,000
Rural Hospitals Under 150 Beds	94000		2,596,000
Case Management	30012		123,264
Chiropractic Services	30013		5,784
Clinic Services	30014		160,523
Dental Services	30015		184,878
Diagnostic, Screening, Preventive and Rehabilitative Services	30016		3,529
Health Homes for Enrollees with Chronic Conditions	30017		141,477
Hospice	30018		1,554,214
Institution for Mental Disease Services	30019		1,418,872
Intermediate Care Facility Services	30020		3,592,852
Managed Care Organizations	30021		126,104,299
Prescription Drugs	30022		21,934,109

Physical and Occupational Therapy.....	30023	76,436
Podiatry Services, Optometry Services and Prosthetics.....	30024	34,531
Private Duty Nurses, Personal Care and Other Practitioner Services	30025	13,163,660
Respiratory Care Services.....	30026	11,203
Speech, Hearing, and Language Disorders	30027	14,237
Total.....		$256,650,203

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

86 - *Bureau for Medical Services –*

Home and Community Based Waiver Programs

(W.V. Code Chapter 16)

Fund 0485 FY 2026 Org 0511

I/DD Waiver.....	46600	$108,541,736
Title XIX for Seniors Citizens	53300	47,060,282
Traumatic Brain Injury Waiver.....	83500	1,000,000
Substance Use Disorder Waiver	30028	926,366
Total.....		$157,528,384

87 - *Bureau for Social Services –*

Office of the Commissioner

(W.V. Code Chapter 16)

Fund 0486 FY 2026 Org 0511

Personal Services and Employee Benefits.....	00100	$ 9,541,782
Current Expenses	13000	2,272,246
Social Services	19500	7,793,934
Domestic Violence Legal Services Fund	38400	400,000

Child Protective Services		
Case Workers	46800	6,525,340
Grants for Licensed Domestic Violence Programs and Statewide Prevention	75000	2,500,000
Total		$ 29,033,302

Included in the above appropriation for Social Services (fund 0486, 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 0486, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0486, appropriation 75000), 50 percent of the total shall be divided equally and distributed among the 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 0486, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

88 - Bureau for Social Services –

Children's Services

(W.V. Code Chapter 16)

Fund 0487 FY 2026 Org 0511

Social Services	19500	$ 41,525,266
Family Preservation Program	19600	1,565,000
Current Expenses	13000	2,000
Total		$ 43,092,266

89 - Bureau for Social Services –

Adoption

(W.V. Code Chapter 16)

Fund 0488 FY 2026 Org 0511

Social Services	19500	$	74,283,410

90 - Bureau for Social Services –

Foster Care

(W.V. Code Chapter 16)

Fund 0489 FY 2026 Org 0511

Social Services	19500	$	174,966,649

91 - Bureau for Social Services –

Adult Services

(W.V. Code Chapter 16)

Fund 0492 FY 2026 Org 0511

Social Services	19500	$	6,056,125

92 - Bureau for Social Services –

Child Protective Services Case Workers

(W.V. Code Chapter 16)

Fund 0493 FY 2026 Org 0511

Social Services	19500	$	5,157,339
Child Protective Services Case Workers	46800		24,964,445
Total		$	30,121,784

93 - Bureau for Social Services –

Social Service Case Workers

(W.V. Code Chapter 16)

Fund 0494 FY 2026 Org 0511

Personal Services			
and Employee Benefits	00100		2,637,980
Current Expenses	13000		469,533
Social Services	19500		7,529,649
Child Protective Services			
Case Workers	46800		2,037,632
Total		$	12,674,794

94 - *Bureau for Social Services –*

Adult Protective Services Case Workers

(W.V. Code Chapter 16)

Fund 0495 FY 2026 Org 0511

Personal Services			
and Employee Benefits	00100	$	4,916,510
Current Expenses	13000		217,408
Total		$	5,133,918

95 - *Bureau for Social Services –*

Youth Service Case Workers

(W.V. Code Chapter 16)

Fund 0496 FY 2026 Org 0511

Personal Services			
and Employee Benefits	00100		1,153,162
Current Expenses	13000		170,344
Social Services	19500		4,522,073
Total		$	5,845,579

DEPARTMENT OF HEALTH FACILITIES

96 - *Health Facilities –*

Central Office

(W.V. Code Chapter 16)

Fund 0401 FY 2026 Org 0512

Personal Services and Employee Benefits	00100	$	1,719,019
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		245,000
Shared Administration	30029		1
Current Expenses	13000		1,257,327
BRIM Premium	91300		21,828
Total		$	3,243,175

97 - Health Facilities –

Health Facilities Capital Projects Fund

(W.V. Code Chapter 16)

Fund 0402 FY 2026 Org 0512

Capital Outlay and Maintenance	75500	$	550,000

The Secretary shall have the ability to transfer between appropriations for Capital Outlay and Maintenance within the funds 0402, 0408, 0409, 0410, 0411, 0412, 0413, 0414, and 0415 as needed.

98 - Health Facilities –

Hopemont Hospital

(W.V. Code Chapter 16)

Fund 0408 FY 2026 Org 0512

Personal Services and Employee Benefits (R)	00100	$	6,524,211
Repairs and Alterations (R)	06400		90,001
Equipment (R)	07000		1
Current Expenses (R)	13000		2,173,082
Buildings (R)	25800		1

Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	3,893,811
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R)	91300	40,000
Total.....		$ 12,771,108

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0408, appropriation 00100), Repairs and Alterations (fund 0408, appropriation 06400), Equipment (0408, appropriation 07000), Current Expenses (fund 0408, appropriation 13000), Buildings (fund 0408, appropriation 25800), Other Assets (fund 0408, appropriation 69000), Contract Nursing (fund 0408, appropriation 72301), Capital Outlay and Maintenance (fund 0408, appropriation 75500), and BRIM Premium (fund 0408, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

99 - *Health Facilities –*

Lakin Hospital

(W.V. Code Chapter 16)

Fund 0409 FY 2026 Org 0512

Personal Services		
and Employee Benefits (R).....	00100	$ 8,366,804
Repairs and Alterations (R)	06400	60,001
Equipment (R).....	07000	1
Current Expenses (R)	13000	2,363,676
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	3,539,262
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R)	91300	174,055
Total.....		$ 14,553,801

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0409, appropriation 00100), Repairs and Alterations (fund 0409, appropriation 06400), Equipment (0409, appropriation 07000), Current Expenses (fund 0409, appropriation 13000), Buildings (fund 0409, appropriation 25800), Other Assets (fund 0409, appropriation 69000), Contract Nursing (fund 0409, appropriation 72301), Capital Outlay and Maintenance (fund 0409, appropriation 75500), and BRIM Premium (fund 0409, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

100 - Health Facilities –

John Manchin Senior Health Care Center

(W.V. Code Chapter 16)

Fund 0410 FY 2026 Org 0512

Personal Services			
and Employee Benefits (R).....	00100	$	4,168,092
Repairs and Alterations (R)	06400		50,001
Equipment (R).....	07000		1
Current Expenses (R)	13000		1,471,878
Buildings (R).....	25800		1
Other Assets (R).....	69000		1
Contract Nursing (R).....	72301		2,907,556
Capital Outlay and Maintenance (R) ...	75500		50,000
BRIM Premium (R)	91300		72,136
Total.....		$	8,719,666

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0410, appropriation 00100), Repairs and Alterations (fund 0410, appropriation 06400), Equipment (0410, appropriation 07000), Current Expenses (fund 0410, appropriation 13000), Buildings

(fund 0410, appropriation 25800), Other Assets (fund 0410, appropriation 69000), Contract Nursing (fund 0410, appropriation 72301), Capital Outlay and Maintenance (fund 0410, appropriation 75500), and BRIM Premium (fund 0410, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

101 - Health Facilities –

Jackie Withrow Hospital

(W.V. Code Chapter 16)

Fund 0411 FY 2026 Org 0512

Personal Services and Employee Benefits (R)	00100	$	7,201,092
Repairs and Alterations (R)	06400		200,001
Equipment (R).....	07000		1
Current Expenses (R)	13000		2,655,893
Buildings (R).....	25800		1
Other Assets (R).....	69000		1
Contract Nursing (R).....	72301		2,000,311
Capital Outlay and Maintenance (R) ...	75500		50,000
BRIM Premium (R)	91300		167,074
Total.....		$	12,274,374

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0411, appropriation 00100), Repairs and Alterations (fund 0411, appropriation 06400), Equipment (0411, appropriation 07000), Current Expenses (fund 0411, appropriation 13000), Buildings (fund 0411, appropriation 25800), Other Assets (fund 0411, appropriation 69000), Contract Nursing (fund 0411, appropriation 72301), Capital Outlay and Maintenance (fund 0411, appropriation 75500), and BRIM Premium (fund 0411, appropriation 91300) at

the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

102 - Health Facilities –

Welch Community Hospital

(W.V. Code Chapter 16)

Fund 0412 FY 2026 Org 0512

Personal Services and Employee Benefits (R).....	00100	$ 13,295,716
Repairs and Alterations (R)	06400	1
Equipment (R).....	07000	1
Current Expenses (R)	13000	15,525,686
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	250,000
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R)	91300	149,300
Total.....		$ 29,270,706

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0412, appropriation 00100), Repairs and Alterations (fund 0412, appropriation 06400), Equipment (0412, appropriation 07000), Current Expenses (fund 0412, appropriation 13000), Buildings (fund 0412, appropriation 25800), Other Assets (fund 0412, appropriation 69000), Contract Nursing (fund 0412, appropriation 72301), Capital Outlay and Maintenance (fund 0412, appropriation 75500), and BRIM Premium (fund 0412, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

103 - Health Facilities –

William R. Sharpe Jr. Hospital

(W.V. Code Chapter 16)

Fund 0413 FY 2026 Org 0512

Personal Services and Employee Benefits (R)	00100	$ 28,384,787
Repairs and Alterations (R)	06400	350,001
Equipment (R).....	07000	1
Current Expenses (R)	13000	10,280,300
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	41,969,835
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R)	91300	315,334
Total.....		$ 81,350,260

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0413, appropriation 00100), Repairs and Alterations (fund 0413, appropriation 06400), Equipment (0413, appropriation 07000), Current Expenses (fund 0413, appropriation 13000), Buildings (fund 0413, appropriation 25800), Other Assets (fund 0413, appropriation 69000), Contract Nursing (fund 0413, appropriation 72301), Capital Outlay and Maintenance (fund 0413, appropriation 75500), and BRIM Premium (fund 0413, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

104 - Health Facilities –

Mildred Mitchell-Bateman Hospital

(W.V. Code Chapter 16)

Fund 0414 FY 2026 Org 0512

Personal Services and Employee Benefits (R).....	00100	$ 25,979,665
Repairs and Alterations (R)	06400	300,001
Equipment (R).....	07000	1
Current Expenses (R).....	13000	2,967,683
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	24,957,520
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R)	91300	283,122
Total.....		$ 54,537,994

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0414, appropriation 00100), Repairs and Alterations (fund 0414, appropriation 06400), Equipment (0414, appropriation 07000), Current Expenses (fund 0414, appropriation 13000), Buildings (fund 0414, appropriation 25800), Other Assets (fund 0414, appropriation 69000), Contract Nursing (fund 0414, appropriation 72301), Capital Outlay and Maintenance (fund 0414, appropriation 75500), and BRIM Premium (fund 0414, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

105 - Health Facilities –

William R. Sharpe Jr. Hospital –

Transitional Living Facility

(W.V. Code Chapter 16)

Fund 0415 FY 2026 Org 0512

Personal Services and Employee Benefits (R).....	00100	$	1,610,133
Repairs and Alterations (R)	06400		2,001
Equipment (R).....	07000		1
Current Expenses (R)	13000		171,794
Buildings (R).....	25800		1
Other Assets (R).....	69000		1
Contract Nursing (R).....	72301		10,000
Capital Outlay and Maintenance (R) ...	75500		50,000
BRIM Premium (R)	91300		20,000
Total.....		$	1,863,931

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0415, appropriation 00100), Repairs and Alterations (fund 0415, appropriation 06400), Equipment (0415, appropriation 07000), Current Expenses (fund 0415, appropriation 13000), Buildings (fund 0415, appropriation 25800), Other Assets (fund 0415, appropriation 69000), Contract Nursing (fund 0415, appropriation 72301), Capital Outlay and Maintenance (fund 0415, appropriation 75500), and BRIM Premium (fund 0415, appropriation 91300) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

DEPARTMENT OF HOMELAND SECURITY

106 - Department of Homeland Security –

Office of the Secretary

(W.V. Code Chapter 5F)

Fund 0430 FY 2026 Org 0601

Personal Services and Employee Benefits	00100	$	701,752
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Repairs and Alterations	06400		500
Equipment	07000		500
Unclassified (R)	09900		30,000
Current Expenses	13000		91,636
Fusion Center (R)	46900		3,084,238
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		$	4,331,689

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Current Expenses – Surplus (fund 0430, appropriation 13099), 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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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).

107 - Division of Emergency Management

(W.V. Code Chapter 15)

Fund 0443 FY 2026 Org 0606

Personal Services and Employee Benefits	00100	$	2,329,771
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		61,250
Repairs and Alterations	06400		600

Unclassified	09900		21,022
Current Expenses	13000		51,065
Radiological Emergency Preparedness	55400		17,608
SIRN….	55401		600,000
Federal Funds/Grant Match (R)	74900		1,866,447
Mine and Industrial Accident Rapid Response Call Center	78100		538,524
Early Warning Flood System (R)	87700		1,487,801
BRIM Premium	91300		96,529
Total		$	7,070,617

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900) and Early Warning Flood System (fund 0443, appropriation 87700) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

108 - Division of Corrections and Rehabilitation –

West Virginia Parole Board

(W.V. Code Chapter 62)

Fund 0440 FY 2026 Org 0608

Personal Services and Employee Benefits	00100	$	318,332
Unclassified	09900		10,000
Current Expenses	13000		234,440
Salaries of Members of West Virginia Parole Board	22700		793,430
BRIM Premium	91300		6,149
Total		$	1,362,351

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.V. Code §5-5-1), and related employee benefits of board members.

109 - Division of Corrections and Rehabilitation –

Central Office

(W.V. Code Chapter 15A)

Fund 0446 FY 2026 Org 0608

Personal Services and Employee Benefits	00100	$	259,096
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		126,518
Current Expenses	13000		2,400
Total		$	388,014

110 - Division of Corrections and Rehabilitation –

Correctional Units

(W.V. Code Chapter 15A)

Fund 0450 FY 2026 Org 0608

Employee Benefits	01000	$	1,258,136
Children's Protection Act (R)	09000		838,437
Unclassified	09900		1,578,800
Current Expenses (R)	13000		57,690,483
Facilities Planning and Administration (R)	38600		1,274,200
Charleston Correctional Center	45600		4,292,171
Beckley Correctional Center	49000		3,373,622
Anthony Correctional Center	50400		6,944,138
Huttonsville Correctional Center	51400		23,315,435
Northern Correctional Center	53400		10,321,311
Inmate Medical Expenses (R)	53500		66,370,483
Pruntytown Correctional Center	54300		11,167,934
Corrections Academy	56900		2,342,458
Information Technology Services	59901		2,759,052
Martinsburg Correctional Center	66300		5,838,595
Parole Services	68600		7,712,380
Special Services	68700		7,470,058

Directed Transfer	70000	20,759,291
Investigative Services	71600	3,925,268
Capital Outlay and Maintenance (R)	75500	2,000,000
Salem Correctional Center	77400	13,930,445
McDowell County Correctional Center	79000	2,542,590
Stevens Correctional Center	79100	14,348,351
Parkersburg Correctional Center	82800	8,570,354
St. Mary's Correctional Center	88100	18,735,467
Denmar Correctional Center	88200	6,619,382
Ohio County Correctional Center	88300	2,868,233
Mt. Olive Correctional Complex	88800	29,202,306
Lakin Correctional Center	89600	14,045,574
BRIM Premium	91300	2,527,657
Total		$ 354,622,611

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 and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502), and Stevens Correctional Center – Surplus (fund 0450, appropriation 79500) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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.

The above appropriation for Directed Transfer (fund 0450, appropriation 70000) shall be transferred to the Regional Jails Operating Cash Control Account (fund 6678).

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

111 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(W.V. Code Chapter 15A)

Fund 0570 FY 2026 Org 0608

Statewide Reporting Centers	26200	$	7,954,237
Robert L. Shell Juvenile Center	26700		3,353,727
Resident Medical Expenses (R)	53501		6,000,078
Central Office	70100		2,157,860
Capital Outlay and Maintenance (R)	75500		250,000
Gene Spadaro Juvenile Center	79300		3,582,637
BRIM Premium	91300		115,967
Kenneth Honey Rubenstein Juvenile Center (R)	98000		7,045,294
Vicki Douglas Juvenile Center	98100		3,451,194
Northern Regional Juvenile Center	98200		2,876,302
Lorrie Yeager Jr. Juvenile Center	98300		3,300,206
Sam Perdue Juvenile Center	98400		3,487,390
Tiger Morton Center	98500		3,572,552
Donald R. Kuhn Juvenile Center	98600		6,826,359
J.M. “Chick” Buckbee Juvenile Center	98700		3,497,404
Total		$	57,471,207

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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).

112 - West Virginia State Police

(W.V. Code Chapter 15)

Fund 0453 FY 2026 Org 0612

Personal Services and Employee Benefits	00100	$ 77,180,392
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	139,300
Repairs and Alterations	06400	450,523
Children's Protection Act	09000	1,127,989
Current Expenses	13000	10,384,394
Trooper Class	52100	3,227,388
Barracks Lease Payments	55600	237,898
Communications and Other Equipment (R)	55800	1,070,968
Trooper Retirement Fund	60500	14,319,315
Handgun Administration Expense	74700	89,432
Capital Outlay and Maintenance (R)	75500	250,000
Retirement Systems – Unfunded Liability	77500	1
Automated Fingerprint Identification System	89800	2,269,280
BRIM Premium	91300	5,743,921
Total		$ 116,490,801

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800), Capital Outlay, Repairs and Equipment – Surplus (fund 0453, appropriation 67700), and Capital Outlay and Maintenance

(fund 0453, appropriation 75500) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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.

113 - Fire Commission

(W.V. Code Chapter 15A)

Fund 0436 FY 2026 Org 0619

Current Expenses	13000	$	63,061

114 - Division of Protective Services

(W.V. Code Chapter 5F)

Fund 0585 FY 2026 Org 0622

Personal Services and Employee Benefits	00100	$	3,516,776
Repairs and Alterations	06400		8,500
Equipment (R)	07000		64,171
Unclassified (R)	09900		21,991
Current Expenses	13000		372,981
BRIM Premium	91300		32,602
Total		$	4,017,021

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

115 - Division of Administrative Services –

Criminal Justice Fund

(W.V. Code Chapter 15A)

Fund 0546 FY 2026 Org 0623

Personal Services and Employee Benefits	00100	$	723,413
Repairs and Alterations	06400		1,804
Current Expenses	13000		133,360
Victims of Crime Act (R)	21601		12,966,931
Court Appointed Special Advocates	xxxxx		1,100,000
Child Advocacy Centers (R)	45800		2,216,336
Community Corrections (R)	56100		4,616,145
Statistical Analysis Program	59700		51,495
Sexual Assault Forensic Examination Commission (R)	71400		285,570
Qualitative Analysis and Training for Youth Services (R)	76200		91,479
Law Enforcement Professional Standards	83800		183,676
Justice Reinvestment Initiative (R)	89501		2,346,044
BRIM Premium	91300		2,123
Total		$	24,718,376

Any unexpended balances remaining in the appropriations for Victims of Crime Act (fund 0546, appropriation 21601), 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), Justice Reinvestment Initiative (fund 0546, appropriation 89501), and Victims of Crime Act – Surplus (fund 0546, appropriation 21099) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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.

116 - Division of Administrative Services

(W.V. Code Chapter 15A)

Fund 0619 FY 2026 Org 0623

Personal Services			
and Employee Benefits	00100	$	5,408,574
Unclassified	09900		50,000
Current Expenses	13000		555,000
Total		$	6,013,574

DEPARTMENT OF REVENUE

117 - Office of the Secretary

(W.V. Code Chapter 11)

Fund 0465 FY 2026 Org 0701

Personal Services			
and Employee Benefits	00100	$	395,153
Salary and Benefits of Cabinet Secretary			
and Agency Heads	00201		169,820
Repairs and Alterations	06400		1,262
Equipment	07000		8,000
Unclassified	09900		437
Current Expenses	13000		81,594
Other Assets	69000		500
Directed Transfer	70000		33,688,290
Total		$	34,345,056

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

The above appropriation for Directed Transfer shall be transferred to the Personal Income Tax Reserve Fund (fund 1313).

118 - Tax Division

(W.V. Code Chapter 11)

Fund 0470 FY 2026 Org 0702

Personal Services			
and Employee Benefits (R).....	00100	$	20,798,910
Salary and Benefits of Cabinet Secretary			
and Agency Heads.....	00201		147,000
Repairs and Alterations.....	06400		10,150
Equipment.....	07000		54,850
Tax Technology Upgrade	09400		3,700,000
Unclassified (R)	09900		174,578
Current Expenses (R).....	13000		6,823,635
Multi State Tax Commission	65300		77,958
Other Assets.....	69000		10,000
BRIM Premium.....	91300		15,579
Total.....		$	31,812,660

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

119 - State Budget Office

(W.V. Code Chapter 11B)

Fund 0595 FY 2026 Org 0703

Personal Services			
and Employee Benefits.....	00100	$	1,064,630
Unclassified (R)	09900		9,200
Current Expenses (R).....	13000		69,449
Total.....		$	1,143,279

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

120 - West Virginia Office of Tax Appeals

(W.V. Code Chapter 11)

Fund 0593 FY 2026 Org 0709

Personal Services and Employee Benefits	00100	$	998,751
Unclassified	09900		5,255
Current Expenses (R)	13000		229,374
BRIM Premium	91300		3,062
Total		$	1,236,442

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

121 - State Athletic Commission

(W.V. Code Chapter 29)

Fund 0523 FY 2026 Org 0933

Personal Services and Employee Benefits	00100	$	7,200
Current Expenses	13000		29,611
Total		$	36,811

DEPARTMENT OF TRANSPORTATION

122 - Division of Multimodal Transportation Facilities – State Rail Authority

(W.V. Code Chapter 17)

Fund 0506 FY 2026 Org 0810

Personal Services and Employee Benefits	00100	$	390,790
Current Expenses	13000		287,707
Other Assets (R)	69000		1,270,019
BRIM Premium	91300		201,541
Total		$	2,150,057

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

123 - Division of Multimodal Transportation Facilities –

Public Transit

(W.V. Code Chapter 17)

Fund 0510 FY 2026 Org 0810

Equipment (R)	07000	$	100,000
Current Expenses (R)	13000		2,042,989
Buildings (R)	25800		100,000
Other Assets (R)	69000		50,000
Federal Funds/Grant Match	74900		1,250,000
Total		$	3,542,989

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

From the above appropriation for Current Expenses (fund 0510, appropriation 13000), $30,000 will be used to support the Sistersville Ferry.

The appropriation for Federal Funds/ Grant Match (fund 0510, appropriation 74900) shall be used to expand public transportation in, but not limited to, Tucker and Morgan counties.

124 - Division of Multimodal Transportation Facilities –

(W.V. Code Chapter 17)

Fund 0580 FY 2026 Org 0810

Personal Services and Employee Benefits (R).....	00100	$	723,563
Current Expenses (R).....	13000		650,000
BRIM Premium.....	91300		7,500
Total.....		$	1,381,063

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0580, appropriation 00100) and Current Expenses (fund 0580, appropriation 13000) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

125 - Division of Multimodal Transportation Facilities –

Aeronautics Commission

(W.V. Code Chapter 17)

Fund 0582 FY 2026 Org 0810

Personal Services and Employee Benefits.....	00100	$	238,109
Repairs and Alterations.....	06400		100
Current Expenses (R).....	13000		1,791,839
BRIM Premium.....	91300		4,438
Total.....		$	2,034,486

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

From the above appropriation for Current Expenses (fund 0582, appropriation 13000) $1,000,000 shall be used for the North Central West Virginia Airport apron and taxiway project.

DEPARTMENT OF VETERANS' ASSISTANCE

126 - Department of Veterans' Assistance

(W.V. Code Chapter 9A)

Fund 0456 FY 2026 Org 0613

Personal Services and Employee Benefits	00100	$	2,696,166
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		110,880
Repairs and Alterations	06400		5,000
Unclassified	09900		20,000
Current Expenses	13000		236,450
Veterans' Field Offices (R)	22800		585,550
Veterans' Nursing Home (R)	28600		11,443,175
Veterans' Toll Free Assistance Line	32800		2,015
Veterans' Reeducation Assistance (R).	32900		10,000
Veterans' Grant Program (R)	34200		335,000
Veterans' Grave Markers	47300		10,000
Veterans' Cemetery (R)	80800		425,279
BRIM Premium	91300		50,000
Total		$	15,929,515

Any unexpended balances remaining in the appropriations for Veterans' Field Offices (fund 0456, appropriation 22800), Buildings (fund 0456, appropriation 25800), 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), Veterans' Cemetery (fund 0456, appropriation 80800), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close

of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

127 - Department of Veterans' Assistance –

Veterans' Home

(W.V. Code Chapter 9A)

Fund 0460 FY 2026 Org 0618

Personal Services			
and Employee Benefits	00100	$	1,548,950
Current Expenses (R)	13000		150,944
Veterans Outreach Programs	61700		214,345
Total		$	1,914,239

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0460, appropriation 13000) and Capital Outlay, Repairs and Equipment – Surplus (fund 0460, appropriation 67700) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

BUREAU OF SENIOR SERVICES

128 - Bureau of Senior Services

(W.V. Code Chapter 29)

Fund 0420 FY 2026 Org 0508

Transfer to Division of Human Services			
for Health Care			
and Title XIX Waiver			
for Senior Citizens	53900	$	6,580,366

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 the Lottery Senior Citizens Fund (fund 5405) for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

129 - West Virginia Council for Community and Technical College Education – Control Account

(W.V. Code Chapter 18B)

Fund 0596 FY 2026 Org 0420

West Virginia Council for Community and Technical Education (R)	39200	$	766,404
Community College Workforce Development (R)	87800		2,791,367
College Transition Program	88700		278,222
West Virginia Advance Workforce Development (R)	89300		3,126,336
Technical Program Development (R) ..	89400		1,800,735
WV Invests Grant Program (R)	89401		5,049,753
Skilled Trades Apprenticeship Nontraditional Degree	XXXXX		1,033,650
Community and Technical Education Workforce Development Grants	XXXXX		0
Total		$	14,846,467

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

130 - Mountwest Community and Technical College

(W.V. Code Chapter 18B)

Fund 0599 FY 2026 Org 0444

Mountwest Community and Technical College	48700	$	7,070,248

131 - New River Community and Technical College

(W.V. Code Chapter 18B)

Fund 0600 FY 2026 Org 0445

New River Community and Technical College	35800	$	6,900,124

132 - Pierpont Community and Technical College

(W.V. Code Chapter 18B)

Fund 0597 FY 2026 Org 0446

Pierpont Community and Technical College	93000	$	8,461,049

133 - Blue Ridge Community and Technical College

(W.V. Code Chapter 18B)

Fund 0601 FY 2026 Org 0447

Blue Ridge Community and Technical College	88500	$	9,545,266

134 - West Virginia University at Parkersburg

(W.V. Code Chapter 18B)

Fund 0351 FY 2026 Org 0464

West Virginia University –
Parkersburg ..... 47100 $ 11,816,395

135 - Southern West Virginia Community and Technical College

(W.V. Code Chapter 18B)

Fund 0380 FY 2026 Org 0487

Southern West Virginia Community
and Technical College ..... 44600 $ 9,459,029

136 - West Virginia Northern Community and Technical College

(W.V. Code Chapter 18B)

Fund 0383 FY 2026 Org 0489

West Virginia Northern Community
and Technical College ..... 44700 $ 8,672,018

137 - Eastern West Virginia Community and Technical College

(W.V. Code Chapter 18B)

Fund 0587 FY 2026 Org 0492

Eastern West Virginia Community
and Technical College ..... 41200 $ 2,439,405

138 - BridgeValley Community and Technical College

(W.V. Code Chapter 18B)

Fund 0618 FY 2026 Org 0493

BridgeValley Community
and Technical College ..... 71700 $ 8,931,983

HIGHER EDUCATION POLICY COMMISSION

139 - Higher Education Policy Commission –

Administration –

Control Account

(W.V. Code Chapter 18B and 18C)

Fund 0589 FY 2026 Org 0441

Personal Services and Employee Benefits	00100	$	2,945,386
RHI Program and Site Support – RHEP Program Administration (R)	03700		80,000
Mental Health Provider Loan Repayment (R)	11301		100,000
Current Expenses	13000		1,096,902
Higher Education Grant Program	16400		40,619,864
Tuition Contract Program (R)	16500		1,533,917
Underwood-Smith Scholarship Program-Student Awards	16700		1,478,349
Facilities Planning and Administration	38600		1,760,254
Dual Enrollment Program	42201		5,810,625
Higher Education System Initiatives	48801		1,655,725
PROMISE Scholarship – Transfer	80000		18,500,000
HEAPS Grant Program (R)	86700		5,026,840
Health Professionals' Student Loan Program (R)	86701		547,470
Directed Transfer	70000		293,500
West Virginia University College of Law	xxxxx		250,000
BRIM Premium	91300		17,817
Total		$	81,716,649

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), Fire and EMS Training Program Support – Surplus (fund 0589, appropriation 31099), Dual Enrollment Program (fund 0589, appropriation 42201), Nursing Program Expansion Support – Surplus (fund 0589, appropriation 42299), HEAPS Grant Program (fund 0589, appropriation 86700),

and Health Professionals' Student Loan Program (fund 0589, appropriation 86701) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Regional 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) established by W.V. 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 Teaching Scholars Program Fund (fund 4922) established by W.V. Code §18C-4-1.

The above appropriation for Directed Transfer (fund 0589, appropriation 70000) shall be transferred to the Military College Advisory Council Fund (fund XXXX).

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

The above appropriation for Dual Enrollment Program (fund 0589, appropriation 42201) shall be used for the Dual Enrollment Program established by House Bill 2005 during the 2023 Regular Session.

140 - West Virginia University –

School of Medicine

Medical School Fund

(W.V. Code Chapter 18B)

Fund 0343 FY 2026 Org 0463

WVU School of Health Science – Eastern Division	05600	$ 2,449,725
WVU – School of Health Sciences	17400	16,318,104
WVU – School of Health Sciences – Charleston Division	17500	2,503,592
Rural Health Outreach Programs (R)	37700	172,019
West Virginia University School of Medicine BRIM Subsidy	46000	1,203,087
Total		$22,646,527

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

141 - West Virginia University –

General Administrative Fund

(W.V. Code Chapter 18B)

Fund 0344 FY 2026 Org 0463

West Virginia University	45900	$ 96,507,802
West Virginia University Land Grant Match	45101	8,644,064
Jackson's Mill (R)	46100	516,910
West Virginia University Institute of Technology	47900	8,892,384
State Priorities – Brownfield Professional Development (R)	53100	816,556
Washington Center	xxxxx	1,500,000
Energy Express (R)	86100	386,592
West Virginia University – Potomac State	99400	5,307,402
Total		$ 122,571,710

From the above appropriation for Jackson's Mill (fund 0344, appropriation 46100), $250,000 shall be used for the West Virginia State Fire Training Academy and $43,000 shall be used for the

West Virginia University Fire Extension Service to fund a study to improve volunteer fire departments.

Any unexpended balances remaining in the appropriations for West Virginia University – Surplus (fund 0344, appropriation 30099), Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), National Cancer Institute - Surplus (fund 0344, appropriation 65399), and Energy Express (fund 0344, appropriation 86100) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

142 - Marshall University –

School of Medicine

(W.V. Code Chapter 18B)

Fund 0347 FY 2026 Org 0471

Marshall Medical School	17300	$	8,466,806
Rural Health Outreach Program (R)	37700		161,176
Forensic Lab (R)	37701		227,859
Center for Rural Health (R)	37702		170,920
Marshall University Medical School BRIM Subsidy	44900		872,612
Total		$	9,899,373

Any unexpended balances remaining in the appropriations for Rural Health Outreach Programs (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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

143 - Marshall University –

General Administration Fund

(W.V. Code Chapter 18B)

Fund 0348 FY 2026 Org 0471

Marshall University	44800	$ 53,963,819
Marshall University Minority Health Institute	42301	100,000
Luke Lee Listening Language and Learning Lab (R).....	44801	159,287
Vista E-Learning (R).....	51900	229,019
National Youth Science Camp.....	13200	1,000,000
State Priorities – Brownfield Professional Development (R).....	53100	809,606
Marshall University Graduate College Writing Project (R).....	80700	25,412
WV Autism Training Center (R)	93200	2,011,949
Total.....		$ 58,299,092

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), WV Autism Training Center (fund 0348, appropriation 93200), Marshall University Minority Health Institute (fund 0348, appropriation 42301), and Marshall University Cybersecurity Program – Surplus (fund 0348, appropriation 42302) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

144 - West Virginia School of Osteopathic Medicine

(W.V. Code Chapter 18B)

Fund 0336 FY 2026 Org 0476

West Virginia School of Osteopathic Medicine.....	17200	$ 5,696,122
Rural Health Outreach Programs (R)...	37700	176,190
West Virginia School of Osteopathic Medicine BRIM Subsidy	40300	153,405

Rural Health Initiative –		
Medical Schools Support.....	58100	421,157
Total.....		$ 6,446,874

Any unexpended balances remaining in the appropriations for West Virginia School of Osteopathic Medicine – Surplus (fund 0336, appropriation 17299), Rural Health Outreach Programs (fund 0336, appropriation 37700), and Capital Outlay, Repairs and Equipment – Surplus (fund 0336, appropriation 67700) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

145 - Bluefield State University

(W.V. Code Chapter 18B)

Fund 0354 FY 2026 Org 0482

Bluefield State University.....	40800	$ 7,094,661

146 - Concord University

(W.V. Code Chapter 18B)

Fund 0357 FY 2026 Org 0483

Concord University.....	41000	$ 11,494,967

147 - Fairmont State University

(W.V. Code Chapter 18B)

Fund 0360 FY 2026 Org 0484

Fairmont State University.....	41400	$ 20,634,815

148 - Glenville State University

(W.V. Code Chapter 18B)

Fund 0363 FY 2026 Org 0485

Glenville State University.....	42800	$ 7,591,844

149 - Shepherd University

(W.V. Code Chapter 18B)

Fund 0366 FY 2026 Org 0486

Shepherd University.....	43200	$	13,704,338

150 - West Liberty University

(W.V. Code Chapter 18B)

Fund 0370 FY 2026 Org 0488

West Liberty University.....	43900	$	10,416,184

151 - West Virginia State University

(W.V. Code Chapter 18B)

Fund 0373 FY 2026 Org 0490

West Virginia State University	44100	$	11,989,550
Healthy Grandfamilies (R).....	62101		800,000
LPN to BSN	xxxxx		250,000
West Virginia State University			
Land Grant Match.....	95600		5,000,000
Total.....		$	18,039,550

Any unexpended balance remaining in the appropriation for Healthy Grandfamilies (fund 0373, appropriation 62101) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

152 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(W.V. Code Chapter 18B)

Fund 0551 FY 2026 Org 0495

WVNET	16900	$	1,977,941

MISCELLANEOUS BOARDS AND COMMISSIONS

153 - Adjutant General –

State Militia

(W.V. Code Chapter 15)

Fund 0433 FY 2026 Org 0603

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	$	189,000
Unclassified (R)	09900		106,798
College Education Fund	23200		2,500,000
Civil Air Patrol	23400		199,664
Armory Board Transfer	70015		2,317,555
Mountaineer ChalleNGe Academy	70900		3,614,600
SEARCH Director	xxxxx		70,000
Military Authority (R)	74800		6,681,954
Drug Enforcement and Support	74801		1,451,713
Total		$	17,131,284

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Recruit WV Employment Program – Surplus (fund 0433, appropriation 30799), Capital Outlay, Repairs and Equipment – Surplus (fund 0433, appropriation 67700), Armory Board Transfers – Surplus (fund 0433, appropriation 70299), Mountaineer ChalleNGe Academy (fund 0433, appropriation 70900), Military Authority (fund 0433, appropriation 74800), Military Authority – Surplus (fund 0433, appropriation 74899), and Federal Funds/Grant Match (fund 0433, appropriation 85700) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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

$3,614,600 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

154 - Adjutant General –

Military Fund

(W.V. Code Chapter 15)

Fund 0605 FY 2026 Org 0603

Personal Services and Employee Benefits	00100	$	100,000
Current Expenses	13000		57,775
Total		$	157,775
Total TITLE II, Section 1 – General Revenue (Including claims against the state)			$5,317,557,000

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 2026.

DEPARTMENT OF TRANSPORTATION

155 - Division of Motor Vehicles

(W.V. Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2026 Org 0802

	Appro-priation		State Road Fund
Personal Services and Employee Benefits	00100	$	43,505,517
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		129,500
Repairs and Alterations	06400		144,000
Equipment	07000		1,080,000
Current Expenses	13000		27,556,730

Buildings	25800	10,000
Other Assets	69000	2,480,000
BRIM Premium	91300	110,000
Total		$ 75,015,747

156 - Division of Highways

(W.V. Code Chapters 17 and 17C)

Fund 9017 FY 2026 Org 0803

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	$ 200,000
Debt Service	04000	120,000,000
Maintenance	23700	700,235,315
Inventory Revolving	27500	17,000,000
Equipment Revolving	27600	52,950,166
General Operations	27700	186,166,680
Interstate Construction	27800	275,000,000
Other Federal Aid Programs	27900	450,000,000
Appalachian Programs	28000	250,000,000
Highway Litter Control	28200	1,650,000
Total		$2,053,202,161

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the W.V. 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, 17a and 18, Article 2, Chapter 14 of the W.V. 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)..... $ 2,129,082,658

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 2026.

LEGISLATIVE

157 - Crime Victims Compensation Fund

(W.V. Code Chapter 14)

Fund 1731 FY 2026 Org 2300

	Appro-priation		Other Funds
Personal Services and Employee Benefits	00100	$	498,020
Repairs and Alterations	06400		1,000
Current Expenses	13000		133,903
Economic Loss Claim Payment Fund	33400		2,000,000
Other Assets	69000		3,700
Total		$	2,636,623

JUDICIAL

158 - Supreme Court –

Court Advanced Technology Subscription Fund

(W.V. Code Chapter 51)

Fund 1704 FY 2026 Org 2400

Current Expenses	13000	$	100,000

159 - Supreme Court –

Adult Drug Court Participation Fund

(W.V. Code Chapter 62)

Fund 1705 FY 2026 Org 2400

Current Expenses	13000	$	200,000

160 - Supreme Court –

Family Court Fund

(W.V. Code Chapter 51)

Fund 1763 FY 2026 Org 2400

Current Expenses	13000	$	900,000

161 - Supreme Court –

Court Facilities Maintenance Fund

(W.V. Code Chapter 51)

Fund 1766 FY 2026 Org 2400

1	Repairs and Alterations.....	06400	$	70,000
2	Current Expenses	13000		680,000
Total			$	750,000

EXECUTIVE

162 - Governor's Office –

Minority Affairs Fund

(W.V. Code Chapter 5)

Fund 1058 FY 2026 Org 0100

Personal Services			
and Employee Benefits	00100	$	239,958
Martin Luther King, Jr.			
Holiday Celebration	03100		8,926
Current Expenses	13000		453,200
Total		$	702,084

163 - Auditor's Office –

Grant Recovery Fund

(W.V. Code Chapter 12)

Fund 1205 FY 2026 Org 1200

Repairs and Alterations	06400	$	2,000
Equipment	07000		7,000
Current Expenses	13000		191,000
Total		$	200,000

164 - Auditor's Office –

Land Operating Fund

(W.V. Code Chapters 11A, 12, and 36)

Fund 1206 FY 2026 Org 1200

Personal Services			
and Employee Benefits	00100	$	901,372
Repairs and Alterations	06400		2,600
Equipment	07000		426,741
Unclassified	09900		15,139
Current Expenses	13000		715,291
Cost of Delinquent Land Sale	76800		1,841,168
Total		$	3,902,311

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.

165 - Auditor's Office –

Local Government Purchasing Card Expenditure Fund

(W.V. Code Chapter 6)

Fund 1224 FY 2026 Org 1200

Personal Services and Employee Benefits	00100	$	670,729
Repairs and Alterations	06400		6,000
Equipment	07000		10,805
Current Expenses	13000		282,030
Other Assets	69000		50,000
Statutory Revenue Distribution	74100		3,500,000
Total		$	4,519,564

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.V. Code §6-9-2b.

166 - Auditor's Office –

Securities Regulation Fund

(W.V. Code Chapter 32)

Fund 1225 FY 2026 Org 1200

Personal Services and Employee Benefits	00100	$	3,579,931
Repairs and Alterations	06400		12,400

Equipment	07000		594,700
Unclassified	09900		31,866
Current Expenses	13000		1,463,830
Other Assets	69000		1,200,000
Total		$	6,882,727

167 - Auditor's Office –

Technology Support and Acquisition Fund

(W.V. Code Chapter 12)

Fund 1233 FY 2026 Org 1200

Current Expenses	13000	$	10,000
Other Assets	69000		5,000
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) for expenditure for the purposes described in W.V. Code §12-3-10c.

168 - Auditor's Office –

Purchasing Card Administration Fund

(W.V. Code Chapter 12)

Fund 1234 FY 2026 Org 1200

Personal Services and Employee Benefits	00100	$	3,927,244
Repairs and Alterations	06400		5,500
Equipment	07000		850,000
Current Expenses	13000		2,303,622
Other Assets	69000		508,886
Statutory Revenue Distribution	74100		8,000,000
Total		$	15,595,252

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.V. Code §12-3-10d.

169 - Auditor's Office –

Chief Inspector's Fund

(W.V. Code Chapter 6)

Fund 1235 FY 2026 Org 1200

Personal Services and Employee Benefits	00100	$	3,910,235
Equipment	07000		50,000
Current Expenses	13000		765,915
Total		$	4,726,150

170 - Auditor's Office –

Private Trust Company Application Fund

(W.V. Code Chapters 31 and 46)

Fund 1241 FY 2026 Org 1200

Equipment	07000	$	30,000
Current Expenses	13000		60,000
Total		$	90,000

171 - Department of Agriculture –

Agriculture Fees Fund

(W.V. Code Chapters 19)

Fund 1401 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	3,102,402
Repairs and Alterations	06400		158,500

Equipment	07000		436,209
Unclassified	09900		37,425
Current Expenses	13000		1,856,184
Other Assets	69000		10,000
Total		$	5,600,720

172 - Department of Agriculture –

West Virginia Rural Rehabilitation Program

(W.V. Code Chapter 19)

Fund 1408 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	85,293
Unclassified	09900		10,476
Current Expenses	13000		2,200,000
Total		$	2,295,769

173 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(W.V. Code Chapter 19)

Fund 1409 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	85,545
Repairs and Alterations	06400		36,400
Equipment	07000		15,000
Unclassified	09900		2,100
Current Expenses	13000		89,500
Total		$	228,545

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

174 - Department of Agriculture –

Farm Operating Fund

(W.V. Code Chapter 19)

Fund 1412 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	932,035
Repairs and Alterations	06400		388,722
Equipment	07000		399,393
Unclassified	09900		15,173
Current Expenses	13000		1,367,464
Other Assets	69000		20,000
Total		$	3,122,787

175 - Department of Agriculture –

Capital Improvements Fund

(W.V. Code Chapter 19)

Fund 1413 FY 2026 Org 1400

Repairs and Alterations	06400		250,000
Equipment	07000		350,000
Unclassified	09900		20,000
Current Expenses	13000		510,000
Buildings	25800		670,000
Other Assets	69000		200,000
Total		$	2,000,000

176 - Department of Agriculture –

Agriculture Development Fund

(W.V. Code Chapter 19)

Fund 1423 FY 2026 Org 1400

Current Expenses	13000	$	100,000

177 - Department of Agriculture –

Donated Food Fund

(W.V. Code Chapter 19)

Fund 1446 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	1,163,783
Repairs and Alterations	06400		128,500
Equipment	07000		10,000
Unclassified	09900		45,807
Current Expenses	13000		3,410,542
Other Assets	69000		27,000
Land	73000		250,000
Total		$	5,035,632

178 - Department of Agriculture –

Integrated Predation Management Fund

(W.V. Code Chapter 7)

Fund 1465 FY 2026 Org 1400

Current Expenses	13000	$	112,500

179 - Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(W.V. Code Chapter 19)

Fund 1481 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	100,000
Current Expenses	13000		1,000,000
Total		$	1,100,000

180 - Department of Agriculture –

Veterans and Warriors to Agriculture Fund

(W.V. Code Chapter 19)

Fund 1483 FY 2026 Org 1400

Current Expenses	13000	$	7,500

181 - Department of Agriculture –

State FFA-FHA Camp and Conference Center

(W.V. Code Chapters 18 and 18A)

Fund 1484 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	1,289,160
Repairs and Alterations	06400		82,500
Equipment	07000		76,000
Unclassified	09900		17,000
Current Expenses	13000		1,143,306
Buildings	25800		1,000
Other Assets	69000		10,000
Land	73000		1,000
Total		$	2,619,966

182 - Attorney General –

Antitrust Enforcement Fund

(W.V. Code Chapter 47)

Fund 1507 FY 2026 Org 1500

Personal Services and Employee Benefits	00100	$	371,036
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Current Expenses	13000		148,803
Total		$	521,839

183 - Attorney General –

Preneed Burial Contract Regulation Fund

(W.V. Code Chapter 47)

Fund 1513 FY 2026 Org 1500

Personal Services and Employee Benefits	00100	$	240,959
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Current Expenses	13000		54,615
Total		$	297,574

184 - Attorney General –

Preneed Funeral Guarantee Fund

(W.V. Code Chapter 47)

Fund 1514 FY 2026 Org 1500

Current Expenses	13000	$	901,135

185 - Secretary of State –

Service Fees and Collection Account

(W.V. Code Chapters 3, 5, and 59)

Fund 1612 FY 2026 Org 1600

Personal Services and Employee Benefits	00100	$	1,196,867
Unclassified	09900		4,524
Current Expenses	13000		8,036
Total		$	1,209,427

186 - Secretary of State –

General Administrative Fees Account

(W.V. Code Chapters 3, 5, and 59)

Fund 1617 FY 2026 Org 1600

Personal Services and Employee Benefits	00100	$	3,248,467
Unclassified	09900		25,529
Current Expenses	13000		1,276,716
Technology Improvements	59900		1,370,000
Total		$	5,920,712

DEPARTMENT OF ADMINISTRATION

187 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(W.V. Code Chapter 4)

Fund 2041 FY 2026 Org 0201

Tobacco Settlement Securitization Trustee Passthru	65000	$	80,000,000

188 - Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(W.V. Code Chapter 18)

Fund 2044 FY 2026 Org 0201

Current Expenses	13000	$	39,831,000

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

189 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(W.V. Code Chapter 5A)

Fund 2020 FY 2026 Org 0209

Personal Services			
and Employee Benefits	00100	$	1,638,791
Current Expenses	13000		500,000
Total		$	2,138,791

190 - Division of Purchasing –

Vendor Fee Fund

(W.V. Code Chapter 5A)

Fund 2263 FY 2026 Org 0213

Personal Services			
and Employee Benefits	00100	$	611,378
Current Expenses	13000		9,115
BRIM Premium	91300		810
Total		$	621,303

191 - Division of Purchasing –

Purchasing Improvement Fund

(W.V. Code Chapter 5A)

Fund 2264 FY 2026 Org 0213

Personal Services			
and Employee Benefits	00100	$	1,060,880
Repairs and Alterations	06400		500
Equipment	07000		500
Unclassified	09900		5,562
Current Expenses	13000		492,066
Other Assets	69000		500
BRIM Premium	91300		850
Total		$	1,560,858

192 - Travel Management –

Aviation Fund

(W.V. Code Chapter 5A)

Fund 2302 FY 2026 Org 0215

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

193 - Fleet Management Division Fund

(W.V. Code Chapter 5A)

Fund 2301 FY 2026 Org 0216

Personal Services and Employee Benefits	00100	$	839,903
Repairs and Alterations	06400		12,000
Equipment	07000		800,000
Unclassified	09900		4,000
Current Expenses	13000		11,630,614
Other Assets	69000		2,000
Total		$	13,288,517

194 - Division of Personnel

(W.V. Code Chapter 29)

Fund 2440 FY 2026 Org 0222

Personal Services and Employee Benefits	00100	$	5,034,147
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		122,500

Repairs and Alterations	06400		5,000
Equipment	07000		20,000
Unclassified	09900		51,418
Current Expenses	13000		1,262,813
Other Assets	69000		60,000
Total		$	6,555,878

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

195 - West Virginia Prosecuting Attorneys Institute

(W.V. Code Chapter 7)

Fund 2521 FY 2026 Org 0228

Personal Services and Employee Benefits	00100	$	139,779
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Repairs and Alterations	06400		600
Equipment	07000		500
Unclassified	09900		4,023
Current Expenses	13000		297,528
Other Assets	69000		500
Total		$	561,930

196 - Office of Technology –

Office of Technology Fund

(W.V. Code Chapter 5A)

Fund 2220 FY 2026 Org 0231

Personal Services and Employee Benefits	00100	$	24,213,297
Repairs and Alterations	06400		1,000
Equipment	07000		2,100,000
Unclassified	09900		351,068

Current Expenses	13000		57,927,608
Other Assets	69000		1,055,000
Total		$	85,647,973

197 - Office of Technology –

Technology Infrastructure Reinvestment Fund

(W.V. Code Chapter 31)

Fund 2209 FY 2026 Org 0231

Current Expenses	13000	$	400,000

DEPARTMENT OF COMMERCE

198 - Division of Forestry

(W.V. Code Chapter 19)

Fund 3081 FY 2026 Org 0305

Personal Services and Employee Benefits	00100	$	224,509
Repairs and Alterations	06400		53,000
Equipment	07000		300,000
Current Expenses	13000		439,830
Total		$	1,017,339

199 - Division of Forestry –

Timbering Operations Enforcement Fund

(W.V. Code Chapter 19)

Fund 3082 FY 2026 Org 0305

Personal Services and Employee Benefits	00100	$	265,835
Repairs and Alterations	06400		11,250
Current Expenses	13000		54,873
Total		$	331,958

200 - Division of Forestry –

Severance Tax Operations

(W.V. Code Chapter 11)

Fund 3084 FY 2026 Org 0305

Current Expenses	13000	$	282,614

201 - Geological and Economic Survey –

Geological and Analytical Services Fund

(W.V. Code Chapter 29)

Fund 3100 FY 2026 Org 0306

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

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

202 - Office of Energy –

Energy Assistance

(W.V. Code Chapter 5B)

Fund 3010 FY 2026 Org 0307

Energy Assistance - Total	64700	$	7,211

203 - Division of Economic Development –

Broadband Enhancement Fund

(W.V. Code Chapter 31G)

Fund 3013 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	133,072
Current Expenses	13000		1,648,318
Total		$	1,781,390

204 - Division of Economic Development –

Entrepreneurship and Innovation Investment Fund

(W.V. Code Chapter 5B)

Fund 3014 FY 2026 Org 0307

Entrepreneurship and Innovation Investment Fund	70301	$	1,500,000

205 - Division of Economic Development –

Broadband Development Fund

(W.V. Code Chapter 31G)

Fund 3034 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	687,121
Unclassified	09900		2,000,000
Current Expenses	13000		235,302,925
Total		$	237,990,046

206 - Division of Economic Development –

Office of Coalfield Community Development

(W.V. Code Chapter 5B)

Fund 3162 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	440,848
Unclassified	09900		8,300
Current Expenses	13000		399,191
Total		$	848,339

207 - Division of Labor –

West Virginia Jobs Act Fund

(W.V. Code Chapter 21)

Fund 3176 FY 2026 Org 0308

Equipment	07000	$	25,000
Current Expenses	13000		75,000
Total		$	100,000

208 - Division of Labor –

HVAC Fund

(W.V. Code Chapter 21)

Fund 3186 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	482,855
Repairs and Alterations	06400		4,500
Unclassified	09900		4,000
Current Expenses	13000		82,000
Buildings	25800		1,000
BRIM Premium	91300		8,500
Total		$	582,855

209 - Division of Labor –

Elevator Safety Fund

(W.V. Code Chapter 21)

Fund 3188 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	299,995
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		129,221
Repairs and Alterations	06400		2,000
Unclassified	09900		2,261
Current Expenses	13000		94,712
Buildings	25800		1,000
BRIM Premium	91300		8,500
Total		$	537,689

210 - Division of Labor –

Steam Boiler Fund

(W.V. Code Chapter 21)

Fund 3189 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	83,471
Repairs and Alterations	06400		2,000
Unclassified	09900		1,000
Current Expenses	13000		20,000
Buildings	25800		1,000
BRIM Premium	91300		1,000
Total		$	108,471

211 - Division of Labor –

Crane Operator Certification Fund

(W.V. Code Chapter 21)

Fund 3191 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	141,576
Repairs and Alterations	06400		1,500
Unclassified	09900		380
Current Expenses	13000		46,175

Buildings	25800		1,000
BRIM Premium	91300		7,000
Total		$	197,631

212 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(W.V. Code Chapter 21)

Fund 3192 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	202,269
Repairs and Alterations	06400		2,000
Unclassified	09900		1,281
Current Expenses	13000		44,520
Buildings	25800		1,000
BRIM Premium	91300		8,500
Total		$	259,570

213 - Division of Labor –

State Manufactured Housing Administration Fund

(W.V. Code Chapter 21)

Fund 3195 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	303,686
Repairs and Alterations	06400		1,000
Unclassified	09900		1,847
Current Expenses	13000		43,700
Buildings	25800		1,000
BRIM Premium	91300		3,404
Total		$	354,637

214 - Division of Labor –

Weights and Measures Fund

(W.V. Code Chapter 47)

Fund 3196 FY 2026 Org 0308

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

215 - Division of Labor –

Bedding and Upholstery Fund

(W.V. Code Chapter 47)

Fund 3198 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$	156,381
Repairs and Alterations	06400		2,000
Unclassified	09900		2,000
Current Expenses	13000		145,400
Buildings	25800		1,000
BRIM Premium	91300		8,700
Total		$	315,481

216 - Division of Labor –

Psychophysiological Examiners Fund

(W.V. Code Chapter 21)

Fund 3199 FY 2026 Org 0308

Current Expenses	13000	$	4,000

217 - Division of Natural Resources –

License Fund – Wildlife Resources

(W.V. Code Chapter 20)

Fund 3200 FY 2026 Org 0310

Wildlife Resources	02300	$	11,294,856
Administration	15500		2,823,713
Capital Improvements and Land Purchase (R)	24800		2,823,714
Law Enforcement	80600		11,294,856
Total		$	28,237,139

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 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

218 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(W.V. Code Chapter 22)

Fund 3202 FY 2026 Org 0310

Current Expenses	13000	$	125,000

219 - Division of Natural Resources –

Nongame Fund

(W.V. Code Chapter 20)

Fund 3203 FY 2026 Org 0310

Personal Services and Employee Benefits	00100	$	727,138
Equipment	07000		106,615
Current Expenses	13000		201,810
Total		$	1,035,563

220 - Division of Natural Resources –

Planning and Development Division

(W.V. Code Chapter 20)

Fund 3205 FY 2026 Org 0310

Personal Services and Employee Benefits	00100	$	482,802
Repairs and Alterations	06400		15,016
Equipment	07000		308,300
Current Expenses	13000		1,056,876
Buildings	25800		8,300
Other Assets	69000		1,900,000
Land	73000		31,700
Total		$	3,802,994

221 - Division of Natural Resources –

State Parks and Recreation Endowment Fund

(W.V. Code Chapter 20)

Fund 3211 FY 2026 Org 0310

Repairs and Alterations	06400	$	3,000
Equipment	07000		2,000
Current Expenses	13000		6,000
Buildings	25800		3,000
Other Assets	69000		3,504,000
Land	73000		2,000
Total		$	3,520,000

222 - Division of Natural Resources –

Whitewater Study and Improvement Fund

(W.V. Code Chapter 20)

Fund 3253 FY 2026 Org 0310

Personal Services and Employee Benefits	00100	$	76,836
Equipment	07000		1,297
Current Expenses	13000		64,778
Buildings	25800		6,969
Total		$	149,880

223 - Division of Natural Resources –

Whitewater Advertising and Promotion Fund

(W.V. Code Chapter 20)

Fund 3256 FY 2026 Org 0310

Unclassified	09900	$	200
Current Expenses	13000		19,800
Total		$	20,000

224 - Division of Miners' Health, Safety and Training –

Special Health, Safety and Training Fund

(W.V. Code Chapter 22A)

Fund 3355 FY 2026 Org 0314

Personal Services and Employee Benefits	00100	$	543,068
W.V. Mining Extension Service	02600		150,000
Unclassified	09900		23,700
Current Expenses	13000		1,671,842
Total		$	2,388,610

225 - Department of Commerce –

Office of the Secretary –

Marketing and Communications Operating Fund

(W.V. Code Chapter 5B)

Fund 3002 FY 2026 Org 0327

Personal Services and Employee Benefits	00100	$	2,335,679
Equipment	07000		36,000
Unclassified	09900		30,000
Current Expenses	13000		1,315,078
Total		$	3,716,757

226 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(W.V. Code Chapter 18)

Fund 8664 FY 2026 Org 0932

Personal Services and Employee Benefits	00100	$	119,738
Repairs and Alterations	06400		85,500
Equipment	07000		220,000
Current Expenses	13000		1,180,122
Buildings	25800		150,000
Other Assets	69000		150,000
Total		$	1,905,360

DEPARTMENT OF TOURISM

227 - Division of Culture and History –

Public Records and Preservation Revenue Account

(W.V. Code Chapter 5A)

Fund 3542 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	254,946
Equipment	07000		75,000
Current Expenses	13000		862,241
Buildings	25800		1,000
Other Assets	69000		52,328

Land	73000		1,000
Total		$	1,246,515

DEPARTMENT OF EDUCATION

228 - State Board of Education –

Strategic Staff Development

(W.V. Code Chapter 18)

Fund 3937 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$	35,000
Unclassified	09900		26,000
Current Expenses	13000		2,039,000
Total		$	2,100,000

229 - School Building Authority –

School Construction Fund

(W.V. Code Chapters 18 and 18A)

Fund 3952 FY 2026 Org 0404

SBA Construction Grants	24000	$ 152,345,818
Directed Transfer	70000	1,516,472
Total		$ 153,862,290

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.

230 - School Building Authority

(W.V. Code Chapter 18)

Fund 3959 FY 2026 Org 0404

Personal Services and Employee Benefits	00100	$	1,233,127

Repairs and Alterations	06400		13,150
Equipment	07000		26,000
Current Expenses	13000		244,195
Total		$	1,516,472

DEPARTMENT OF ENVIRONMENTAL PROTECTION

231 - Solid Waste Management Board

(W.V. Code Chapter 22C)

Fund 3288 FY 2026 Org 0312

Personal Services and Employee Benefits	00100	$	922,334
Repairs and Alterations	06400		1,000
Equipment	07000		5,000
Current Expenses	13000		2,059,457
Other Assets	69000		4,403
Total		$	2,992,194

232 - Division of Environmental Protection –

Hazardous Waste Management Fund

(W.V. Code Chapter 22)

Fund 3023 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	831,098
Repairs and Alterations	06400		500
Equipment	07000		1,505
Unclassified	09900		8,072
Current Expenses	13000		155,969
Other Assets	69000		2,000
Total		$	999,144

233 - Division of Environmental Protection –

Air Pollution Education and Environment Fund

(W.V. Code Chapter 22)

Fund 3024 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	590,995
Repairs and Alterations	06400		13,000
Equipment	07000		53,105
Unclassified	09900		12,919
Current Expenses	13000		612,291
Other Assets	69000		20,000
Total		$	1,302,310

234 *- Division of Environmental Protection –*

Special Reclamation Fund

(W.V. Code Chapter 22)

Fund 3321 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	1,778,866
Repairs and Alterations	06400		79,950
Equipment	07000		130,192
Current Expenses	13000		16,185,006
Other Assets	69000		32,000
Total		$	18,206,014

235 *- Division of Environmental Protection –*

Oil and Gas Reclamation Fund

(W.V. Code Chapter 22)

Fund 3322 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	562,296
Current Expenses	13000		956,094
Total		$	1,518,390

236 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(W.V. Code Chapter 22)

Fund 3323 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	3,080,953
Repairs and Alterations	06400		9,500
Equipment	07000		230,500
Unclassified	09900		30,700
Current Expenses	13000		937,300
Other Assets	69000		500
Total		$	4,289,453

237 - Division of Environmental Protection –

Mining and Reclamation Operations Fund

(W.V. Code Chapter 22)

Fund 3324 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	2,774,699
Repairs and Alterations	06400		60,260
Equipment	07000		83,000
Unclassified	09900		920
Current Expenses	13000		1,479,231
Other Assets	69000		57,500
Total		$	4,455,610

238 - Division of Environmental Protection –

Underground Storage Tank

Administrative Fund

(W.V. Code Chapter 22)

Fund 3325 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	503,574
Repairs and Alterations	06400		5,350
Equipment	07000		3,610
Unclassified	09900		7,520
Current Expenses	13000		318,420
Other Assets	69000		3,500
Total		$	841,974

239 - Division of Environmental Protection –

Hazardous Waste Emergency Response Fund

(W.V. Code Chapter 22)

Fund 3331 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	354,585
Repairs and Alterations	06400		7,014
Equipment	07000		9,000
Unclassified	09900		10,616
Current Expenses	13000		767,905
Other Assets	69000		3,500
Total		$	1,152,620

240 - Division of Environmental Protection –

Solid Waste Reclamation and

Environmental Response Fund

(W.V. Code Chapter 22)

Fund 3332 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	904,165
Repairs and Alterations	06400		25,000
Equipment	07000		106,500

Unclassified	09900		22,900
Current Expenses	13000		3,929,737
Buildings	25800		500
Other Assets	69000		1,000
Total		$	4,989,802

241 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(W.V. Code Chapter 22)

Fund 3333 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	3,572,719
Repairs and Alterations	06400		30,930
Equipment	07000		23,356
Unclassified	09900		28,460
Current Expenses	13000		932,229
Other Assets	69000		20,554
Total		$	4,608,248

242 - Division of Environmental Protection –

Air Pollution Control Fund

(W.V. Code Chapter 22)

Fund 3336 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	6,252,446
Repairs and Alterations	06400		84,045
Equipment	07000		103,601
Unclassified	09900		70,572
Current Expenses	13000		1,669,467
Other Assets	69000		52,951
Total		$	8,233,082

243 - Division of Environmental Protection –

Environmental Laboratory

Certification Fund

(W.V. Code Chapter 22)

Fund 3340 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	389,614
Repairs and Alterations	06400		1,000
Unclassified	09900		1,120
Current Expenses	13000		201,146
Other Assets	69000		163,000
Total		$	755,880

244 - Division of Environmental Protection –

Stream Restoration Fund

(W.V. Code Chapter 22)

Fund 3349 FY 2026 Org 0313

Current Expenses	13000	$	3,682,076

245 - Division of Environmental Protection –

Litter Control Fund

(W.V. Code Chapter 22)

Fund 3486 FY 2026 Org 0313

Current Expenses	13000	$	60,000

246 - Division of Environmental Protection –

Recycling Assistance Fund

(W.V. Code Chapter 22)

Fund 3487 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	717,788
Repairs and Alterations	06400		800
Equipment	07000		500
Unclassified	09900		400
Current Expenses	13000		2,754,258
Other Assets	69000		2,500
Total		$	3,476,246

247 - Division of Environmental Protection –

Mountaintop Removal Fund

(W.V. Code Chapter 22)

Fund 3490 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$	858,694
Repairs and Alterations	06400		27,612
Equipment	07000		23,500
Unclassified	09900		1,180
Current Expenses	13000		390,907
Other Assets	69000		11,520
Total		$	1,313,413

248 - Oil and Gas Conservation Commission –

Special Oil and Gas Conservation Fund

(W.V. Code Chapter 22C)

Fund 3371 FY 2026 Org 0315

Personal Services and Employee Benefits	00100	$	171,356
Repairs and Alterations	06400		1,000
Equipment	07000		9,481
Current Expenses	13000		161,225
Other Assets	69000		1,500

Total		$	344,562

DEPARTMENT OF HEALTH

249 - Department of Health –

Emergency Medical Service Workers Salary Enhancement Fund

(W.V. Code Chapter 16)

Fund 5049 FY 2026 Org 0506

Current Expenses	13000	$	8,000,000
Crisis Training	xxxxx		2,000,000
Total		$	10,000,000

250 - Department of Health –

The Vital Statistics Account

(W.V. Code Chapter 16)

Fund 5144 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	1,198,160
Unclassified	09900		15,500
Current Expenses	13000		3,557,788
Total		$	4,771,448

251 - Department of Health –

Laboratory Services Fund

(W.V. Code Chapter 16)

Fund 5163 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	1,083,838
Unclassified	09900		18,114
Current Expenses	13000		2,209,105
Total		$	3,311,057

252 - Department of Health –

Hepatitis B Vaccine

(W.V. Code Chapter 16)

Fund 5183 FY 2026 Org 0506

Current Expenses	13000	$	9,740

253 - Department of Health –

Lead Abatement Account

*(*W.V. Code Chapter 16)

Fund 5204 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	19,100
Unclassified	09900		373
Current Expenses	13000		17,875
Total		$	37,348

254 - Department of Health –

West Virginia Birth-to-Three Fund

(W.V. Code Chapter 16)

Fund 5214 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	769,278
Unclassified	09900		223,999
Current Expenses	13000		44,881,617
Total		$	45,874,894

255 - Department of Health –

Tobacco Control Special Fund

(W.V. Code Chapter 16)

Fund 5218 FY 2026 Org 0506

Current Expenses	13000	$	7,579

256 - Department of Health –

Medical Cannabis Program Fund

(W.V. Code Chapter 16A)

Fund 5420 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	509,658
Current Expenses	13000		2,046,040
Total		$	2,555,698

257 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(W.V. Code Chapter 16)

Fund 5375 FY 2026 Org 0507

Personal Services and Employee Benefits	00100	$	200,000
Unclassified	09900		7,500
Current Expenses	13000		542,586
Total		$	750,086

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

258 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(W.V. Code Chapter 16)

Fund 5377 FY 2026 Org 0507

Personal Services and Employee Benefits	00100	$	555,842
Unclassified	09900		9,481
Current Expenses	13000		382,786
Total		$	948,109

259 - Office of the Inspector General –

The Health Facility Licensing Account

(W.V. Code Chapter 16)

Fund 5172 FY 2026 Org 0513

Personal Services and Employee Benefits	00100	$	712,839
Repairs and Alterations	06400		100
Equipment	07000		100
Unclassified	09900		7,113
Current Expenses	13000		97,947
Other Assets	69000		100
Total		$	818,199

DEPARTMENT OF HUMAN SERVICES

260 - Department of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(W.V. Code Chapter 11)

Fund 5090 FY 2026 Org 0511

Medical Services	18900	$ 493,594,315
Medical Services Administrative Costs	78900	268,451
Total		$ 493,862,766

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 Human Services for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

261 - Department of Human Services –

Child Support Enforcement Fund

(W.V. Code Chapter 48A)

Fund 5094 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	27,809,509
Unclassified	09900		380,000
Current Expenses	13000		12,810,491
Total		$	41,000,000

262 - Department of Human Services –

Ryan Brown Addiction Prevention and Recovery Fund

(W.V. Code Chapter 19)

Fund 5111 FY 2026 Org 0511

Current Expenses	13000	$	10,667,392

263 - Department of Human Services –

Medical Services Trust Fund

(W.V. Code Chapter 9)

Fund 5185 FY 2026 Org 0511

Medical Services	18900	$	67,000,000
Medical Services Administrative Costs	78900		738,149
Total		$	67,738,149

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.V. 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 Department of Human Services accounts.

264 - Department of Human Services –

James "Tiger" Morton Catastrophic Illness Fund

(W.V. Code Chapter 16)

Fund 5454 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	136,984
Unclassified	09900		4,000
Current Expenses	13000		396,000
Total		$	536,984

265 - Department of Human Services –

Domestic Violence Legal Services Fund

(W.V. Code Chapter 48)

Fund 5455 FY 2026 Org 0511

Current Expenses	13000	$	900,000

266 - Department of Human Services –

West Virginia Works Separate State College Program Fund

(W.V. Code Chapter 9)

Fund 5467 FY 2026 Org 0511

Current Expenses	13000	$	500,000

267 - Department of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(W.V. Code Chapter 9)

Fund 5468 FY 2026 Org 0511

Current Expenses	13000	$	1,500,000

268 - Department of Human Services –

Marriage Education Fund

(W.V. Code Chapter 9)

Fund 5490 FY 2026 Org 0511

Personal Services			
and Employee Benefits.....	00100	$	10,000
Current Expenses	13000		25,000
Total.....		$	35,000

DEPARTMENT OF HEALTH FACILITIES

269 - Department of Health Facilities –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(W.V. Code Chapter 16)

Fund 5156 FY 2026 Org 0512

Institutional Facilities Operations.....	33500	$	59,195,646
Medical Services Trust Fund –			
Transfer.....	51200		27,800,000
Total.....		$	86,995,646

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

Additional funds have been appropriated from General Revenue for the operation of the institutional facilities.

Necessary funds from the above appropriation for Institutional Facilities Operations may be used for medical facilities operations, either in connection with this fund or in connection with the appropriations designated for Hopemont Hospital, Lakin Hospital, John Manchin Senior Health Care Center, Jackie Withrow Hospital, Welch Community Hospital, William R. Sharpe Jr. Hospital, Mildred Mitchell-Bateman Hospital, and William R. Sharpe Jr. Hospital – Transitional Living Facility.

DEPARTMENT OF HOMELAND SECURITY

270 - Department of Homeland Security –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(W.V. Code Chapter 15)

Fund 6003 FY 2026 Org 0601

Current Expenses	13000	$	32,000

271 - Division of Emergency Management –

Statewide Interoperable Radio Network Account

(W.V. Code Chapter 15)

Fund 6208 FY 2026 Org 0606

Current Expenses	13000	$	80,000

272 - Division of Emergency Management –

West Virginia Interoperable Radio Project

(W.V. Code Chapter 24)

Fund 6295 FY 2026 Org 0606

Repairs and Alterations	06400	$	950,000
Equipment	07000		550,000
Unclassified	09900		20,000
Current Expenses	13000		3,980,000
Total		$	5,500,000

273 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(W.V. Code Chapter 15A)

Fund 6362 FY 2026 Org 0608

Personal Services and Employee Benefits	00100	$	1,247,729
Equipment	07000		30,000
Unclassified	09900		9,804
Current Expenses	13000		758,480
Other Assets	69000		40,129
Total		$	2,086,142

274 - Division of Corrections and Rehabilitation –

Regional Jail and Correctional Facility Authority

(W.V. Code Chapter 15A)

Fund 6675 FY 2026 Org 0608

Debt Service	04000	100,000
Repairs and Alterations	06400	1,000,000
Equipment	07000	100,000
Unclassified	09900	100,000

Current Expenses	13000		245,472
Buildings	25800		15,000,000
Total		$	16,545,472

275 - West Virginia State Police –

Motor Vehicle Inspection Fund

(W.V. Code Chapter 17C)

Fund 6501 FY 2026 Org 0612

Personal Services and Employee Benefits	00100	$	2,092,049
Repairs and Alterations	06400		204,500
Equipment	07000		3,770,751
Current Expenses	13000		1,488,211
Buildings	25800		534,000
Other Assets	69000		5,000
Total		$	8,094,511

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.

276 - West Virginia State Police –

Forensic Laboratory Fund

(W.V. Code Chapter 15)

Fund 6511 FY 2026 Org 0612

Personal Services and Employee Benefits	00100	$	1,637,078
Repairs and Alterations	06400		5,000
Equipment	07000		545,000
Current Expenses	13000		90,000
Total		$	2,277,078

277 - West Virginia State Police –

Drunk Driving Prevention Fund

(W.V. Code Chapter 15)

Fund 6513 FY 2026 Org 0612

Current Expenses	13000	$	2,827,000

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

278 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(W.V. Code Chapter 15)

Fund 6516 FY 2026 Org 0612

Buildings	25800	$	1,022,778
Land	73000		1,000
Total		$	1,023,778

279 - West Virginia State Police –

Surplus Transfer Account

(W.V. Code Chapter 15)

Fund 6519 FY 2026 Org 0612

Repairs and Alterations	06400	$	20,000
Equipment	07000		250,000
Current Expenses	13000		225,000
Buildings	25800		40,000
Other Assets	69000		45,000
Total		$	580,000

280 - West Virginia State Police –

Central Abuse Registry Fund

(W.V. Code Chapter 15)

Fund 6527 FY 2026 Org 0612

Personal Services and Employee Benefits	00100	$	289,971
Repairs and Alterations	06400		500
Equipment	07000		300,500
Current Expenses	13000		376,443
Other Assets	69000		300,500
Total		$	1,267,914

281 - West Virginia State Police –

Bail Bond Enforcer Account

(W.V. Code Chapter 15)

Fund 6532 FY 2026 Org 0612

Current Expenses	13000	$	8,300

282 - West Virginia State Police –

State Police Academy Post Exchange

(W.V. Code Chapter 15)

Fund 6544 FY 2026 Org 0612

Repairs and Alterations	06400	$	40,000
Current Expenses	13000		160,000
Total		$	200,000

283 - Fire Commission –

Fire Marshal Fees

(W.V. Code Chapter 15A)

Fund 6152 FY 2026 Org 0619

Personal Services and Employee Benefits	00100	$	4,093,612
Repairs and Alterations	06400		58,500
Equipment	07000		440,800
Unclassified	09900		3,800
Current Expenses	13000		1,746,550
Other Assets	69000		450,000
BRIM Premium	91300		65,000
Total		$	6,858,262

284 - Division of Administrative Services –

W.V. Community Corrections Fund

(W.V. Code Chapter 62)

Fund 6386 FY 2026 Org 0623

Personal Services and Employee Benefits	00100	$	176,985
Repairs and Alterations	06400		1,000
Unclassified	09900		750
Current Expenses	13000		1,846,250
Total		$	2,024,985

285 - Division of Administrative Services –

Court Security Fund

(W.V. Code Chapter 51)

Fund 6804 FY 2026 Org 0623

Personal Services and Employee Benefits	00100	$	26,462
Current Expenses	13000		1,478,135
Total		$	1,504,597

286 - Division of Administrative Services –

Second Chance Driver's License Program Account

(W.V. Code Chapter 17B)

Fund 6810 FY 2026 Org 0623

Current Expenses	13000	$	125,000

DEPARTMENT OF REVENUE

287 - Division of Financial Institutions

(W.V. Code Chapter 31A)

Fund 3041 FY 2026 Org 0303

Personal Services and Employee Benefits	00100	$	2,965,127
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Equipment	07000		8,500
Current Expenses	13000		720,475
Total		$	3,813,102

288 - Office of the Secretary –

State Debt Reduction Fund

(W.V. Code Chapter 29)

Fund 7007 FY 2026 Org 0701

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

The above appropriation for Retirement Systems – Unfunded Liability (fund 7007, appropriation 77500) shall be transferred to the School Aid Formula Funds Holding Account Fund (fund 2606).

289 - Home Rule Board Operations

(W.V. Code Chapter 8)

Fund 7010 FY 2026 Org 0701

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

290 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(W.V. Code Chapter 47)

Fund 7092 FY 2026 Org 0702

Equipment	07000	$	15,000
Current Expenses	13000		35,000
Total		$	50,000

291 - State Budget Office –

Public Employees Insurance Reserve Fund

(W.V. Code Chapter 11B)

Fund 7400 FY 2026 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).

292 - Insurance Commissioner –

Examination Revolving Fund

(W.V. Code Chapter 33)

Fund 7150 FY 2026 Org 0704

Repairs and Alterations	06400	$	3,000
Equipment	07000		81,374
Current Expenses	13000		2,139,305
Buildings	25800		8,289
Other Assets	69000		11,426
Total		$	2,243,394

293 - Insurance Commissioner –

Consumer Advocate

(W.V. Code Chapter 33)

Fund 7151 FY 2026 Org 0704

Personal Services and Employee Benefits	00100	$	602,587
Repairs and Alterations	06400		5,000
Equipment	07000		34,225
Current Expenses	13000		202,152
Buildings	25800		4,865
Other Assets	69000		19,460
Total		$	868,289

294 - Insurance Commissioner –

Insurance Commission Fund

(W.V. Code Chapter 33)

Fund 7152 FY 2026 Org 0704

Personal Services and Employee Benefits	00100	$	20,619,440

Salary and Benefits of Cabinet Secretary and Agency Heads	00201		136,500
Repairs and Alterations	06400		68,614
Equipment	07000		2,688
Current Expenses	13000		9,097,758
Buildings	25800		25,000
Other Assets	69000		50,000
Total		$	30,000,000

295 - Insurance Commissioner –

Insurance Fraud Prevention Fund

(W.V. Code Chapter 33)

Fund 7153 FY 2026 Org 0704

Current Expenses	13000	$	15,000

296 - Insurance Commissioner –

Workers' Compensation Old Fund

(W.V. Code Chapter 23)

Fund 7162 FY 2026 Org 0704

Employee Benefits	01000	$	50,000
Current Expenses	13000		250,500,000
Total		$	250,550,000

297 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(W.V. Code Chapter 23)

Fund 7163 FY 2026 Org 0704

Current Expenses	13000	$	15,000,000

298 - Insurance Commissioner –

Self-Insured Employer Guaranty Risk Pool

(W.V. Code Chapter 23)

Fund 7164 FY 2026 Org 0704

Current Expenses	13000	$	9,000,000

299 - Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(W.V. Code Chapter 23)

Fund 7165 FY 2026 Org 0704

Current Expenses	13000	$	14,000,000

300 - Municipal Bond Commission

(W.V. Code Chapter 13)

Fund 7253 FY 2026 Org 0706

Personal Services			
and Employee Benefits.....	00100	$	383,671
Equipment.....	07000		100
Current Expenses	13000		154,344
Total.....		$	538,115

301 - Racing Commission –

Relief Fund

(W.V. Code Chapter 19)

Fund 7300 FY 2026 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.

302 - Racing Commission –

Administration and Promotion Account

(W.V. Code Chapter 19)

Fund 7304 FY 2026 Org 0707

Personal Services and Employee Benefits	00100	$	288,127
Current Expenses	13000		85,433
Other Assets	69000		5,000
Total		$	378,560

303 - Racing Commission –

General Administration

(W.V. Code Chapter 19)

Fund 7305 FY 2026 Org 0707

Personal Services and Employee Benefits	00100	$	2,523,239
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		59,533
Repairs and Alterations	06400		5,000
Current Expenses	13000		497,284
Other Assets	69000		40,000
Total		$	3,125,056

304 - Racing Commission –

Administration, Promotion, Education, Capital Improvement

and Greyhound Adoption Programs

to include Spaying and Neutering Account

(W.V. Code Chapter 19)

Fund 7307 FY 2026 Org 0707

Personal Services and Employee Benefits	00100	$	937,171
Current Expenses	13000		160,099
Other Assets	69000		200,000
Total		$	1,297,270

305 - Racing Commission –

Advance Deposit Wagering Account

(W.V. Code Chapter 19)

Fund 7309 FY 2026 Org 0707

Current Expenses	13000	$	250,000

306 - Alcohol Beverage Control Administration –

Wine License Special Fund

(W.V. Code Chapter 60)

Fund 7351 FY 2026 Org 0708

Personal Services and Employee Benefits	00100	$	156,111
Repairs and Alterations	06400		7,263
Equipment	07000		10,000
Current Expenses	13000		260,436
Buildings	25800		100,000
Transfer Liquor Profits and Taxes	42500		30,750
Other Assets	69000		2,000,100
Total		$	2,564,660

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

307 - Alcohol Beverage Control Administration

(W.V. Code Chapter 60)

Fund 7352 FY 2026 Org 0708

Personal Services and Employee Benefits	00100	$	6,239,729
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		122,500
Repairs and Alterations	06400		91,000
Equipment	07000		108,000
Current Expenses	13000		2,890,577
Buildings	25800		375,100
Purchase of Supplies for Resale	41900		104,000,000
Transfer Liquor Profits and Taxes	42500		33,400,000
Other Assets	69000		125,100
Land	73000		100
Total		$	147,352,106

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.

308 - State Athletic Commission Fund

(W.V. Code Chapter 29)

Fund 7009 FY 2026 Org 0933

Personal Services and Employee Benefits	00100	$	29,500
Current Expenses	13000		28,000
Total		$	57,500

DEPARTMENT OF TRANSPORTATION

309 - Division of Motor Vehicles –

Dealer Recovery Fund

(W.V. Code Chapter 17)

Fund 8220 FY 2026 Org 0802

Current Expenses	13000	$	189,000

310 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(W.V. Code Chapter 17B)

Fund 8223 FY 2026 Org 0802

Personal Services and Employee Benefits	00100	$	4,478,448
Repairs and Alterations	06400		16,000
Equipment	07000		75,000
Current Expenses	13000		4,337,712
Other Assets	69000		10,000
BRIM Premium	91300		110,000
Total		$	9,027,160

311 - Division of Highways –

A. James Manchin Fund

(W.V. Code Chapter 22)

Fund 8319 FY 2026 Org 0803

Current Expenses	13000	$	2,900,000

312 - WV Division of Multimodal Transportation Facilities –

State Rail Authority –

West Virginia Commuter Rail Access Fund

(W.V. Code Chapter 29)

Fund 8402 FY 2026 Org 0810

Current Expenses	13000	$	600,000

DEPARTMENT OF VETERANS' ASSISTANCE

313 - Veterans' Facilities Support Fund

(W.V. Code Chapter 9A)

Fund 6703 FY 2026 Org 0613

Personal Services			
and Employee Benefits	01000	$	99,135
Current Expenses	13000		1,654,234
Other Assets	69000		10,000
Total		$	1,763,369

314 - Department of Veterans' Assistance –

W.V. Veterans' Home –

Special Revenue Operating Fund

(W.V. Code Chapter 9A)

Fund 6754 FY 2026 Org 0618

Repairs and Alterations	06400	$	10,600
Current Expenses	13000	$	321,050
Total		$	331,650

BUREAU OF SENIOR SERVICES

315 - Bureau of Senior Services –

Community Based Service Fund

(W.V. Code Chapter 29)

Fund 5409 FY 2026 Org 0508

Personal Services			
and Employee Benefits	00100	$	160,628
Salary and Benefits of Cabinet Secretary			
and Agency Heads	00201		33,547
Current Expenses	13000		10,599,338
Total		$	10,793,513

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

316 - Higher Education Policy Commission –

System –

Tuition Fee Capital Improvement Fund

(Capital Improvement and Bond Retirement Fund)

Control Account

(W.V. Code Chapters 18 and 18B)

Fund 4903 FY 2026 Org 0442

Debt Service	04000	$	27,411,984
General Capital Expenditures	30600		5,000,000
Facilities Planning			
and Administration	38600		479,369
Total		$	32,891,353

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.V. 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.

317 - Tuition Fee Revenue Bond Construction Fund

(W.V. Code Chapters 18 and 18B)

Fund 4906 FY 2026 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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.V. Code §18-12B-8, which have since been refunded.

318 - Higher Education Policy Commission –

Military College Advisory Council Fund

(W.V. Code Chapter 18B)

Fund XXXX FY 2026 Org 0442

Personal Services and Employee Benefits	00100	$	123,500
Current Expenses	13000		170,000
Total		$	293,500

319 - West Virginia University –

West Virginia University Health Sciences Center

(W.V. Code Chapters 18 and 18B)

Fund 4179 FY 2026 Org 0463

Personal Services and Employee Benefits	00100	$	11,795,211
Repairs and Alterations	06400		425,000
Equipment	07000		512,000
Current Expenses	13000		4,524,300
Buildings	25800		150,000
Other Assets	69000		50,000
Total		$	17,456,511

320 - Marshall University –

School of Medicine

(W.V. Code Chapter 18B)

Fund 4271 FY 2026 Org 0471

Marshall Medical School	17300	$	5,500,000

321 - West Virginia School of Osteopathic Medicine

(W.V. Code Chapter 18B)

Fund 4272 FY 2026 Org 0476

West Virginia School of Osteopathic Medicine	17200	$	4,115,931

MISCELLANEOUS BOARDS AND COMMISSIONS

322 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(W.V. Code Chapters 16 and 30)

Fund 5425 FY 2026 Org 0505

Personal Services and Employee Benefits	00100	$	607,945
Repairs and Alterations	06400		5,000
Current Expenses	13000		234,969
Total		$	847,914

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.

323 - Hospital Finance Authority –

Hospital Finance Authority Fund

(W.V. Code Chapter 16)

Fund 5475 FY 2026 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		55,268
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 W.V. Code.

324 - State Armory Board –

General Armory Fund

(W.V. Code Chapter 15)

Fund 6057 FY 2026 Org 0603

Personal Services and Employee Benefits	00100	$	1,690,382

Repairs and Alterations	06400		385,652
Equipment	07000		250,000
Current Expenses	13000		650,000
Buildings	25800		520,820
Other Assets	69000		350,000
Land	73000		200,000
Total		$	4,046,854

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).

325 - *W.V. State Board of Examiners for Licensed Practical Nurses – Licensed Practical Nurses*

(W.V. Code Chapter 30)

Fund 8517 FY 2026 Org 0906

Personal Services and Employee Benefits	00100	$	1,002,286
Current Expenses	13000		253,007
Total		$	1,255,293

326 - *W.V. Board of Examiners for Registered Professional Nurses – Registered Professional Nurses*

(W.V. Code Chapter 30)

Fund 8520 FY 2026 Org 0907

Personal Services and Employee Benefits	00100	$	1,502,835
Repairs and Alterations	06400		3,000
Equipment	07000		30,000
Current Expenses	13000		451,155
Other Assets	69000		4,500

Total		$ 1,991,490

327 - Public Service Commission

(W.V. Code Chapter 24)

Fund 8623 FY 2026 Org 0926

Personal Services and Employee Benefits	00100	$ 14,410,245
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	318,640
Repairs and Alterations	06400	120,000
Equipment	07000	160,000
Unclassified	09900	147,643
Current Expenses	13000	2,507,202
Buildings	25800	10
PSC Weight Enforcement	34500	5,199,295
Land	73000	10
BRIM Premium	91300	172,216
Total		$ 23,035,261

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) due to the amendment and reenactment of W.V. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

328 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(W.V. Code Chapter 24B)

Fund 8624 FY 2026 Org 0926

Personal Services and Employee Benefits	00100	$	394,133
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		11,949
Repairs and Alterations	06400		4,000
Unclassified	09900		3,851
Current Expenses	13000		93,115
Total		$	507,048

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.

329 - Public Service Commission –

Motor Carrier Division

(W.V. Code Chapter 24A)

Fund 8625 FY 2026 Org 0926

Personal Services and Employee Benefits	00100	$	2,536,213
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		67,711
Repairs and Alterations	06400		23,000
Equipment	07000		50,000
Unclassified	09900		29,233
Current Expenses	13000		577,557
Total		$	3,283,714

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.

330 - Public Service Commission –

Consumer Advocate Fund

(W.V. Code Chapter 24)

Fund 8627 FY 2026 Org 0926

Personal Services and Employee Benefits	00100	$	1,212,911
Equipment	07000		9,872
Current Expenses	13000		536,472
BRIM Premium	91300		4,660
Total		$	1,763,915

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.

331 - Real Estate Commission –

Real Estate License Fund

(W.V. Code Chapter 30)

Fund 8635 FY 2026 Org 0927

Personal Services and Employee Benefits	00100	$	665,295
Repairs and Alterations	06400		2,500
Equipment	07000		5,000
Current Expenses	13000		293,122
Total		$	965,917

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

332 - W.V. Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(W.V. Code Chapter 30)

Fund 8646 FY 2026 Org 0930

Personal Services			
and Employee Benefits	00100	$	129,595
Current Expenses	13000		63,637
Total		$	193,232

333 - W.V. Board of Respiratory Care –

Board of Respiratory Care Fund

(W.V. Code Chapter 30)

Fund 8676 FY 2026 Org 0935

Personal Services			
and Employee Benefits	00100	$	125,073
Current Expenses	13000		73,143
Total		$	198,216

334 - W.V. Board of Licensed Dietitians –

Dietitians Licensure Board Fund

(W.V. Code Chapter 30)

Fund 8680 FY 2026 Org 0936

Personal Services			
and Employee Benefits	00100	$	45,219
Current Expenses	13000		20,250
Total		$	65,469

335 - Massage Therapy Licensure Board –

Massage Therapist Board Fund

(W.V. Code Chapter 30)

Fund 8671 FY 2026 Org 0938

Personal Services			
and Employee Benefits	00100	$	122,310
Current Expenses	13000		47,388
Total		$	169,698

336 - Board of Medicine –

Medical Licensing Board Fund

(W.V. Code Chapter 30)

Fund 9070 FY 2026 Org 0945

Personal Services and Employee Benefits	00100	$	1,687,578
Repairs and Alterations	06400		8,000
Current Expenses	13000		1,339,814
Total		$	3,035,392

337 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(W.V. Code Chapter 12)

Fund 9080 FY 2026 Org 0947

Personal Services and Employee Benefits	00100	$	5,690,654
Repairs and Alterations	06400		300
Equipment	07000		502,000
Unclassified	09900		132,000
Current Expenses	13000		19,214,993
Buildings	25800		2,000
Other Assets	69000		2,004,500
Total		$	27,546,447

338 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(W.V. Code Chapter 12)

Fund 9152 FY 2026 Org 0950

Personal Services and Employee Benefits	00100	$	982,714

Unclassified	09900		14,850
Current Expenses	13000		580,889
BRIM Premium	91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers	93800		5,500,000
Total		$	7,110,000

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 W.V. Code.

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

339 - Contractor Licensing Board Fund

(W.V. Code Chapter 21)

Fund 3187 FY 2026 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		8,500
Total		$	3,098,500

Total TITLE II, Section 3 – Other Funds (Including claims against the state)	$ 2,315,143,753

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.V. 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.

340 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(W.V. Code Chapter 5)

Fund 2252 FY 2026 Org 0211

	Appro-priation	Lottery Funds
Debt Service – Total	31000	$ 10,000,000

341 - Department of Tourism –

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 3067 FY 2026 Org 0304

Tourism – Telemarketing Center	46300	$ 82,080
Tourism – Advertising (R)	61800	2,422,407
Tourism – Operations (R)	66200	4,612,532
Total		$ 7,117,019

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

342 - Division of Natural Resources

(W.V. Code Chapter 20)

Fund 3267 FY 2026 Org 0310

Personal Services and Employee Benefits	00100	$	2,826,421
Current Expenses	13000		26,900
Pricketts Fort State Park	32400		106,560
Non-Game Wildlife (R)	52700		488,588
State Parks and Recreation Advertising (R)	61900		494,578
Total		$	3,943,047

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

343 - State Board of Education

(W.V. Code Chapters 18 and 18A)

Fund 3951 FY 2026 Org 0402

Hope Scholarship Program	30401	$	9,197,431
FBI Checks	37200		127,704
Vocational Education Equipment Replacement	39300		800,000
Assessment Program (R)	39600		490,439
Literacy Project	89900		700,000
21st Century Technology Infrastructure Network Tools and Support (R)	93300		12,683,392
Total		$	23,998,966

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

344 - State Department of Education –

School Building Authority –

Debt Service Fund

(W.V. Code Chapter 18)

Fund 3963 FY 2026 Org 0404

Debt Service – Total	31000	$	15,234,900
Directed Transfer	70000		2,765,100
Total.....		$	18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.V. 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) to be used for school construction and maintenance projects.

345 - Division of Culture and History –

Lottery Education Fund

(W.V. Code Chapter 29)

Fund 3534 FY 2026 Org 0432

Huntington Symphony	02700	$	59,000
Preservation West Virginia (R).....	09200		542,000
Fairs and Festivals (R)	12200		1,347,000

Commission for National and Community Service (R)	19300	396,000
West Virginia Public Theater	31200	120,000
Greenbrier Valley Theater	42300	115,000
Theater Arts of West Virginia	46400	90,000
Marshall Artists Series	51800	36,000
West Virginia State Fair	65700	31,000
Contemporary American Theater Festival	81100	57,000
Independence Hall	81200	27,000
Mountain State Forest Festival	86400	38,000
WV Symphony	90700	59,000
Wheeling Symphony	90800	59,000
Appalachian Children's Chorus	91600	54,000
Culture and History Programs	XXXXX	190,947
Total		$ 3,220,947

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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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, Aracoma Story (Logan) $20,000, Arts Monongahela (Monongalia) $11,881, Barbour County Arts and Humanities Council (Barbour) $891, 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) $3,500, Chuck Mathena Center (Mercer) $62,532, Country Music Hall of Fame and Museum (Marion)

$4,159, First Stage Children's Theater Company (Cabell) $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 (Hardy) $11,881, Heartwood in the Hills (Calhoun) $5,040, Henderson Hall (Wood) $20,000, Heritage Farm Museum & Village (Cabell) $29,703, Historic Fayette Theater (Fayette) $3,267, Historic Middleway Conservancy (Jefferson) $594, Jefferson County Black History Preservation Society (Jefferson) $2,970, Jefferson County Historical Landmark Commission (Jefferson) $4,753, Maddie Carroll House (Cabell) $4,455, Marshall County Historical Society (Marshall) $5,049, McCoy Theater (Hardy) $11,881, Memorial Day Patriotic Exercise (Taylor) $20,000, Morgantown Theater Company (Monongalia) $11,881, Nicholas Old Main Foundation (Nicholas) $1,188, Norman Dillon Farm Museum (Berkeley) $5,941, Oil and Gas Museum (Wood) $20,000, Old Opera House Theater Company (Jefferson) $8,911, Parkersburg Arts Center (Wood) $11,881, Pocahontas Historic Opera House (Pocahontas) $3,564, Raleigh County All Wars Museum (Raleigh) $5,941, Roane County 4-H and FFA Youth Livestock Program (Roane) $2,970, Robinson Grand Theatre (Harrison) $50,000, Society for the Preservation of McGrew House (Preston) $2,079, Southern West Virginia Veterans' Museum (Raleigh) $3,393, Summers County Historic Landmark Commission (Summers) $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, YLA Camp Horseshoe (Tucker) $59,406, Youth Museum of Southern West Virginia (Raleigh) $7,129

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) $4,456, Allegheny Echo (Pocahontas) $6,683, Alpine Festival/Leaf Peepers Festival (Tucker) $6,683,

American Civil War (Grant) $3,127, American Legion Post 8 Veterans Day Parade (McDowell) $1,250, Annual Don Redman Heritage Concert & Awards (Jefferson) $938, Antique Market Fair (Lewis) $1,188, Apple Butter Festival (Morgan) $3,564, Armed Forces Day-South Charleston (Kanawha) $2,000, Arthurdale Heritage New Deal Festival (Preston) $2,970, Artists of the New (Fayette) $2,000, 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, Battelle District Fair (Monongalia) $3,340, Battle of Dry Creek (Greenbrier) $891, Battle of Point Pleasant Memorial Committee (Mason) $2,970, Beckley Honey Festival (Raleigh) $1,710, Beckley Main Street (Raleigh) $2,000, Belleville Homecoming (Wood) $11,881, Berkeley County Youth Fair (Berkeley) $10,990, BEX Arts Festival (Raleigh) $2,000, 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, Boone County Labor Day Celebration (Boone) $2,376, Boone Day (Kanawha) $1,000, 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) $1,000, Brooke County Fair (Brooke) $2,079, Buckwheat Festival (Preston) $5,050, 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, Calhoun County Wood Festival (Calhoun) $1,188, Campbell's Creek Community Fair (Kanawha) $2,000, Cape Coalwood Festival Association (McDowell) $1,485, Capon Bridge Founders Day Festival (Hampshire) $500, Capon Springs Ruritan 4th of July (Hampshire) $2,500, Cedar Grove - Annual Fallfest (Kanawha) $2,000, 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 4th of July Festivities (Hancock) $2,970, Chilifest West Virginia State Chili Championship (Cabell) $1,563, Chillin' on the Elk (Kanawha) $1,000, Christmas In Our Town (Marion) $3,127, Christmas In Our Town (Wetzel) $2,000, 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) $6,000, Clay County Golden Delicious Apple Festival (Clay) $4,158, Clay District Fair (Monongalia) $3,341, Coal Field Jamboree (Logan) $20,792, Coalton Days Fair (Randolph) $4,158, Country Roads Festival (Wetzel) $2,000, Covered Bridge Festival (Marion) $3,000, Craigsville Fall Festival (Nicholas) $2,079, Cruise into Princeton (Mercer) $2,160, Culturefest World Music & Arts Festival (Mercer) $3,200, Day in the Valley - McCutcheon Car Show (Marion) $3,000, Delbarton Homecoming (Mingo) $2,079, Dirt Days (Mingo) $2,000, East Bank End of Summer Celebration (Kanawha) $2,000, Elbert/Filbert Reunion Festival (McDowell) $891, Fairview 4th of July Celebration (Marion) $684, Farmer's Day Festival (Monroe) $2,330, Fenwick Mountain Old Time Community Festival (Nicholas) $2,880, FestivALL Charleston (Kanawha) $12,000, 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, Freedom Festival (Wood) $8,000, Freshwater Folk Festival (Greenbrier) $2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) $2,970, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) $8,000, Gassaway Days Celebration (Braxton) $2,970, Gilmer County Farm Show (Gilmer) $2,376, Great Greenbrier River Race (Pocahontas) $5,940, 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 County Festival (Hampshire)

$2,752, Hardy County Commission - 4th of July (Hardy) $5,940, Harvest Moon Festival (Wood) $2,000, Hatfield McCoy Matewan Reunion Festival (Mingo) $12,330, Hatfield McCoy Reunion Festival (Logan) $2,000, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) $2,970, Head For the Hills Festival (Ritchie) $3,000, Head of the Dragon (McDowell) $1,500, Heritage Craft Festival (Monroe) $3,000, Hilltop Festival (Cabell) $1,500, Hinton Railroad Days (Summers) $4,347, Holly River Festival (Webster) $891, Hometown Mountain Heritage Festival (Fayette) $2,432, Hometown Trail Days (McDowell) $1,188, Hundred 4th of July (Wetzel) $6,207, Huntersville Traditions Day (Pocahontas) $4,000, Iaeger 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, 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, Keg and Barrel Fest (Mineral) $2,000, Kenova Autumn Festival (Wayne) $4,377, Kermit Fall Festival (Mingo) $1,782, King Coal Festival (Mingo) $2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) $1,188, Knights of Columbus Irish Road Bowling (Marshall) $3,000, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) $2,970, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) $5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) $3,000, Last Blast of Summer (McDowell) $2,970, Lewisburg Shanghai (Greenbrier) $1,188, Lincoln County Fall Festival (Lincoln) $4,752, Lincoln County Winterfest (Lincoln) $3,000, Lindside 4th of July Parade (Monroe) $1,000, Lindside 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, Main Street Martinsburg Food Truck Fest (Berkeley) $4,700, Malden Salt Fest (Kanawha) $3,000, Mannington District Fair (Marion) $3,564, Marmet Labor

Day Celebration (Kanawha) $3,500, Marshall County Antique Power Show (Marshall) $1,485, Marshall County Fair (Marshall) $3,564, Martinsburg Roundhouse Railfest (Berkeley) $2,000, Mason County Fair (Mason) $2,970, Matewan Massacre Reenactment (Mingo) $5,004, Matewan-Magnolia Fair (Mingo) $15,932, McGrew House History Day (Preston) $1,188, Meadow Bridge Hometown Festival (Fayette) $1,000, 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 Veterans Day Parade (Mineral) $891, Molasses Festival (Calhoun) $1,188, 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 Heritage Arts and Crafts Festival (Jefferson) $2,970, Mountain Music Festival (McDowell) $1,485, Mountain Roots Community Theater (Kanawha) $5,000, Mountain State Apple Harvest Festival (Berkeley) $4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) $26,732, Mountaineer Boys' State (Lewis) (Lewis) $5,000, Mullens Dogwood Festival (Wyoming) $4,158, Multi-Cultural Festival of West Virginia (Kanawha) $12,000, New Cumberland 4th of July (Hancock) $2,970, New Cumberland Christmas Parade (Hancock) $1,782, New Martinsville Regatta (Wetzel) $9,000, New Martinsville Vintage Regatta (Wetzel) $5,000, New River Bridge Day Festival (Fayette) $23,762, Nicholas County Potato Festival (Nicholas) $5,000, 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, Old Brick Playhouse (Randolph) $7,000, Old Central City Fair (Cabell) $2,970, Old Tyme Christmas (Jefferson) $1,425, Osage Street Fair (Monongalia) $2,188, Parkersburg Homecoming (Wood) $8,754, Paw Paw District Fair (Marion) $2,079, Pax Reunion Committee (Fayette) $2,970, Pendleton County 4-H Weekend (Pendleton) $1,188, Petersburg 4th of July Celebration

(Grant) $11,881, Piedmont-Annual Back Street Festival (Mineral) $2,376, Pinch Reunion (Kanawha) $5,000, Pine Bluff Fall Festival (Harrison) $2,376, Pine Grove 4th of July Festival (Wetzel) $6,058, Pleasants County Agriculture Youth Fair (Pleasants) $2,970, Pocahontas County Pioneer Days (Pocahontas) $4,159, Pratt Fall Festival (Kanawha) $2,500, 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) $2,500, 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, Rhododendron Girl's State (Ohio) (Ohio) $5,941, Ripley 4th of July (Jackson) $8,910, Ritchie County Pioneer Days (Ritchie) $684, River City Festival (Preston) $684, Rivesville Christmas Festival (Marion) $2,000, Rivesville Riverfront Festival (Marion) $2,000, Roane County Agriculture Field Day (Roane) $1,782, Rock the Park (Kanawha) $1,500, Rockin New Years Eve (Grant) $2,000, Rowlesburg Labor Day Festival (Preston) $684, Ruby Summer Concert Series (Monongalia) $2,000, Ruddle Park Jamboree (Pendleton) $2,000, Rupert Country Fling (Greenbrier) $1,876, Saint Spyridon Greek Festival (Harrison) $1,485, Salem Apple Butter Festival (Harrison) $2,376, Shiloh Days (Tyler) (Tyler) $2,000, Sissonville Christmas Festival (Kanawha) $2,000, Sistersville 4th of July (Tyler) $4,776, Skirmish on the River (Mingo) $1,250, Smoke on the Water (Wetzel) $1,782, South Charleston Summerfest (Kanawha) $7,500, 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) $3,000, St. Albans Train Fest (Kanawha) $6,000, Sternwheel Festival (Wood) $1,782, STOCO Festival (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, 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, Treasure Mountain Festival (Pendleton) $25,000, Tri-County Fair (Grant) $22,548, Tucker County Arts Festival and Celebration (Tucker) $10,692, Tucker County Fair (Tucker) $2,821, Turkey Festival (Hardy) $1,782, Tyler County Fireworks Celebration (Tyler) $3,000, Upper Kanawha Valley Oktoberfest (Kanawha) $2,000, 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 Apple Festival of Brooke County (Brooke) $2,970, West Virginia Chestnut Festival (Preston) $684, West Virginia Coal Festival (Boone) $5,940, West Virginia Dairy Cattle Show (Lewis) $15,000, 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 Oil and Gas Festival (Tyler) $7,500, West Virginia Peach Festival (Mineral) $5,166, 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 (Summers) $9,144, Wetzel County Autumnfest (Wetzel) $3,267, Wetzel County Town and Country Days (Wetzel) $10,098, Wheeling City of Lights (Ohio) $4,752, Wheeling Vintage Raceboat Regatta (Ohio) $11,881, Whipple Community Action (Fayette) $1,485, Whitehall Community Event (Marion) $2,000,

Winfield Watersports Weekend (Putnam) $3,240, Wirt County Fair (Wirt) $1,485, Wirt County Pioneer Days (Wirt) $1,188, Youth Stockman Beef Expo (Lewis) $1,188

Any Fairs and 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.

346 - Division of Culture and History –

Library Commission –

Lottery Education Fund

(W.V. Code Chapter 10)

Fund 3559 FY 2026 Org 0432

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 (R)	88400		944,715
Total		$	11,515,062

Any unexpended balances remaining in the appropriation for Infomine Network (fund 3559, appropriation 88400) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

347 - Educational Broadcasting Commission

(W.V. Code Chapter 10)

Fund 3587 FY 2026 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500)

at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

348 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(W.V. Code Chapters 18B and 18C)

Fund 4925 FY 2026 Org 0441

RHI Program and Site Support (R).....	03600	$	1,924,101
RHI Program and Site Support – RHEP Program Administration.....	03700		146,653
RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (R)	03800		90,206
State Doctoral Fellowship (R)	16600		129,604
Health Sciences Scholarship (R).....	17600		226,260
Vice Chancellor for Health Sciences – Rural Health Residency Program (R).....	60100		62,725
WV Engineering, Science, and Technology Scholarship Program..	86800		452,831
Total.....		$	3,032,380

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), State 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 the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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) established by W.V. Code §18C-6-1.

349 - Community and Technical College –

Capital Improvement Fund

(W.V. Code Chapter 18B)

Fund 4908 FY 2026 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) and Capital Improvements – Total (fund 4908, appropriation 95800) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

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

350 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(W.V. Code Chapter 18B)

Fund 4185 FY 2026 Org 0463

WVU Health Sciences –			
RHI Program			
and Site Support (R)	03500	$	1,257,402
MA Public Health Program and			
Health Science Technology (R).....	62300		53,020

Health Sciences Career			
Opportunities Program (R)	86900		339,155
HSTA Program (R)	87000		1,919,907
Center for Excellence			
in Disabilities (R).....	96700		330,867
Total.....		$	3,900,351

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 the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

351 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(W.V. Code Chapter 18B)

Fund 4896 FY 2026 Org 0471

Marshall Medical School –			
RHI Program			
and Site Support (R)	03300	$	457,532
Vice Chancellor for Health Sciences –			
Rural Health			
Residency Program (R).....	60100		181,171
Total.....		$	638,703

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 the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

352 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(W.V. Code Chapter 29)

Fund 5405 FY 2026 Org 0508

Personal Services and Employee Benefits	00100	$	163,530
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		86,002
Repairs and Alterations	06400		1,000
Current Expenses	13000		332,284
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		27,986,092
Roger Tompkins Alzheimers Respite Care	64300		2,310,673
WV Alzheimers 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 Ombudsmen	90500		297,226
BRIM Premium	91300		7,718
In-Home Services and Nutrition for Senior Citizens (R)	91700		6,845,941
Total		$	67,025,525

Any unexpended balances remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) and In-Home Services and Nutrition for Senior Citizens (fund 5405, appropriation 91700) at the close of the fiscal year 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

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 the Department of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 5405, 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..... $ 157,392,000

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.V. 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.V. 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.

353 - Governor's Office

(W.V. Code Chapter 5)

Fund 1046 FY 2026 Org 0100

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 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

354 - Office of Technology

(W.V. Code Chapter 5A)

Fund 2532 FY 2026 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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

355 - Division of Economic Development

(W.V. Code Chapter 5B)

Fund 3170 FY 2026 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 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

356 - Division of Natural Resources –

State Park Improvement Fund

Fund 3277 FY 2026 Org 0310

	Appro-priation		**Excess Lottery Funds**
Repairs and Alterations (R)	06400	$	161,200
Equipment (R).....	07000		200,000
Current Expenses (R).....	13000		23,300
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		1,020,500
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 2025 are hereby reappropriated for expenditure during the fiscal year 2026.

357 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2026 Org 0316

Directed Transfer	70000	$ 46,000,000

The above appropriation shall be allocated pursuant to W.V. Code §29-22-18d and §31-15-9.

358 - Department of Education –

School Building Authority

Fund 3514 FY 2026 Org 0404

Debt Service - Total	31000	$ 16,571,230
Directed Transfer	70000	2,428,770
Total		$ 19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.V. 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) to be used for school construction and maintenance projects.

359 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2026 Org 0441

PROMISE Scholarship – Transfer.....	80000	$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296) established by W.V. 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.

360 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2026 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) as authorized by Senate Concurrent Resolution No. 41.

361 - Higher Education Policy Commission –

Administration –

Control Account

Fund 4932 FY 2026 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

362 - Department of Human Services

(W.V. Code Chapters 9, 48, and 49)

Fund 5365 FY 2026 Org 0511

Medical Services ..... 18900 $ 80,805,007

363 - Division of Corrections and Rehabilitation –

Correctional Units

(W.V. Code Chapter 15A)

Fund 6283 FY 2026 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 2025 is hereby reappropriated for expenditure during the fiscal year 2026.

364 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2026 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.V. Code §29-22-18a.

365 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2026 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.V. 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.

366 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2026 Org 0705

Parking Garage Fund – Transfer.....	70001	$	300,000
2004 Capitol Complex Parking Garage Fund – Transfer....	70002		116,478
Capitol Dome and Improvements Fund – Transfer.....	70003		1,096,256
Capitol Renovation and Improvement Fund – Transfer.....	70004		2,381,252
Economic Development Promotion and Closing 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 Capital Resources Matching Grant Program Fund – Transfer.....	70008		1,500,000
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		22,383,247
Total.....		$	60,271,505

367 - Racing Commission

Fund 7308 FY 2026 Org 0707

Special Breeders Compensation (W.V. Code §29-22-18a, subsection (I))	21800	$	2,000,000

368 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2026 Org 0944

Debt Service.....	04000	$	2,032,000

369 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2026 Org 0944

Debt Service.....	04000	$	4,395,000

Total TITLE II, Section 5 – Excess Lottery Funds.....	$335,008,512

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 2026.

LEGISLATIVE

370 - Crime Victims Compensation Fund

(W.V. Code Chapter 14)

Fund 8738 FY 2026 Org 2300

	Appro-priation		**Federal Funds**
Economic Loss Claim Payment Fund....	33400	$	650,000

JUDICIAL

371 - Supreme Court

Fund 8867 FY 2026 Org 2400

Personal Services and Employee Benefits	00100	$	2,175,000
Repairs and Alterations	06400		100,000
Equipment	07000		250,000
Current Expenses	13000		1,275,000
Other Assets	69000		200,000
Total		$	4,000,000

EXECUTIVE

372 - Governor's Office –

Coronavirus State Fiscal Recovery Fund

(W.V. Code Chapter 4)

Fund 8823 FY 2026 Org 0100

Repairs and Alterations	06400	$	1,000
Equipment	07000		1,000
Unclassified	09900		500,000
Current Expenses	13000		25,497,000
Other Assets	69000		1,000
Total		$	26,000,000

373 - Department of Agriculture

(W.V. Code Chapter 19)

Fund 8736 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	2,722,216
Repairs and Alterations	06400		650,000
Equipment	07000		910,500
Unclassified	09900		50,534

Current Expenses	13000		6,841,987
Buildings	25800		1,000,000
Other Assets	69000		550,000
Land	73000		500,000
Federal Coronavirus Pandemic	89101		4,721,430
Total		$	17,946,667

374 - Department of Agriculture –

Meat Inspection Fund

(W.V. Code Chapter 19)

Fund 8737 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	739,966
Repairs and Alterations	06400		5,500
Equipment	07000		114,478
Unclassified	09900		8,755
Current Expenses	13000		136,012
Total		$	1,004,711

375 - Department of Agriculture –

State Conservation Committee

(W.V. Code Chapter 19)

Fund 8783 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	99,978
Current Expenses	13000		15,599,974
Total		$	15,699,952

376 - Department of Agriculture –

Land Protection Authority

(W.V. Code Chapter 19)

Fund 8896 FY 2026 Org 1400

Personal Services and Employee Benefits	00100	$	46,526
Unclassified	09900		5,004
Current Expenses	13000		448,920
Total		$	500,450

377 - Attorney General –

Medicaid Fraud Unit

(W.V. Code Chapter 5)

Fund 8882 FY 2026 Org 1500

Personal Services and Employee Benefits	00100	$	1,960,197
Repairs and Alterations	06400		4,313
Equipment	07000		7,500
Unclassified	09900		15,336
Current Expenses	13000		611,287
Other Assets	69000		11,336
Total		$	2,609,969

378 - Secretary of State –

State Election Fund

(W.V. Code Chapter 3)

Fund 8854 FY 2026 Org 1600

Personal Services and Employee Benefits	00100	$	210,240
Repairs and Alterations	06400		15,000
Unclassified	09900		7,484
Current Expenses	13000		415,727
Other Assets	69000		100,000
Total		$	748,451

DEPARTMENT OF COMMERCE

379 - *Division of Forestry*

(W.V. Code Chapter 19)

Fund 8703 FY 2026 Org 0305

Personal Services and Employee Benefits	00100	$	645,226
Repairs and Alterations	06400		155,795
Equipment	07000		1,000,000
Unclassified	09900		51,050
Current Expenses	13000		3,062,013
Other Assets	69000		3,078,847
Total		$	7,992,931

380 - *Geological and Economic Survey*

(W.V. Code Chapter 29)

Fund 8704 FY 2026 Org 0306

Personal Services and Employee Benefits	00100	$	204,432
Repairs and Alterations	06400		305,000
Equipment	07000		187,500
Unclassified	09900		2,803
Current Expenses	13000		195,639
Buildings	25800		500,000
Other Assets	69000		15,000
Total		$	1,410,374

381 - *Division of Economic Development*

(W.V. Code Chapter 5B)

Fund 8705 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	1,808,480
Unclassified	09900		50,000

Current Expenses	13000	21,304,019
Broadband Federal Funding	87101	792,031,764
Total		$ 815,194,263

382 - Office of Energy

(W.V. Code Chapter 5B)

Fund 8892 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$ 1,020,137
Unclassified	09900	7,350
Current Expenses	13000	8,266,076
Total		$ 9,293,563

383 - Division of Economic Development – Office of Economic Opportunity

(W.V. Code Chapter 5)

Fund 8901 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$ 857,689
Repairs and Alterations	06400	250
Equipment	07000	6,000
Unclassified	09900	106,795
Current Expenses	13000	20,303,081
Total		$ 21,273,815

384 - Division of Labor

(W.V. Code Chapters 21 and 47)

Fund 8706 FY 2026 Org 0308

Personal Services and Employee Benefits	00100	$ 460,197
Repairs and Alterations	06400	500
Unclassified	09900	5,572

Current Expenses	13000		167,098
Total		$	633,367

385 - Division of Natural Resources

(W.V. Code Chapter 20)

Fund 8707 FY 2026 Org 0310

Personal Services and Employee Benefits	00100	$	11,474,295
Repairs and Alterations	06400		566,250
Equipment	07000		2,126,141
Unclassified	09900		107,693
Current Expenses	13000		7,887,660
Administration	15500		50,325
Buildings	25800		951,000
Other Assets	69000		4,768,670
Land	73000		2,893,920
Total		$	30,825,954

386 - Division of Miners' Health, Safety and Training

(W.V. Code Chapter 22)

Fund 8709 FY 2026 Org 0314

Personal Services and Employee Benefits	00100	$	708,694
Current Expenses	13000		150,000
Total		$	858,694

387 - WorkForce West Virginia

(W.V. Code Chapter 23)

Fund 8835 FY 2026 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		3,246,737
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.V. 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.

388 - State Board of Rehabilitation –

Division of Rehabilitation Services

(W.V. Code Chapter 18)

Fund 8734 FY 2026 Org 0932

Personal Services			
and Employee Benefits	00100	$	12,642,892
Salary and Benefits of Cabinet Secretary			
and Agency Heads	00201		153,000
Repairs and Alterations	06400		350,400
Equipment	07000		1,275,870
Current Expenses	13000		68,440,940
Total		$	82,863,102

389 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(W.V. Code Chapter 18)

Fund 8890 FY 2026 Org 0932

Personal Services			
and Employee Benefits	00100	$	19,748,690

Repairs and Alterations	06400		1,100
Equipment	07000		83,350
Current Expenses	13000		13,383,206
Total		$	33,216,346

DEPARTMENT OF TOURISM

390 - Department of Tourism –

Tourism Workforce Development Fund

(W.V. Code Chapter 5B)

Fund 8903 FY 2026 Org 0304

Federal Coronavirus Pandemic	89101	$	2,765,115

391 - Division of Culture and History

(W.V. Code Chapter 29)

Fund 8718 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	927,795
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Current Expenses	13000		1,947,372
Buildings	25800		1,000
Other Assets	69000		1,000
Land	73000		360
Total		$	2,879,527

392 - Library Commission

(W.V. Code Chapter 10)

Fund 8720 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	387,033
Equipment	07000		543,406

Current Expenses	13000		1,076,162
Federal Coronavirus Pandemic	89101		2,388,880
Total		$	4,395,481

393 - Commission for National and Community Service

(W.V. Code Chapter 5F)

Fund 8841 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	471,153
Repairs and Alterations	06400		1,000
Current Expenses	13000		5,587,325
Federal Coronavirus Pandemic	89101		1,960,558
Total		$	8,020,036

394 - National Coal Heritage Area Authority

(W.V. Code Chapter 29)

Fund 8869 FY 2026 Org 0432

Personal Services and Employee Benefits	00100	$	201,942
Repairs and Alterations	06400		5,000
Equipment	07000		3,000
Current Expenses	13000		328,008
Other Assets	69000		2,000
Total		$	539,950

DEPARTMENT OF EDUCATION

395 - State Board of Education –

State Department of Education

(W.V. Code Chapters 18 and 18A)

Fund 8712 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$ 6,146,942
Repairs and Alterations	06400	10,000
Equipment	07000	10,000
Unclassified	09900	2,000,000
Current Expenses	13000	834,146,008
Other Assets	69000	10,000
Federal Coronavirus Pandemic	89101	4,990,123
Total		$ 847,313,073

396 - State Board of Education –

School Lunch Program

(W.V. Code Chapters 18 and 18A)

Fund 8713 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$ 2,010,501
Repairs and Alterations	06400	20,000
Equipment	07000	100,000
Unclassified	09900	1,150,500
Current Expenses	13000	258,781,265
Other Assets	69000	25,000
Federal Coronavirus Pandemic	89101	743,436
Total		$ 262,830,702

397 - State Board of Education –

Vocational Division

(W.V. Code Chapters 18 and 18A)

Fund 8714 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$ 2,032,898
Repairs and Alterations	06400	10,000
Equipment	07000	10,000
Unclassified	09900	155,000

Current Expenses	13000		20,820,081
Other Assets	69000		10,000
Total		$	23,037,979

398 - State Board of Education –

Aid for Exceptional Children

(W.V. Code Chapters 18 and 18A)

Fund 8715 FY 2026 Org 0402

Personal Services and Employee Benefits	00100	$	3,671,135
Repairs and Alterations	06400		10,000
Equipment	07000		10,000
Unclassified	09900		1,000,000
Current Expenses	13000		139,346,390
Other Assets	69000		10,000
Federal Coronavirus Pandemic	89101		17,336,635
Total		$	161,384,160

399 - WV Professional Charter School Board

(W.V. Code Chapter 18)

Fund 8828 FY 2026 Org 0405

Personal Services and Employee Benefits	00100	$	99,805
Repairs and Alterations	06400		100
Equipment	07000		100
Current Expenses	13000		4,287,108
Other Assets	69000		100
Total		$	4,387,213

DEPARTMENT OF ENVIRONMENTAL PROTECTION

400 - Division of Environmental Protection

(W.V. Code Chapter 22)

Fund 8708 FY 2026 Org 0313

Personal Services and Employee Benefits	00100	$ 37,148,357
Repairs and Alterations	06400	739,783
Equipment	07000	1,712,238
Unclassified	09900	1,923,580
Current Expenses	13000	347,447,019
West Virginia Drinking Water Treatment Revolving Fund – Transfer	68900	80,753,300
Other Assets	69000	2,177,261
Land	73000	80,000
Total		$ 471,981,538

DEPARTMENT OF HEALTH

401 - Department of Health – Central Office

(W.V. Code Chapter 16)

Fund 8802 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$ 21,101,605
Equipment	07000	456,972
Unclassified	09900	856,614
Current Expenses	13000	139,553,476
Buildings	25800	155,000
Other Assets	69000	380,000
Federal Coronavirus Pandemic	89101	40,061,935
Total		$ 202,565,602

402 - Human Rights Commission

(W.V. Code Chapter 5)

Fund 8725 FY 2026 Org 0510

Personal Services and Employee Benefits	00100	$	737,485
Unclassified	09900		5,050
Current Expenses	13000		164,950
Total		$	907,485

403 - Office of the Inspector General

(W.V. Code Chapter 16B)

Fund 8211 FY 2026 Org 0513

Personal Services and Employee Benefits	00100	$	2,346,638
Repairs and Alterations	06400		500
Equipment	07000		500
Unclassified	09900		8,335
Current Expenses	13000		943,527
Other Assets	69000		500
Total		$	3,300,000

DEPARTMENT OF HUMAN SERVICES

404 - Department of Human Services

(W.V. Code Chapters 9, 48, and 49)

Fund 8722 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	88,722,032
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		73,500
Unclassified	09900		22,855,833
Current Expenses	13000		207,311,984
Medical Services	18900		4,151,432,776
Medical Services Administrative Costs	78900		170,074,119
CHIP Administrative Costs	85601		7,627,469
CHIP Services	85602		65,805,357
Federal Coronavirus Pandemic	89101		4,000,000
Total		$	4,717,903,070

405 - Department of Human Services –

Consolidated Medical Service Fund

(W.V. Code Chapter 16)

Fund 8723 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	1,485,132
Unclassified	09900		73,307
Current Expenses	13000		103,197,690
Federal Coronavirus Pandemic	89101		564,772
Total		$	105,320,901

DEPARTMENT OF HOMELAND SECURITY

406 - Division of Emergency Management

(W.V. Code Chapter 15)

Fund 8727 FY 2026 Org 0606

Personal Services and Employee Benefits	00100	$	2,035,385
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		61,250
Repairs and Alterations	06400		5,000
Equipment	07000		100,000
Current Expenses	13000		20,429,281
Total		$	22,630,916

407 - Division of Corrections and Rehabilitation

(W.V. Code Chapters 15A)

Fund 8836 FY 2026 Org 0608

Unclassified	09900	$	1,100
Current Expenses	13000		1,900
Total		$	3,000

408 - West Virginia State Police

(W.V. Code Chapter 15)

Fund 8741 FY 2026 Org 0612

Personal Services and Employee Benefits	00100	$	3,266,412
Repairs and Alterations	06400		42,000
Equipment	07000		13,356,035
Current Expenses	13000		2,250,971
Buildings	25800		1,740,500
Other Assets	69000		1,065,750
Land	73000		500
Total		$	21,722,168

409 - Fire Commission

(W.V. Code Chapter 15A)

Fund 8819 FY 2026 Org 0619

Current Expenses	13000	$	80,000

410 - Division of Administrative Services

(W.V. Code Chapter 15)

Fund 8803 FY 2026 Org 0623

Personal Services and Employee Benefits	00100	$	1,363,346
Repairs and Alterations	06400		1,750
Unclassified	09900		25,185
Current Expenses	13000		75,381,973
Total		$	76,772,254

DEPARTMENT OF REVENUE

411 - Insurance Commissioner

(W.V. Code Chapter 33)

Fund 8883 FY 2026 Org 0704

Personal Services and Employee Benefits	00100	$	145,000
Equipment	07000		30,000
Current Expenses	13000		2,825,000
Total		$	3,000,000

DEPARTMENT OF TRANSPORTATION

412 - Division of Motor Vehicles

(W.V. Code Chapter 17B)

Fund 8787 FY 2026 Org 0802

Personal Services and Employee Benefits	00100	$	900,000
Repairs and Alterations	06400		500
Current Expenses	13000		5,448,106
Total		$	6,348,606

413 - Division of Multimodal Transportation Facilities – Public Transit

(W.V. Code Chapter 17)

Fund 8745 FY 2026 Org 0810

Personal Services and Employee Benefits	00100	$	1,089,934
Repairs and Alterations	06400		2,500
Equipment	07000		3,501,714
Current Expenses	13000		20,863,149
Buildings	25800		2,450,000
Other Assets	69000		250,000
Total		$	28,157,297

414 - Division of Multimodal Transportation Facilities – Aeronautics Commission

(W.V. Code Chapter 29)

Fund 8831 FY 2026 Org 0810

Current Expenses	13000	$	199,800
Other Assets	69000		100
Total		$	199,900

DEPARTMENT OF VETERANS' ASSISTANCE

415 - Department of Veterans' Assistance

(W.V. Code Chapter 9A)

Fund 8858 FY 2026 Org 0613

Personal Services and Employee Benefits	00100	$	3,453,384
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		57,120
Repairs and Alterations	06400		20,000
Equipment	07000		25,000
Current Expenses	13000		3,840,300
Buildings	25800		22,750,000
Land	73000		500
Veterans' Cemetery	80800		175,000
Federal Coronavirus Pandemic	89101		1,900,000
Total		$	32,221,304

416 - Department of Veterans' Assistance –

Veterans' Home

(W.V. Code Chapter 9A)

Fund 8728 FY 2026 Org 0618

Personal Services and Employee Benefits	00100	$	1,062,331
Repairs and Alterations	06400		60,500
Equipment	07000		10,500
Current Expenses	13000		618,180

Buildings	25800		500
Other Assets	69000		6,500
Land	73000		100
Federal Coronavirus Pandemic	89101		1,600,000
Total		$	3,358,611

BUREAU OF SENIOR SERVICES

417 - Bureau of Senior Services

(W.V. Code Chapter 29)

Fund 8724 FY 2026 Org 0508

Personal Services and Employee Benefits	00100	$	857,874
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		12,782
Repairs and Alterations	06400		3,000
Current Expenses	13000		13,811,853
Total		$	14,685,509

MISCELLANEOUS BOARDS AND COMMISSIONS

418 - Adjutant General –

State Militia

(W.V. Code Chapter 15)

Fund 8726 FY 2026 Org 0603

Unclassified	09900	$	982,705
Mountaineer ChalleNGe Academy	70900		12,312,486
Martinsburg Starbase	74200		890,990
Charleston Starbase	74300		857,297
Military Authority	74800		90,033,787
Total		$	105,077,265

The Adjutant General shall have the authority to transfer between appropriations.

419 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(W.V. Code Chapter 15)

Fund 8785 FY 2026 Org 0603

Personal Services and Employee Benefits	00100	$	1,350,000
Repairs and Alterations	06400		50,000
Equipment	07000		200,000
Current Expenses	13000		150,000
Buildings	25800		100,000
Other Assets	69000		100,000
Land	73000		50,000
Total		$	2,000,000

420 - Public Service Commission –

Motor Carrier Division

(W.V. Code Chapter 24A)

Fund 8743 FY 2026 Org 0926

Personal Services and Employee Benefits	00100	$	1,600,289
Repairs and Alterations	06400		39,000
Equipment	07000		1,000
Current Expenses	13000		368,953
Total		$	2,009,242

421 - Public Service Commission –

Gas Pipeline Division

(W.V. Code Chapter 24B)

Fund 8744 FY 2026 Org 0926

Personal Services and Employee Benefits	00100	$	725,664
Equipment	07000		3,000
Unclassified	09900		4,072
Current Expenses	13000		124,628
Total		$	857,364

422 - Economic Development Authority

(W.V. Code Chapter 31)

Fund 8893 FY 2026 Org 0944

Current Expenses	13000	5,000,000

Total TITLE II, Section 6 – Federal Funds $ 8,224,744,008

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 2026.

423 - Division of Economic Development –

Community Development

Fund 8746 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	10,672,367
Unclassified	09900		2,375,000
Current Expenses	13000		224,476,883
Total		$	237,524,250

424 - Division of Economic Development –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2026 Org 0307

Personal Services and Employee Benefits	00100	$	773,389
Repairs and Alterations	06400		1,500
Equipment	07000		9,000
Unclassified	09900		125,000
Current Expenses	13000		17,781,811
Total		$	18,690,700

425 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2026 Org 0323

Personal Services and Employee Benefits	00100	$	3,036,190
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		124,018
Repairs and Alterations	06400		1,600
Equipment	07000		500
Unclassified	09900		23,023
Current Expenses	13000		63,381,511
Buildings	25800		1,100
Total		$	66,567,942

426 - Department of Health –

Maternal and Child Health

Fund 8750 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	2,509,103
Unclassified	09900		81,439
Current Expenses	13000		7,294,267
Total		$	9,884,809

427 - Department of Health –

Preventive Health

Fund 8753 FY 2026 Org 0506

Personal Services and Employee Benefits	00100	$	283,642
Equipment	07000		165,642
Unclassified	09900		22,457
Current Expenses	13000		1,895,366
Total		$	2,367,107

428 - Department of Human Services –

Energy Assistance

Fund 8755 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	2,733,782
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		2,450
Unclassified	09900		350,000
Current Expenses	13000		57,082,035
Total		$	60,168,267

429 - Department of Human Services –

Social Services

Fund 8757 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	9,709,574
Unclassified	09900		171,982
Current Expenses	13000		8,870,508
Total		$	18,752,064

430 - Department of Human Services –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	736,598
Unclassified	09900		115,924

Current Expenses	13000		10,853,740
Federal Coronavirus Pandemic	89101		4,225,212
Total		$	15,931,474

431 - Department of Human Services –

Community Mental Health Services

Fund 8794 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	748,144
Unclassified	09900		33,533
Current Expenses	13000		9,735,527
Federal Coronavirus Pandemic	89101		2,070,960
Total		$	12,588,164

432 - Department of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	22,903,080
Salary and Benefits of Cabinet Secretary and Agency Head	00201		7,350
Unclassified	09900		1,250,000
Current Expenses	13000		152,504,134
Total		$	176,664,564

433 - Department of Human Services –

Child Care and Development

Fund 8817 FY 2026 Org 0511

Personal Services and Employee Benefits	00100	$	3,753,484
Salary and Benefits of Cabinet Secretary and Agency Head	00201		2,450
Unclassified	09900		350,000

Current Expenses	13000	107,150,000
Total		$ 111,255,934

Total TITLE II, Section 7 – Federal Block Grants	$ 730,395,275

Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2026, from the fund as designated, in the amounts as specified, general revenue funds in the amount of $1,100,000, special revenue funds in the amount of $250,000, and state road funds in the amount of $864,750 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 2026 out of surplus funds only, accrued from the fiscal year ending June 30, 2025, 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, 2025 from the fiscal year ending June 30, 2025, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2025, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriations 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.

434 - Division of Highways

(W.V. Code Chapter 17 and 17C)

Fund 0620 FY 2026 Org 0803

Direct Transfer - Surplus	70099	$ 125,000,000

The above appropriation for Directed Transfer – Surplus (fund 0620, appropriation 70099) shall be transferred to Division of Highways (fund 9017).

435 - Division of Economic Development –

(W.V. Code Chapter 5B)

Fund 0256 FY 2026 Org 0307

Directed Transfer - Surplus.....	70099	$ 75,000,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Economic Development Project Fund (fund 9069).

436 - Division of Economic Development –

(W.V. Code Chapter 5B)

Fund 0256 FY 2026 Org 0307

Directed Transfer - Surplus.....	70099	$ 10,000,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Water Development Authority (fund 3382).

437 - Division of Economic Development –

(W.V. Code Chapter 5B)

Fund 0256 FY 2026 Org 0307

Current Expense - Surplus	13099	$ 250,000

The above appropriation for Current Expense – Surplus (fund 0256, appropriation 13099) shall be granted to the Cabell County Commission for Lily's Place.

Total TITLE II, Section 9 – General Revenue Surplus Accrued.....	$ 210,250,000

Sec. 10. Appropriations from lottery net profits surplus accrued. — The following items are hereby appropriated from the lottery net profits, and are to be available for expenditure during the fiscal year 2026 out of surplus funds only, as determined by the Director of Lottery, accrued from the fiscal year ending June 30, 2025, 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 accrued from the fiscal year ending June 30, 2025.

In the event that surplus revenues available from the fiscal year ending June 30, 2025, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available.

438 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(W.V. Code Chapter 29)

Fund 5405 FY 2026 Org 0508

Senior Services Medicaid Transfer – Lottery Surplus	68199	$ 14,750,000
In-Home Services and Nutrition for Senior Citizens – Surplus	76699	2,000,000
Total		16,750,000
Total TITLE II, Section 10 – Surplus Accrued		$ 16,750,000

Sec. 11. Appropriations from state excess lottery revenue surplus accrued. — The following items are hereby appropriated from the state excess lottery revenue fund, and are to be available for expenditure during the fiscal year 2026 out of surplus funds only, as determined by the Director of Lottery, accrued from the fiscal year ending June 30, 2025, 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 accrued from the fiscal year ending June 30, 2025.

In the event that surplus revenues available from the fiscal year ending June 30, 2025, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available.

439 - Racing Commission –

General Administration

(W.V. Code Chapter 19)

Fund 7308 FY 2026 Org 0707

Directed Transfer –			
Lottery Surplus	70098	$	800,000

The above appropriation for Directed Transfer – Lottery Surplus (fund 7308, appropriation 70098), $800,000 shall be transferred to the Racing Commission – General Administration (fund 7305).

440 - Department of Human Services

(W.V. Code Chapters 9, 48, and 49)

Fund 5365 FY 2026 Org 0511

Medical Services – Lottery Surplus.....	68100	$	20,545,488
Total TITLE II, Section 11 –			
Surplus Accrued.....		$	21,345,488

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2026 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.V. 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.V. Code §12-2-1 et seq., W.V. Code §12-3-1 et seq., and W.V. 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.V. 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.V. 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 2026, the following funds are hereby available and are to be transferred to the Department of Health and Human Resources, Division of Human Services – Medical Services Trust Fund (fund 5185) from available balances per the following:

441 – Division of General Services –

Capitol Complex Parking Garage Fund

(WV Code Chapter 5A)

Fund 2461 FY 2026 Org 0211

Directed Transfer	70000	$	1,000,000

442 - Division of Labor –

Bedding and Upholstery Fund

(W.V. Code Chapter 47)

Fund 3198 FY 2026 Org 0308

Directed Transfer	70000	$	1,000,000

443 - Division of Natural Resources –

Planning and Development Division

(W.V. Code Chapter 20)

Fund 3205 FY 2026 Org 0310

Directed Transfer	70000	$	2,000,000

444 - Fire Commission –

Fire Marshal Fees

(W.V. Code Chapter 15A)

Fund 6152 FY 2026 Org 0619

Directed Transfer	70000	$	4,000,000

445 - Public Service Commission –

Motor Carrier Division

(W.V. Code Chapter 24A)

Fund 8625 FY 2026 Org 0926

Directed Transfer	70000	$	4,000,000
Total TITLE II, Section 12 – Special Revenue Appropriation.....		$	12,000,000

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 2026, 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 2026 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.V. 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.V. 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.

CHAPTER 38

(H. B. 3187 - By Delegates J. Cannon, Hanshaw (Mr. Speaker), Maynor, Linville, Hornby, Rohrbach, Kimble, Holstein, Riley, and Young)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §5A-6-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Task Force on Artificial Intelligence; adding identification of economic opportunities to the agenda of the Task Force requiring that the Task Force submit annual electric reports.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. OFFICE OF TECHNOLOGY.

§5A-6-9. West Virginia Task Force on Artificial Intelligence.

(a) As used in this Section, "Task Force" means the West Virginia Task Force on Artificial Intelligence established by this section.

(b) The West Virginia Task Force on Artificial Intelligence is created and shall be organized within the Office of the Governor.

(c) The Task Force shall be composed of the following members:

(1) One ex officio, non-voting member from the House of Delegates, appointed by the Speaker of the House of Delegates.

(2) One ex officio, non-voting member from the State Senate, appointed by the President of the Senate.

(3) The Chief Information Officer of the Office of Technology or his or her designee.

(4) The State Superintendent of Schools or his or her designee.

(5) The Chancellor of the West Virginia Higher Education Policy Commission or his or her designee.

(6) The Attorney General or his or her designee.

(7) The Secretary of the Department of Administration or his or her designee.

(8) The Secretary of the Department of Homeland Security or his or her designee.

(9) The Secretary of Health or his or her designee.

(10) One member representing the cybersecurity industry with experience relevant to the work of the Task Force, appointed by the Governor.

(11) One member representing the artificial intelligence industry with experience relevant to the work of the Task Force, appointed by the Governor.

(12) One member representing a statewide business association, appointed by the Governor.

(13) One member from the West Virginia Fusion Center.

(14) One member representing either the West Virginia University Health System or the Marshall Health Network, appointed by the Governor.

(d) The Governor shall designate the Chair of the Task Force.

(e) The responsibilities of the Task Force shall include, but not be limited to, the following:

(1) Recommending a definition of artificial intelligence as it pertains to its use in technology for use in legislation;

(2) Determining the relevant state agency or agencies to develop and oversee artificial intelligence policy and implementation of that policy;

(3) Determining which public interest use cases exist or may exist for artificial intelligence;

(4) Developing best practices for public sector uses of artificial intelligence in the State;

(5) Recommending legislation to protect individual rights, civil liberties, and consumer data as it relates to generative artificial intelligence;

(6) Recommending model policies for schools to address the use of artificial intelligence by students in the classroom;

(7) Determining and making recommendations regarding whether the Task Force should be extended to monitor, analyze, and make findings and recommendations to keep pace with changes in artificial intelligence technology and uses of the technology;

(8) Assessing the use of artificial intelligence in the workforce and its effect on employment levels, types of employment, and the deployment of workers;

(9) Taking an inventory of the current or proposed use of artificial intelligence within state agencies;

(10) Identify economic opportunities related to AI that the state may support or promote;

(11) Other topics related to artificial intelligence that may arise from testimony or reports to the Task Force submitted by its members, invited guests, or the public.

(f) The Office of Technology shall provide administrative and technical support to the Task Force.

(g) All initial appointments to the task force shall be made not later than 90 days after the effective date of this section. Any

vacancy shall be filled by the appointing authority, as applicable, within 90 days of such vacancy arising.

(h) The Task Force shall hold its first meeting not later than 120 days after the effective date of this section and shall meet quarterly thereafter with options to either attend in-person or online.

(i) The Task Force shall submit an annual electronic report by July 1, to the House of Delegates, Senate, and the Governor and present the report to the Joint Committee on Government and Finance covering the Task Force's findings and recommendations related to the responsibilities under subsection (e) of this section.

(j) The Task Force shall terminate on, July 1, 2027.

CHAPTER 39

(H. B. 2358 - By Delegates Kelly, Masters, and Funkhouser)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §61-12-10 of the Code of West Virginia, 1931, as amended, relating to postmortem examinations; establishing time periods for conducting autopsy; and setting time period for providing report of autopsy to certain individuals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. POSTMORTEM EXAMINATIONS.

§61-12-10. When autopsies made and by whom performed; records of date investigated; copies of records and information; reporting requirements.

(a) If in the opinion of the chief medical examiner, or of the county medical examiner of the county in which the death in question occurred, it is advisable and in the public interest that an autopsy be made, or if an autopsy is requested by either the prosecuting attorney or the judge of the circuit court or other court of record having criminal jurisdiction in that county, an autopsy shall be conducted by the chief medical examiner or his or her designee, by a member of his or her staff, or by a competent pathologist designated and employed by the chief medical examiner under the provisions of this article. When requested by either the prosecuting attorney or judge of the circuit court or other court of record having criminal jurisdiction in that county, the autopsy shall be conducted within 72 hours of the time the decedent was received by the Office of the Chief Medical Examiner. For this purpose, the chief medical examiner may employ any county

medical examiner who is a pathologist who holds board certification or board eligibility in forensic pathology or has completed an American Board of Pathology fellowship in forensic pathology to make the autopsies, and the fees to be paid for autopsies under this section shall be in addition to the fee provided for investigations pursuant to §61-12-8 of this code. A full record and report of the findings developed by the autopsy shall be filed with the Office of the Chief Medical Examiner by the person making the autopsy.

(b) Within 24 hours of completion, a copy of the report of autopsy, including any death investigation reports made by the county level medical examiner submitted to the Office of the Chief Medical Examiner, shall be furnished to the prosecuting attorney of the county, or of the county where any injury contributing or causing the death was sustained.

(c) The Office of the Chief Medical Examiner shall keep full, complete and properly indexed records of all deaths investigated, containing all relevant information concerning the death and the autopsy report if an autopsy report is made. Any prosecuting attorney or law-enforcement officer may secure copies of these records or information necessary for the performance of his or her official duties.

(d) Copies of these records or information shall be furnished, upon request, to any court of law, or to the parties therein to whom the cause of death is a material issue, except where the court determines that interests in a civil matter conflict with the interests in a criminal proceeding, in which case the interests in the criminal proceeding shall take precedence. The Office of Chief Medical Examiner shall be reimbursed a reasonable rate by the requesting party for costs incurred in the production of records under this subsection, and subsection (c), (f), and (g) of this section.

(e) The chief medical examiner may release investigation records and autopsy reports to the multidisciplinary team authorized by §49-4-402 of this code and as authorized in subsection (j) of this section. The chief medical examiner may

release records and information to other state agencies when considered to be in the public interest.

(f) The chief medical examiner may release a copy of the autopsy and toxicology reports upon the request from a designated representative of a hospital as defined in §16-2D-2 of this code, to said facility who has reported a death under the provisions of §61-12-8 of this code for purposes of quality review and medical record completion.

(g) The chief medical examiner may release a copy of the autopsy and toxicology reports upon the request of an attending physician as defined in §16-30C-3 of this code, to said physician whose patient has died for purposes of quality review and medical record completion.

(h) Any person performing an autopsy under this section may keep and retain, for and on behalf of the chief medical examiner, any tissue from the body upon which the autopsy was performed which may be necessary for further study or consideration.

(i) In cases of the death of any infant, where sudden infant death syndrome is the suspected cause of death and the chief medical examiner or the medical examiner of the county in which the death in question occurred considers it advisable to perform an autopsy, it is the duty of the chief medical examiner or the medical examiner of the county in which the death occurred to notify the sudden infant death syndrome program within the Division of Maternal and Child Health and to inform the program of all information to be given to the infant's parents.

(j) If the chief medical examiner determines that a drug overdose is the cause of death of a person, the chief medical examiner shall provide notice of the death to the West Virginia Controlled Substances Monitoring Program Database Review Committee established pursuant to §60A-9-5(b) and shall include in the notice any information relating to the cause of the fatal overdose.

CHAPTER 40

(S. B. 561 - By Senators Oliverio, Queen, Taylor, Woelfel, and Charnock)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §31A-9-1, §31A-9-2, §31A-9-3, §31A-9-4, §31A-9-5, §31A-9-6, §31A-9-7, §31A-9-8, §31A-9-9, §31A-9-10, §31A-9-11, §31A-9-12, §31A-9-13, §31A-9-14, §31A-9-15, and §31A-9-16, relating to the Uniform Special Deposits Act; providing citation; defining terms; providing for applicability to special deposits in certain circumstances; providing exceptions; allowing variation by agreement or amendment; setting forth requirements for a special deposit; requiring permissible purpose for special deposit; allowing termination of special deposit in certain circumstances; describing when bank is obligated to pay beneficiary; clarifying who has a property interest in special deposit; providing for creditor process enforceability in certain circumstances; permitting injunctive or similar relief by court; prohibiting recoupment or setoff against special deposit; providing exceptions to prohibition on recoupment or setoff against special deposit; describing duties and liability of bank holding special deposit; terminating special deposit after five years unless otherwise agreed; providing for payment of remaining balance; providing for supplementation of article by specified West Virginia laws; providing for promotion of uniformity; and providing applicability after effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. THE UNIFORM SPECIAL DEPOSITS ACT.

§31A-9-1. Title.

This article may be cited as the Uniform Special Deposits Act.

§31A-9-2. Definitions.

In this article:

(1) "Account agreement" means an agreement that:

(A) Is in a record between a bank and one or more depositors;

(B) May have one or more beneficiaries as additional parties; and

(C) States the intention of the parties to establish a special deposit governed by this article.

(2) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, trust company, and a bank as defined in §31A-1-2 of this code. Each branch or separate office of a bank is a separate bank for the purpose of this article.

(3) "Beneficiary" means a person that:

(A) Is identified as a beneficiary in an account agreement; or

(B) If not identified as a beneficiary in an account agreement, may be entitled to payment from a special deposit:

(i) Under the account agreement; or

(ii) On termination of the special deposit.

(4) "Contingency" means an event or circumstance stated in an account agreement that is not certain to occur but must occur before the bank is obligated to pay a beneficiary.

(5) "Creditor process" means attachment, garnishment, levy, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant.

(6) "Depositor" means a person that establishes or funds a special deposit.

(7) "Good faith" means honesty in fact and observance of reasonable commercial standards of fair dealing.

(8) "Knowledge" of a fact means:

(A) With respect to a beneficiary, actual knowledge of the fact; or

(B) With respect to a bank holding a special deposit:

(i) If the bank:

(I) Has established a reasonable routine for communicating material information to an individual to whom the bank has assigned responsibility for the special deposit; and

(II) Maintains reasonable compliance with the routine, actual knowledge of the fact by that individual; or

(ii) If the bank has not established and maintained reasonable compliance with a routine described in subparagraph (i) of this paragraph or otherwise exercised due diligence, implied knowledge of the fact that would have come to the attention of an individual to whom the bank has assigned responsibility for the special deposit.

(9) "Obligated to pay a beneficiary" means a beneficiary is entitled under the account agreement to receive from the bank a payment when:

(A) A contingency has occurred; and

(B) The bank has knowledge the contingency has occurred.

(10) "Obligation to pay a beneficiary" has a corresponding meaning.

(11) "Permissible purpose" means a governmental, regulatory, commercial, charitable, or testamentary objective of the parties stated in an account agreement. The term includes an objective to:

(A) Hold funds:

(i) In escrow, including for a purchase and sale, lease, buyback, or other transaction;

(ii) As a security deposit of a tenant;

(iii) That may be distributed to a person as remuneration, retirement, or other benefit, or compensation under a judgment, consent decree, court order, or other decision of a tribunal; or

(iv) For distribution to a defined class of persons after identification of the class members and their interest in the funds;

(B) Provide assurance with respect to an obligation created by contract, such as earnest money to ensure a transaction closes;

(C) Settle an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure;

(D) Provide assurance with respect to an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure; or

(E) Hold margin, other cash collateral, or funds that support the orderly functioning of financial market infrastructure or the performance of an obligation with respect to the infrastructure.

(12) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(13) "Record" means information:

(A) Inscribed on a tangible medium; or

(B) Stored in an electronic or other medium and retrievable in perceivable form.

(14) "Special deposit" means a deposit that satisfies §31A-9-5 of this code.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes an agency or instrumentality of the state.

§31A-9-3. Scope; choice of law; forum.

(a) This article applies to a special deposit under an account agreement that states the intention of the parties to establish a special deposit governed by this article, regardless of whether a party to the account agreement or a transaction related to the special deposit, or the special deposit itself, has a reasonable relation to this state.

(b) The parties to an account agreement may choose a forum in this state for settling a dispute arising out of the special deposit, regardless of whether a party to the account agreement or a transaction related to the special deposit, or the special deposit itself, has a reasonable relation to this state.

(c) This article does not affect:

(1) A right or obligation relating to a deposit other than a special deposit under this article; or

(2) The voidability of a deposit or transfer that is fraudulent or voidable under other law.

§31A-9-4. Variation by agreement or amendment.

(a) The effect of §31A-9-2 through §31A-9-6, §31A-9-8 through §31A-9-11, and §31A-9-14 of this code may not be varied

by agreement, except as provided in those sections. Subject to subsection (b) of this section, the effect of §31A-9-7, §31A-9-12, and §31A-9-13 of this code may be varied by agreement.

(b) A provision in an account agreement or other record that substantially excuses liability or substantially limits remedies for failure to perform an obligation under this article is not sufficient to vary the effect of a provision of this article.

(c) If a beneficiary is a party to an account agreement, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the agreement expressly permits the amendment.

(d) If a beneficiary is not a party to an account agreement and the bank and the depositor know the beneficiary has knowledge of the agreement's terms, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the amendment does not adversely and materially affect a payment right of the beneficiary.

(e) If a beneficiary is not a party to an account agreement and the bank and the depositor do not know whether the beneficiary has knowledge of the agreement's terms, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the amendment is made in good faith.

§31A-9-5. Requirements for special deposit.

A deposit is a special deposit if it is:

(1) A deposit of funds in a bank under an account agreement;

(2) For the benefit of at least two beneficiaries, one or more of which may be a depositor;

(3) Denominated in a medium of exchange that is currently authorized or adopted by a domestic or foreign government;

(4) For a permissible purpose stated in the account agreement; and

(5) Subject to a contingency.

§31A-9-6. Permissible purpose.

(a) A special deposit must serve at least one permissible purpose stated in the account agreement from the time the special deposit is created in the account agreement until termination of the special deposit.

(b) If, before termination of the special deposit, the bank or a court determines the special deposit no longer satisfies subsection (a) of this section, the provisions of §31A-9-8 through §31A-9-11 of this code cease to apply to any funds deposited in the special deposit after the special deposit ceases to satisfy subsection (a) of this section.

(c) If, before termination of a special deposit, the bank determines the special deposit no longer satisfies subsection (a) of this section, the bank may take action it believes is necessary under the circumstances, including terminating the special deposit.

§31A-9-7. Payment to beneficiary by bank.

(a) Unless the account agreement provides otherwise, the bank is obligated to pay a beneficiary if there are sufficient actually and finally collected funds in the balance of the special deposit.

(b) Except as provided in subsection (c) of this section, the obligation to pay the beneficiary is excused if the funds available in the special deposit are insufficient to cover such payment.

(c) Unless the account agreement provides otherwise, if the funds available in the special deposit are insufficient to cover an obligation to pay a beneficiary, a beneficiary may elect to be paid the funds that are available or, if there is more than one beneficiary, a pro rata share of the funds available. Payment to the beneficiary making the election under this subsection discharges the bank's obligation to pay a beneficiary and does not constitute an accord and satisfaction with respect to another person obligated to the beneficiary.

(d) Unless the account agreement provides otherwise, the obligation of the bank obligated to pay a beneficiary is immediately due and payable.

(e) The bank may discharge its obligation under this section by:

(1) Crediting another transaction account of the beneficiary; or

(2) Taking other action that:

(A) Is permitted under the account agreement for the bank to obtain a discharge; or

(B) Otherwise would constitute a discharge under law.

(f) If the bank obligated to pay a beneficiary has incurred an obligation to discharge the obligation of another person, the obligation of the other person is discharged if action by the bank under subsection (e) of this section would constitute a discharge of the obligation of the other person under law that determines whether an obligation is satisfied.

§31A-9-8. Property interest of depositor or beneficiary.

(a) Neither a depositor nor a beneficiary has a property interest in a special deposit.

(b) Any property interest with respect to a special deposit is only in the right to receive payment if the bank is obligated to pay a beneficiary and not in the special deposit itself. Any property interest under this subsection is determined under other law.

§31A-9-9. When creditor process enforceable against bank.

(a) Subject to subsection (b) of this section, creditor process with respect to a special deposit is not enforceable against the bank holding the special deposit.

(b) Creditor process is enforceable against the bank holding a special deposit with respect to an amount the bank is obligated to pay a beneficiary or a depositor if the process:

(1) Is served on the bank;

(2) Provides sufficient information to permit the bank to identify the depositor or the beneficiary from the bank's books and records; and

(3) Gives the bank a reasonable opportunity to act on the process.

(c) Creditor process served on a bank before it is enforceable against the bank under subsection (b) of this section does not create a right of the creditor against the bank or a duty of the bank to the creditor. Other law determines whether creditor process creates a lien enforceable against the beneficiary on a contingent interest of a beneficiary, including a depositor as a beneficiary, even if not enforceable against the bank.

§31A-9-10. Injunction or similar relief.

A court may enjoin or grant similar relief that would have the effect of enjoining a bank from paying a depositor or beneficiary only if payment would constitute a material fraud or facilitate a material fraud with respect to a special deposit.

§31A-9-11. Recoupment or set off.

(a) Except as provided in subsection (b) or subsection (c) of this section, a bank may not exercise a right of recoupment or set off against a special deposit.

(b) An account agreement may authorize the bank to debit the special deposit:

(1) When the bank becomes obligated to pay a beneficiary, in an amount that does not exceed the amount necessary to discharge the obligation;

(2) For a fee assessed by the bank that relates to an overdraft in the special deposit account;

(3) For costs incurred by the bank that relate directly to the special deposit; or

(4) To reverse an earlier credit posted by the bank to the balance of the special deposit account, if the reversal occurs under an event or circumstance warranted under other law of this state governing mistake and restitution.

(c) The bank holding a special deposit may exercise a right of recoupment or set off against an obligation to pay a beneficiary, even if the bank funds payment from the special deposit.

§31A-9-12. Duties and liability of bank.

(a) A bank does not have a fiduciary duty to any person with respect to a special deposit.

(b) When the bank holding a special deposit becomes obligated to pay a beneficiary, a debtor-creditor relationship arises between the bank and beneficiary.

(c) The bank holding a special deposit has a duty to a beneficiary to comply with the account agreement and this article.

(d) If the bank holding a special deposit does not comply with the account agreement or this article, the bank is liable to a depositor or beneficiary only for damages proximately caused by the noncompliance. Except as provided by other law of this state, the bank is not liable for consequential, special, or punitive damages.

(e) The bank holding a special deposit may rely on records presented in compliance with the account agreement to determine whether the bank is obligated to pay a beneficiary.

(f) If the account agreement requires payment on presentation of a record, the bank shall determine within a reasonable time whether the record is sufficient to require payment. If the agreement requires action by the bank on presentation of a record, the bank is not liable for relying in good faith on the genuineness of the record if the record appears on its face to be genuine.

(g) Unless the account agreement provides otherwise, the bank is not required to determine whether a permissible purpose stated in the agreement continues to exist.

§31A-9-13. Term and termination.

(a) Unless otherwise provided in the account agreement, a special deposit terminates five years after the date the special deposit was first funded.

(b) Unless otherwise provided in the account agreement, if the bank cannot identify or locate a beneficiary entitled to payment when the special deposit is terminated, and a balance remains in the special deposit, the bank shall pay the balance to the depositor or depositors as a beneficiary or beneficiaries.

(c) A bank that pays the remaining balance as provided under subsection (b) of this section has no further obligation with respect to the special deposit.

§31A-9-14. Principles of law and equity.

The provisions of chapter 46 and chapter 46A of this code, law governing deposits generally, law related to escheat and abandoned or unclaimed property, and the principles of law and equity, including law related to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, and bankruptcy, supplement this article except to the extent inconsistent with this article.

§31A-9-15. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

§31A-9-16. Transitional provision.

This article applies to:

(1) A special deposit made under an account agreement executed on or after the effective date of this article; and

(2) A deposit made under an agreement executed before enactment of this article, if:

(A) All parties entitled to amend the agreement agree to make the deposit a special deposit governed by this article; and

(B) The special deposit referenced in the amended agreement satisfies §31A-9-5 of this code.

CHAPTER 41

(Com. Sub. for H. B. 2963 - By Delegates Criss, Barnhart, Hott, and Kyle)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend the Code of West Virginia, 1931, by adding a new section, designated §31A-1-7, relating to the sale or transfer of all or substantially all of state bank's assets; requiring that the buyer or transferee be insured by the Federal Deposit Insurance Corporation; authorizing interested persons to seek equitable relief to prohibit certain sales or transfers; clarifying that the prohibition on the sale or transfer of a West Virginia state chartered bank to buyers or transferors that are not insured by the Federal Deposit Insurance Corporation does not apply in certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§31A-1-7. Acquisition, formation, or control.

(a) A bank chartered by this state may sell or transfer all, or substantially all, of its assets and liabilities by merger, reorganization, purchase, and assumption or any similar business combination to another bank, banking institution, or entity: *Provided*, That the buyer or transferee is insured by the Federal Deposit Insurance Corporation. The provisions of this section do not apply to a sale or transfer of bank assets pursuant to an agreement that was originally executed prior to the date of enactment of this section in the 2025 regular session of the Legislature, or to any subsequent amendment or modification to

such agreement. This section does not limit the authority of the Board or the Commissioner provided by the provisions of §31A-8A-1 *et seq.*, §31A-8D-1 *et seq., and* §31A-8E-1 *et seq.* of this code.

(b) An interested person, including a bank or bank holding company authorized to do business in this state, may seek to enforce the provisions of this section by applying for equitable relief, including, but not limited to, a permanent or temporary injunction, or restraining order, in any court of competent jurisdiction.

CHAPTER 42

(Com. Sub. for H. B. 3144 - By Delegates Linville, Akers, Holstein, J. Cannon, Hanshaw (Mr. Speaker), and Kump)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new chapter, designated §31J-1-1, §31J-1-2, §31J-1-3, §31J-1-4, §31J-1-5, and §31J-1-6, all relating to wireless tower facilities and infrastructure; providing for conditions of permitting and applications for siting and colocation of wireless tower facilities and equipment; providing definitions; clarifying the timing and conditions to act on siting applications; clarifying the timing and conditions to act on wireless facilities and equipment modifications; establishing process and procedures for review of applications for siting and modifications; creating civil penalties; codifying the adoption of a construction code to be applicable to wireless infrastructure; providing for remedies; providing for and defining fees for applications; providing conflict of law provisions; and preserving state preemption.

Be it enacted by the Legislature of West Virginia:

CHAPTER 31J. WIRELESS TOWER FACILITIES.

ARTICLE 1. WIRELESS TOWER FACILITIES SITING AND COLOCATION.

§31J-1-1. Definitions.

Terms used in this article have the following meanings:

"Action" or "to act" on a siting application means the reviewing authority's grant of a siting application or issuance of a written decision denying a siting application.

"Antenna" means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation for the provision of personal wireless service and any commingled information services.

"Antenna equipment" means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when colocated on a structure, is mounted or installed at the same time as such antenna.

"Antenna facility" means an antenna and associated antenna equipment.

"Applicant" means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

"Authorization" means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

"Colocation" means:

(1) Mounting or installing an antenna, or an antenna and associated equipment, on a pre-existing structure; and/or

(2) Modifying a structure for the purpose of mounting or installing an antenna, or an antenna and associated equipment, on that structure.

"Deployment" means placement, construction, or modification of a personal wireless service facility.

"Facility" or "personal wireless service facility" means an antenna facility or a structure that is used for the provision of

personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

"Siting application" or "application" means a written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specified location.

"Structure" means a pole, tower, base station, or other building that is supporting or is capable of supporting broadband facilities or wireless service facilities, whether or not it is currently supporting a broadband facility or wireless service facility.

§31J-1-2. Timing to act on siting applications.

(a) *Timely action required*. If the reviewing authority fails to act on a siting application on or before the shot clock date for the application, as defined in subsection (e) of this section, it is presumed not to have acted within a reasonable period of time.

(b*) Shot clock period*. The shot clock period for a siting application is the sum of:

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to §31J-1-2(c) plus

(2) The number of days of the tolling period, if any, pursuant to subsection (d) of this section.

(c) *Presumptively reasonable periods of time*:

(1) *Review periods for individual applications*. The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments of facilities subject to this section:

(A) Review of an application to colocate a facility using an existing structure: 90 days.

(B) Review of an application to deploy a facility using a new structure: 150 days.

(2) *Commencement of Review Period*. An applicant has submitted a request for approval that triggers the running of the timeframe for review in §31J-1-2(c):

(1) when it takes the first procedural step that the local government requires as part of its applicable regulatory review process, and, to the extent it has not done so as part of the first required procedural step, or

(2) the applicant submits written documentation showing that a proposed modification is an eligible facilities request.

The reviewing authority may not define the first procedural step as a combination or sequencing of steps, rather than a single step.

(d) *Tolling period*. Unless a written agreement between the applicant and the reviewing authority provides otherwise, the tolling period for an application (if any) is as set forth herein.

(1) For initial applications, the tolling period shall be the number of days from:

(A) The day after the date when the reviewing authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until

(B) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(C) But only if the notice pursuant to §31J-1-2(d)(2)(A) is effectuated on or before the 30th day after the date when the application was submitted; or

(2) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from:

(A) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under §31J-1-2(d); until

(B) The date when the applicant submits all the documents and information identified by the reviewing authority to render the application complete;

(C) But only if the notice pursuant to paragraph §31J-1-2(d)(2)(A) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under §31J-1-2(d) of this section.

(e) *Shot clock date*. The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to §31J-1-2(b) and including any pre-application period asserted by the siting authority: *Provided,* That if the date calculated in this manner is a legal holiday under either federal or state law, the shot clock date is the next business day after such date. The term "business day" means any day that is not a weekend day or a legal holiday as defined by the State of West Virginia.

(f) *Failure to act*. In the event the reviewing authority fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(g) *Fees for applications*. A reviewing authority may not impose on an applicant fees or charges that exceed the one-time non-recurring reasonable costs actually incurred by the reviewing authority to review the application.

§31J-1-3. Wireless facility modifications.

(a) *Definitions*. Terms used in this section have the following meanings.

"Base station" means a structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

(A) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(B) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(C) The term includes any structure other than a tower that, at the time the relevant application is filed with the state or local government under this section, supports or houses equipment defined as base stations and transmission equipment that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(D) The term does not include any structure that, at the time the relevant application is filed with the state or local government under this section, does not support or house equipment defined as base stations and transmission equipment.

"Concealment element" means elements of a stealth-designed facility intended to make the facility look like something other than a telecommunications tower. There must be express evidence in the record to demonstrate that the reviewing authority considered in its approval of the original facility for wireless service that a stealth design would look like something other than a facility for wireless service, such as a pine tree, flag pole, or chimney.

"Colocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

"Eligible facilities request" means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

(A) Colocation of new transmission equipment;

(B) Removal of transmission equipment; or

(C) Replacement of transmission equipment.

"Eligible support structure" means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the state or local government under this section.

"Existing" means a constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

"Site" means for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further

restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the adoption of this Act.

"Substantial change" means a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(A) For towers, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, and where separation from the nearest existing antenna means the distance from the top of the highest existing antenna on the tower to the bottom of the proposed new antenna to be deployed above it; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(i) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station.

(ii) For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves

installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment: *Provided however,* That this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 47 C.F.R. § 1.40001(b)(7)(i) through (iv).

"Transmission equipment" means equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

"Tower" means any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well

as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(b) *Review of applications*. A state or local government may not deny and shall approve an application for a modification of an existing wireless service facility if:

(1) The request modification would not substantially change the physical dimensions of the wireless service facility;

(2) The requested modification involves:

(A) Colocation of new transmission equipment;

(B) Removal of transmission equipment; or

(C) Replacement of transmission equipment; and

(3) The request meets the requirements of this section.

(c) *Documentation requirement for review*. When an applicant asserts in writing that a request for modification is covered by this section, the reviewing authority may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. The reviewing authority may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

(d) *Fees for applications*. A reviewing authority may not impose on an applicant fees or charges that exceed the one-time non-recurring reasonable costs actually incurred by the reviewing authority to review the application.

(e) *Timeframe for review*. Within 60 days of the date on which an applicant submits a request seeking approval under this section, the reviewing authority shall approve the application unless it determines that the application is not covered by this section.

(f) *Tolling of the timeframe for review*. The 60-day period begins to run when the application is filed and may be tolled only by mutual agreement or in cases where the reviewing state or local government determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.

(1) To toll the timeframe for incompleteness, the reviewing state or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under §31J-1-3(c).

(2) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the state or local government's notice of incompleteness.

(3) Following a supplemental submission, the state or local government will have 10 days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in §31J-1-3(e). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(g) *Failure to act*. In the event the reviewing authority fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

§31J-1-4. Construction code.

The state adopts and incorporates by reference the current TIA 222 Standard of the International Building Code, as amended, as the applicable wireless infrastructure construction code.

§31J-1-5. Remedies.

Applicants and reviewing authorities may bring claims related to this Chapter to any court of competent jurisdiction.

§31J-1-6. Prior law, interpretations, preemption preserved.

Nothing herein shall be interpreted to change or otherwise impact the application of this state's existing West Virginia Small Wireless Facilities Development Act, being §31H-1-1 *et seq.* of this code; the Vertical Real Estate Management and Availability Act, being §31G-5-1 *et seq.* of this code; or the state's existing Preemption of Conflicting Local Ordinances and Private Restrictions statute, being §31G-6-1 *et seq.* of this code.

CHAPTER 43

(S. B. 747 - By Senators Smith (Mr. President) and Woelfel)

[By Request of the Executive]

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §30-40-17 of the Code of West Virginia, 1931, as amended, relating to the Real Estate License Act; and creating an exception to the requirement that a real estate broker maintain a definite place of business within the state for nonresidents who maintain a definite place of business in their jurisdiction of residence.

Be it enacted by the Legislature of West Virginia:

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

§30-40-17. Place of business; branch offices; display of certificates; custody of license certificates; change of address; change of employer by a salesperson or associate broker; license certificates; term of license.

(a) Every person holding a broker's license under the provisions of this article shall:

(1) Have and maintain a definite place of business within this state, which shall be a room or rooms used for the transaction of real estate business and any allied business. The definite place of business shall be designated in the license certificate issued by the commission and the broker may not transact business at any other location within this state, unless such other location is properly licensed by the commission as a branch office: *Provided*, That a

nonresident broker who maintains a definite place of business in his or her jurisdiction of residence may not be required to maintain an office in this state;

(2) Conspicuously display his or her branch office license in each branch office;

(3) Make application to the commission before changing the address of any office or within 10 days after any change;

(4) Maintain in his or her custody and control the license of each associate broker and salesperson affiliated with him or her; and

(5) Promptly return the license of any associate broker or salesperson whose affiliation with the broker is terminated.

(b) Every person holding an associate broker's or salesperson's license under the provisions of this article shall:

(1) Conduct real estate brokerage activities only under the direct supervision and control of his or her affiliated broker, which shall be designated in the license certificate; and

(2) Promptly make application to the commission of any change of employing broker: *Provided*, That it shall be unlawful to perform any act contained in this article, either directly or indirectly, after affiliation has been terminated until the associate broker or salesperson has made application to the commission for a change of affiliated broker and the application is approved.

(c) The commission shall issue a license certificate which shall:

(1) Be in such form and size as shall be prescribed by the commission;

(2) Display the seal of the commission and shall contain such other information as the commission may prescribe: *Provided*, That a salesperson's and an associate broker's license shall show the name of the broker by whom he or she is affiliated;

(3) If an active licensee, be mailed or delivered to the broker's main office address;

(4) If an inactive licensee, be held in the commission office; and

(5) Be valid for a period that coincides with the fiscal year beginning on July 1 and ending on June 30.

CHAPTER 44

(Com. Sub. for H. B. 2451 - By Delegates Hornby, Horst, Chiarelli, Willis, Kyle, Green, Brooks, Crouse, and Maynor)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-40-1, §8-40-2, §8-40-3, §8-40-4, and §8-40-5; to further amend the code, by adding thereto to a new article designated §8-41-1 and §8-41-2 and to amend and reenact §8-13-4, §8-13-5, and §11-12-3 relating to small businesses; exempting independent contractors and sole proprietors from business licenses under certain requirements; establishing an amount of annual gross revenue for businesses to be exempt from business and occupation taxes and privilege taxes; facilitating the creation of home based businesses; providing for definitions; providing for permitted use; providing for reasonable regulations; providing for limited conditions; providing for review; providing for the amount of income before a business has to obtain a business license; creating the Small Business Protection Act; providing intent and legislative findings; and providing a short title.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-4. Municipal license and tax thereon when state license required.

(a) Whenever anything, for which a state license is required, is to be done within the corporate limits of any municipality, the governing body shall have plenary power and authority, unless prohibited by general law, to require a municipal license and for the use of the municipality to impose a reasonable tax which may not exceed the amount of the state license tax. Upon proper application for a municipal license and payment of the prescribed reasonable tax by any person who has a valid and subsisting state license, the municipal license shall be issued.

(b) Except where a business license tax or fee has been established by the West Virginia Code, the governing body of a municipality may, in lieu of the provisions of subsection (a), enact an ordinance creating an annual general municipal business license for anything which requires a state license that is done within the corporate limits of a municipality, the tax for which may not exceed 20 dollars.

(c) Notwithstanding any other provision of law to the contrary, no municipal license shall be required for an independent contractor or sole proprietor who earns less than $2,500 in annual gross revenue and who does not maintain a permanent physical location within the municipality's city limits.

§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.

(a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et seq.* of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling,

maintenance, modification, and refurbishing services to any aircraft, or to an engine or other component part of any aircraft as a separate business activity.

(b) *Maximum tax rates.* — In no case shall the rate of the municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, §11-13-2b, §11-13-2c, §11-13-2d, §11-13-2e, §11-13-2g, §11-13-2h, §11-13-2i, and §11-13-2j of this code, as those rates were in effect under §11-13-1 *et seq.* of this code, on January 1, 1959, or in excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of §33-25A-1 *et seq.* of this code, shall not exceed one-half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq.* of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency, and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any company maintains its office or offices in this state, whether the income is in the form of rentals or royalties. This provision concerning the maximum

municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for calendar year 1997 is not subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under §11-13-2e of this code, applies only to gross income derived from contracts entered into after the effective date of the imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least 60 days prior to the effective date of said tax or revision thereof.

(d) *Exemptions*. —

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association, or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of 1986, as amended.

(2) A municipality shall not impose its business and occupation or privilege tax on any business with a gross revenue below $2,500 annually.

(3) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by 50 percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the remaining municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50 percent of the total amount of the tax: *Provided, however*, That July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this section, an automobile is a self-propelled vehicle used on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) *Activity in two or more municipalities.* — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with legislative rules as prescribed by the Tax Commissioner. It is the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state

in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, the governing body may offer tax credits from the tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) *Administrative provisions.* — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of the tax, which shall be similar to those procedures in §11-13-1 *et seq.* of this code, as in existence on June 30, 1978, or to those procedures in §11-10-1 *et seq.* of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

(h) *Timely payment.* — Payments for taxes due under this section that are postmarked after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

(i) Any third-party vendors who contract with a city or municipality to collect business and occupation taxes authorized by this section on behalf of a municipality may not charge for their services more than 20% of the amount of taxes collected.

ARTICLE 40. HOME BASED BUSINESSES.

§8-40-1. Definitions.

(a) "Goods" means any merchandise, equipment, products, supplies, or materials.

(b) "Home-based business" means any business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of a residential dwelling

where the commercial activity takes place inside a residential dwelling and the commercial activities:

(1) Are limited to the sale of lawful goods and services;

(2) Do not generate on-street parking or a substantial increase in traffic through the residential area; and

(3) Do not have signage visible from the street.

§8-40-2. Permitted use.

(a) The use of a residential dwelling for a home-based business is a permitted use, except that this permission does not supersede or abrogate any of the following:

(1) Any deed restriction, covenant, or agreement restricting the use of land; or

(2) Any deed, by-law, or other document applicable to a common interest ownership community.

§8-40-3. Reasonable regulations.

(a) A municipality may establish reasonable regulations on a home-based business where the regulation is rationally related to a legitimate government interest including, but not limited to, any of the following purposes:

(1) The protection of the public health and safety, as defined in this code, including rules and regulations related to fire and building codes, health and sanitation, transportation, or traffic control, solid or hazardous waste, pollution, and noise control.

(2) Ensuring that the business activity is:

(A) Compatible with residential use of the property and surrounding residential use;

(B) Secondary to the use as a residential dwelling; or

(C) Complying with state and federal law and paying applicable taxes.

(3) Limiting or prohibiting the use of a home-based business that engages in any of the following activities:

(A) Selling illegal drugs or products containing alcohol or tobacco;

(B) Operating a sober living home;

(C) Selling pornography or otherwise obscene material;

(D) Operating a vape shop; or

(E) Operating a commercial establishment where nude or topless dancing occurs.

§8-40-4. Limited conditions.

(a) A municipality shall not require a person as a condition of operating a home-based business to:

(1) Rezone the property for commercial use;

(2) Install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units; or

(3) Obtain a license or permit that is not otherwise required for a similarly situated business.

§8-40-5. Review.

In any proceeding alleging that a municipal regulation violates §8-40-3 or §8-40-4 of this code, the municipality that enacted the regulation shall be required to establish that the regulation complies with the provisions of this article.

ARTICLE 41. SMALL BUSINESS PROTECTION ACT.

§8-41-1. Short title.

This article may be cited as the Small Business Protection Act.

§8-41-2. Intent and legislative findings.

(a) It is the legislative intent and purpose of the Small Business Protection Act to improve state rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses.

(b) The legislature finds that:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy. Increased hiring in West Virginia's small businesses creates higher wages and better outcomes for West Virginia's citizens and families;

(2) Small businesses bear a disproportionate share of regulatory costs and burdens. Increased regulatory costs decrease the amount of capital that small businesses have to create new jobs;

(3) Fundamental changes that are needed in the regulatory and enforcement culture of state agencies to make them more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) When adopting rules to protect the health, safety, and economic welfare of West Virginia, state agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on small employers;

(5) Uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs upon small businesses with limited resources;

(6) The failure to recognize differences in the scale and resources of regulated businesses can adversely affect competition in the marketplace, discourage innovation, and restrict improvements in productivity;

(7) Unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;

(8) The practice of treating all regulated businesses as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation;

(9) Alternative regulatory approaches which do not conflict with the stated objective of applicable statutes may be available to minimize the significant economic impact of rules on small businesses;

(10) Prior to the adoption of regulations, the process by which state regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, to examine the impact of proposed and existing rules on such businesses, and to review the continued need for existing rules;

(11) Regulations affect small businesses differently than their larger counterparts. According to the United States Small Business Administration, evidence indicates that regulatory requirements at the federal and state level tend to create disproportionately heavier burdens for small businesses, putting them at a disadvantage relative to their larger competitors. Reasons that small businesses are at a disadvantage include the following:

(A) The cost of regulations is higher relative to available resources. The cost of regulations per employee is higher for businesses with fewer employees; and

(B) The cost per employee for the smallest businesses is typically one or more times greater than the equivalent cost for the largest businesses.

(12) Making small businesses aware of proposed state regulations prior to implementation is key to creating an effective partnership between state agencies and small businesses.

(c) Nothing in the Small Business Protection Act shall be interpreted or construed to limit the ability of an agency to propose rules.

CHAPTER 11. TAXATION.

ARTICLE 12. BUSINESS REGISTRATION TAX.

§11-12-3. Business registration certificate required; tax levied; exemption from registration; exemption from tax; penalty.

(a) *Registration required.* — No person shall, without a business registration certificate, engage in or prosecute, in the State of West Virginia, any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia. Additionally, before beginning business in this state, such person:

(1) If a transient vendor, shall comply with the provisions of sections 20 through 25 of this article.

(2) If a collection agency, shall comply with the provisions of §47-16-1 *et seq.* of this code.

(3) If an employment agency, shall comply with the provisions of §21-2-1 *et seq.* of this code.

(4) If selling drug paraphernalia, as defined in §47-19-3 of this code, shall comply with the provisions of §47-19-1 *et seq.* of this code.

Persons engaging in or prosecuting other business activities in this state may also be subject to other provisions of this code which they must satisfy before commencing or while engaging in a business activity in this state.

(b) *Tax levied.* — The business registration tax hereby levied shall be $15 for each annual business registration certificate: *Provided,* That for registration periods beginning on or after July 1, 1999, the business registration tax shall be $30, except as otherwise provided in this article: *Provided, however,* That after

June 30, 2010, the business registration tax shall be $30.00 for each business registration certificate, including business registration certificates granted upon application after cessation of a business, or after suspension, revocation, cancellation or lapse of a prior business registration certificate.

(1) A separate business registration certificate is required for each fixed business location from which property or services are offered for sale or lease to the public as a class, or to a limited portion of the public; or at which customer accounts may be opened, closed or serviced.

(2) A separate business registration certificate is not required for each coin-operated machine. A separate certificate is required for each location from which making coin-operated machines available to the public is itself a business activity.

(3) A business that sells tangible personal property or services from or out of one or more vehicles needs a separate business registration certificate for each fixed location in this state from or out of which business is conducted. A copy of its business registration certificate shall be carried in each vehicle and publicly displayed while business is conducted from or out of the vehicle.

(4) A business registration certificate is required by subsection (a) of this section for every person engaging in purposeful revenue generating activity in this state. If that activity is one for which an employment agency license or a collection agency license or a license to sell drug paraphernalia is required and no other business activity is conducted by that person at each business location for which the employment agency license or collection agency license or license to sell drug paraphernalia is issued, then only that license is required for each such activity conducted by the licensee at each business location. However, if, in addition to the activity for which each license is issued, some other business activity is conducted by the licensee at such business location, a separate business registration certificate is required to conduct the nonlicensed activity.

(c) *Exemption from registration.* — Any person engaging in or prosecuting business activity in this state:

(1) Who is not required by law to collect or withhold a tax administered under article ten of this chapter; and

(2) Who does not claim exemption from payment of taxes imposed by articles fifteen and fifteen-a of this chapter, shall be exempt from both registration and payment of the tax imposed by this article, if such person had gross income from business activity of $4,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is otherwise required by this article.

(d) *Exemptions from payment of tax.* — Any person engaging in or prosecuting any business activity in this state who is required by law to collect or withhold any tax administered under article ten of this chapter; or who claims exemption from payment of the taxes imposed by articles fifteen and fifteen-a of this chapter, shall be required to obtain a business registration certificate, as herein before provided, but shall be exempt from payment of the tax levied by subsection (b) of this section, if such person is:

(1) A person who had gross income of $10,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is required under this article.

(2) An organization which qualifies, or would qualify, for exemption from federal income taxes under section 501 of the Internal Revenue Code of 1986, as amended.

(3) This state, or a political subdivision thereof, selling tangible personal property, admissions or services, when those activities compete with or may compete with the activities of another person.

(4) The United States, or an agency or instrumentality thereof, which is exempt from taxation by the states.

(5) A person engaged in the business of agriculture and farming: *Provided,* That no producer or grower selling products of

the farm, garden or dairy and not included within the definition of business under subsection (a), section two of this article shall be required to obtain a business registration certificate or pay the business registration tax.

(6) A foreign retailer who is not a "retailer engaging in business in this state" as defined in section one, article fifteen-a of this chapter, who enters into an agreement with the Tax Commissioner to voluntarily collect and remit use tax on sales to West Virginia customers.

(e) *Money penalty.* — Any person required to obtain a business registration certificate under this section, who is exempt from payment of the tax, as provided in subsection (d) of this section, who does not obtain a registration certificate shall, in lieu of paying the penalty imposed by section nine of this article, pay a penalty of $15 for each business location for which a certificate is needed: *Provided,* That application for business registration is made and the applicable money penalty tendered to the Tax Commissioner within 15 days after such person receives written notice from the Tax Commissioner that such person is required to obtain a business registration certificate.

CHAPTER 45

(S. B. 257 - By Senator Grady)

[Passed April 9, 2025; in effect 90 days from passage (July 8, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §37-13A-1 of the Code of West Virginia, 1931, as amended, relating to protecting landowners who allow others to access cemeteries from their private property or roadway; and ensuring that those persons who damage private property are solely responsible for any costs of repair associated therein.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. GRAVES LOCATED UPON PRIVATELY OWNED LANDS.

§37-13A-1. Access of certain persons to cemeteries and graves located on private land; limiting liability of landowners.

(a) Any authorized person who wishes to visit a cemetery or grave site located on privately owned land and for which no public ingress or egress is available, shall have the right to reasonable ingress or egress for the purposes described in subsection (c) of this section after providing the owner of the privately owned land with reasonable notice as defined in subsection (b) of this section.

(b) An authorized person intending to visit the cemetery or grave site for the purpose of installing a monument or grave marker pursuant to subdivision (2), subsection (c) of this section, shall give reasonable notice to the property owner which is to include a description of the monument or grave marker to be installed. As used in this article, "reasonable notice" means written notice of the date and time the authorized person intends to visit the cemetery or

grave site delivered to the property owner at least 10 days prior to the date of the intended visit.

(c) The right of access to cemeteries or grave sites provided in subsection (a) of this section shall be during reasonable hours and only for the purposes of:

(1) Visiting graves;

(2) Maintaining the grave site or cemetery, including the installation of a monument or a grave marker: *Provided,* That a property owner may deny access to the cemetery or grave site because the owner objects to the installation of the type or style of the monument or grave marker that has been described in the notice given pursuant to subsection (b) of this section;

(3) Burying a deceased person in a cemetery plot by those granted rights of burial to that plot; and

(4) Conducting genealogy research.

(d)(1) The access route to the cemetery or grave site may be designated by the landowner if no traditional access route is obviously visible by a view of the property. If no traditional access route is obviously visible by a view of the property, the landowner is not required to incur any expense in improving a designated access route.

(2) Unless the property owner has caused a traditional access route to the cemetery or grave site to be unusable or unavailable, the property owner is not required to make any improvements to their property to satisfy the requirement of providing reasonable ingress and egress to a cemetery or burial site pursuant to this section.

(e) A property owner who is required to permit authorized persons reasonable ingress and egress for the purpose of visiting a cemetery or grave site and who acts in good faith and in a reasonable manner pursuant to this section is not liable for any personal injury or property damage that occurs in connection with the access to the cemetery or grave site.

(f) Nothing in this section shall be construed to limit or modify the power or authority of a court in any action of law or equity to order the disinterment and removal of the remains from a cemetery and interment in a suitable location.

(g) A private property owner shall not be held liable for any damage to a cemetery on their property when that damage is caused by individuals conducting familial or social visitations to the cemetery: *Provided,* That this limitation on liability shall not apply if the person conducting the visitation is an agent of the private property owner. Individuals conducting familial and social visitations to a cemetery contemplated by this section are liable for any damage they cause.

CHAPTER 46

(Com. Sub. for S. B. 8 - By Senators Thorne, Woodrum, Helton, Rucker, Rose, Deeds, Chapman, and Grady)

[Passed March 19, 2025; in effect 90 days from passage (June 17, 2025)]
[Approved by the Governor on March 26, 2025.]

AN ACT to amend and reenact §49-4-201 and §49-4-206 of the Code of West Virginia, 1931, as amended, relating to expanding the places that can be designated a safe surrender site to include emergency medical service facilities, police departments, 911 call centers, or sheriff's detachments, relating to allowing emergency medical service facilities, police departments, 911 call centers, or sheriff's detachments that take possession of a child to perform any act necessary to protect the physical health or safety of the child, relating to permitting the installation of newborn safety devices at emergency medical service facilities, police departments, 911 call centers, or sheriff's detachments that have been designated as safe-surrender sites; and providing conditions for the same.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-201. Accepting possession of certain relinquished children.

(a) A hospital or health care facility operating in this state, or a fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that has been designated a safe-surrender site under §49-4-206 of this code, shall, without a court order, take possession of a child if the child is voluntarily delivered to the hospital, health care facility, fire department, emergency medical service facility, police department,

911 call center, or sheriff's detachment by the child's parent within 30 days of the child's birth, and the parent did not express an intent to return for the child.

(b) A hospital, health care facility, fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that takes possession of a child under this article shall perform any act necessary to protect the physical health or safety of the child. In accepting possession of the child, the hospital, health care facility, fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment may not require the person to identify himself or herself and shall otherwise respect the person's desire to remain anonymous.

(c) Hospitals, health care facilities, fire departments, emergency medical service facilities, police departments, 911 call center, and sheriff's detachments designated as safe-surrender sites under §49-4-206 of this code may install and operate newborn safety devices as defined in this section.

(d) "Newborn safety device" means a device:

(1) Designed to permit a person to anonymously place a child under 30 days of age in the device with the intent to leave the child, and for a licensed emergency medical services provider to remove the child from the device and take custody of him or her;

(2) Equipped with an adequate dual alarm system connected to the physical location where the device is physically installed. The dual alarm system shall:

(A) Be tested at least one time per week to ensure the alarm system is in working order;

(B) Be visually checked at least two times per day to ensure the alarm system is in working order;

(C) Notify a centralized location in the facility within 30 seconds of a child being placed in the device; and

(D) Trigger a 911 call if staff at the facility do not respond within 15 minutes after a child is placed in the device.

(3) Be approved by and physically located, with outside access, at a participating hospital or medical facility, or a fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that has been designated a safe-surrender site under §49-4-206 of this code that:

(A) Is licensed or otherwise legally operating in this state; and

(B) Is staffed continuously on a 24-hour basis every day by a licensed emergency medical services provider; and

(4) Is located in an area that is conspicuous and visible to a hospital, a medical facility, or a fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment.

(e) A person who relinquishes a child in a newborn safety device may remain anonymous and shall not be pursued, and the relinquishment of a child pursuant to the provisions of this section shall not, in and of itself, be considered child abuse and neglect as that term is defined in §49-1-201 of this code.

(f) Any emergency medical services provider who physically retrieves a child from a newborn safety device shall immediately arrange for the child to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(g) By placing a child in a newborn safety device, the person:

(1) Waives the right to notification required by subsequent court proceedings; and

(2) Waives legal standing to make a claim of action against any person who accepts physical custody of the child.

(h) An emergency medical services provider with the duty granted in this article whose actions are taken in good faith is

immune from criminal or civil liability, unless his or her actions were the result of gross negligence or willful misconduct. The grant of immunity in this section extends to all employees and administrators of the emergency medical services provider.

(i) The provisions of subsection (e) of this section shall not apply when indicators of child physical abuse or child neglect are present.

§49-4-206. Designation of local fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment as a safe-surrender site; posting requirement.

The governing entity of a local fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that is staffed 24 hours a day, seven days a week, may designate the premises of its fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment as a safe-surrender site to accept physical custody of a child who is 30 days old or younger from a parent of the child and who surrenders the child pursuant to §49-4-201 of this code. A local fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that is designated a safe-surrender site shall post a sign that notifies the public that it is a location where a child 30 days old or younger may be safely surrendered pursuant to this article.

CHAPTER 47

(Com. Sub. for S. B. 199 - By Senators Grady, Thorne, Willis, and Deeds)

[Passed April 3, 2025; in effect 90 days from passage (July 2, 2025)]
[Approved by the Governor on April 15, 2025.]

AN ACT to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating to addressing student behavior issues; modifying provisions pertaining to student disorderly conduct, interference with an orderly educational process, obstruction of the teaching or learning process of others, threat, abuse, intimidation, attempted intimidation, willful disobedience of a school employee, or abusive or profane language directed at a school employee; adding partnering with a licensed behavioral health agency as any option for county boards to use to correct student behaviors; requiring students in alternative learning centers, in alternative placements, or with a licensed behavioral health agency to meet regularly with a school social worker, behavior specialist, board certified behavior analyst, school psychologist, or other qualified employee with expertise in the behavioral area to address certain behavioral and mental health concerns and to assist in developing a transition plan back to the classroom and with that transition; clarifying that nothing herein may be construed to conflict with certain federal laws; requiring that county board discipline action policies provide that school social workers, behavior specialists, board certified behavior analysts, school psychologists, and other qualified employees with expertise in the behavioral area provide the training of school personnel in alternatives to discipline practices; defining terms; specifying protocol for when a grade kindergarten through six teacher, or a pre-K teacher at a publicly funded pre-K facility, in an elementary setting

determines that the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or impedes on the other students' ability to learn in a safe environment; specifying protocol for when a county board does not have access to a behavioral intervention program; requiring State Board of Education rule which adopts a statewide disciplinary policy; and allowing school counselors, school social workers, or school psychologists to provide behavioral support.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(a) The teacher shall stand in the place of the parent(s), guardian(s), or custodian(s) in exercising authority over the school and has control of all students enrolled in the school from the time they reach the school until they have returned to their respective homes, except where transportation of students is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the students while they are in transit to and from the school.

(b) Subject to the rules of the state board, the teacher shall exclude from the school any student known to have, or who is suspected of having, any infectious disease, or any student who has been exposed to any infectious disease and shall immediately notify the proper health officer or medical inspector of the exclusion. Any student so excluded may not be readmitted to the school until he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.

(c) This subsection is subject to the requirements of subsections (j) through (p) of this section. The teacher may exclude from his or

her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses, or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only after a school counselor, school social worker, school psychologist, or behavior interventionist develops a behavioral plan for re-entry to the classroom for the student and when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher, school counselor, or school social worker, and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, a school social worker, behavior specialist, board certified behavior analyst, school psychologist, or other qualified employee with expertise in the behavioral area establishes and implements a behavioral plan, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers or licensed behavioral health agencies may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers, expand its capacity for alternative placements, or partner with a licensed behavioral health

agency, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior. Students in alternative learning centers, in alternative placements, or with a licensed behavioral health agency shall meet regularly with a school social worker, behavior specialist, board certified behavior analyst, school psychologist, or other qualified employee with expertise in the behavioral area to address the behavioral and mental health concerns associated with the referral to the alternative learning center and to assist in developing a transition plan back to the classroom and assist with that transition.

(d) Notwithstanding anything in this section to the contrary, nothing herein may be construed to conflict with or be applied to conflict with the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq.* or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

(e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time, or alternative class settings.

(f) Corporal punishment of any student by a school employee is prohibited.

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to discipline practices, provide for the training of school personnel by school social workers, behavior specialists, board certified behavior analysts, school psychologists, and other qualified employees with expertise in the behavioral area in alternatives to discipline practices, and provide for encouraging the involvement of parent(s), guardian(s), or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances,

each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the state board. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs or behavior intervention programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decisionmaking for students, and any other program related to preventive discipline.

(h) For the purpose of this section:

"Principal" means the principal, assistant principal, vice principal, or the administrative head of the school, or a professional personnel designee of the principal or the administrative head of the school.

“School counselor” has the same meaning as provided for in §18-5-18b.

"School social worker" has the same meaning as "social worker" as provided for in §18-1-1.

"School psychologist" has the same meaning as "licensed school psychologist" as provided for in §30-21-2.

"Student" includes any child, youth, or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of, or in connection with, any program under public school direction: *Provided*, That, in the case of adults, the student–teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

"Teacher" means all professional educators as defined in §18A-1-1 of this code and includes the driver of a school bus or other mode of transportation.

(i) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and Chapter 18 of this code.

(j) When a grade kindergarten through six teacher in an elementary setting, or pre-K teacher at a publicly funded pre-K facility, determines that the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or impedes on other students' ability to learn in a safe environment, the student shall be referred to the school counselor, school social worker, school psychologist, or behavior interventionist who shall conduct a functional behavioral assessment to assess underlying causes of the student's behavior. The school counselor, school social worker, school psychologist, or behavior interventionist shall prioritize and use evidence-based interventions and supports to establish a behavioral plan for the student. The behavioral plan shall be followed for a period of two weeks. After that, a re-evaluation of the student's behavior shall be conducted and if adequate progress is being made, the behavioral plan shall continue. If the evaluation does not show adequate progress, the principal, teacher, and school counselor, school social worker, school psychologist, or behavior interventionist shall

determine whether the plan needs to be changed. If the plan is amended and, after another period of two weeks, the student still has not shown adequate progress then the student shall be placed in a behavioral intervention program or with a licensed behavioral health agency the county has established, has partnered with another county board to establish, or has gained access to for its students through an agreement with another county board for the purpose of addressing such behaviors.

(k) "Violent, threatening, or intimidating" behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. Violent, threatening, or intimidating behaviors are further defined as those actions causing or intending to cause physical harm to the teacher, principal, school service personnel, or the students in the classroom setting.

(l) If the county board has not established, partnered with another county board to establish, or gained access through an agreement with another county board to a behavioral intervention program:

(1) The student shall be removed from the classroom immediately after the incident and removed from the presence of other students for the remainder of the school day;

(2) The parents shall be notified and shall pick the student up from school preferably immediately, but by the end of the day at the latest, upon which the student shall be considered suspended from school;

(3) If a student has to ride the bus home, that student shall ride the bus under the supervision of a principal, vice principal, or an individual designated by the principal to ensure the safety of the student, the bus driver, and other students on the bus;

(4) The student shall continue to be suspended for the next one to three school days while alternative learning accommodations are made;

(5) The student may be evaluated under Child Find and may be referred for a functional behavior analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq.*: *Provided*, That the student shall be referred to the student assistance team (SAT), 504 team, or IEP team at that school – whichever is most appropriate for that student – for an immediate intervention, or manifestation if the student has an IEP;

(6) The student shall receive his or her education through the alternative learning accommodations and may not return to school until a risk assessment is done;

(7) After the risk assessment, the student's return to school shall be on a provisional basis for a period of five to 10 days. If another incident as described in this subsection occurs within that time frame, or repeated instances occur following the time frame, the student shall be subject to the provisions of §18A-5-1a for purposes of expulsion: *Provided*, That the expulsion shall not continue through two continuous semesters: *Provided further*, That the teacher may come to the expulsion hearing in instances where a student shows violent, threatening, or intimidating behavior;

(8) If the virtual school option is the agreed upon method of alternative education, then the student can begin the program at such time the decision is made; and

(9) Whether a student's behavior falls under the requirements of this subsection and whether the student is to be placed in an alternative learning environment for the remainder of the semester or school year pursuant to subdivision (6) of this subsection shall be at the discretion of the student's classroom teacher and principal or vice principal. If the principal or vice principal disagree with the actions of the teacher, the principal or vice principal may provide written documentation on their disagreement, the teacher may provide written documentation on their disagreement, and both the

principal/vice principal or the teacher may appeal to the county superintendent.

(m) When a grade six through 12 teacher, excluding an elementary school teacher, determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:

(1) The student may be excluded from that teacher's classroom and, if excluded, may not re-enter that teacher's classroom for at least the remainder of the instructional day; and

(2) If the student is excluded pursuant to subdivision (1) of this subsection:

(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;

(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System without any repercussion to the teacher; and

(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive, as determined by the principal, an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center or with a licensed behavioral health agency if one is available within the school district.

(n) For purposes of subsection (m) of this section, "disorderly or obstructive" behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(o) The State Board of Education shall promulgate a rule pursuant to §29A-3B-1 *et seq.* which adopts a statewide

disciplinary policy: *Provided*, That if a county or school in this state has a behavioral interventionist, they may apply for a waiver from the statewide disciplinary policy upon a showing of continued positive educational progress from the existing county or school disciplinary policy currently in effect. "Positive educational progress" is defined as data that demonstrates a decrease in violent, threatening, intimidating, disorderly, and obstructive behavior. Such positive educational progress shall also demonstrate that students are maintaining the necessary educational benchmarks otherwise provided for in this code.

(p) For purposes of this section, school counselors, school social workers, school psychologists, or behavior interventionists may provide behavioral support to ensure the effectiveness of this section.

CHAPTER 48

(Com. Sub. for S. B. 299 - By Senators Rose, Barrett, Rucker, Taylor, Bartlett, Thorne, Willis, and Hart)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §30-1-26, §30-3-20, and §30-14-17 of the Code of West Virginia, 1931, as amended; and to amend the code by adding two new sections, designated §30-3E-20 and §30-7-15f, relating to prohibiting certain medical practices; requiring proposed legislative rule regarding telehealth practice by a telehealth practitioner to include a prohibition on prescribing or dispensing gender altering medication; defining terms; removing an exemption to prohibited practices; providing for an effective date; providing that violations of certain prohibited practices require revocation of professional license of allopathic physicians, osteopathic, physician assistants, and advanced practice registered nurses; providing for various forms of relief for violations of this article; providing for an exemption from the requirement for a certificate of merit; providing for the Attorney General to bring an enforcement action; permitting intervention in proceedings; applying the prohibited practices to allopathic physicians, osteopathic, physician assistants, and advanced practice registered nurses; and providing effective dates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-26. Telehealth practice.

(a) For the purposes of this section:

"Abortifacient" means any chemical or drug prescribed or dispensed with the intent of causing an abortion.

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

"Gender altering medication" means the prescribing or administering of the following for the purpose of assisting an individual with a gender transition:

(1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking medication to stop or delay normal puberty; and

(2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would normally be produced endogenously in a healthy individual of the same age and sex.

“Health care practitioner” means a person authorized to practice under §30-3-1 *et seq*., §30-3E-1 *et seq*., §30-4-1 *et seq*., §30-5-1 *et seq*., §30-7-1 *et seq*., §30-7A-1 *et seq*., §30-8-1 *et seq*., §30-10-1 *et seq*., §30-14-1 *et seq*., §30-16-1 *et seq*., §30-20-1 *et seq*., §30-20A-1 *et seq*., §30-21-1 *et seq*., §30-23-1 *et seq*., §30-26-1 *et seq*., §30-28-1 *et seq*., §30-30-1 *et seq*., §30-31-1 *et seq*., §30-32-1 *et seq*., §30-34-1 *et seq*., §30-35-1 *et seq*., §30-36-1 *et seq*., §30-37-1 *et seq.* and any other person licensed under this chapter that provides health care services.

“Interstate telehealth services” means the provision of telehealth services to a patient located in West Virginia by a health care practitioner located in any other state or commonwealth of the United States.

"Registration" means an authorization to practice a health profession regulated by §30-1-1 *et seq.* of this code for the limited purpose of providing interstate telehealth services within the registrant's scope of practice.

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

(b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 *et seq.* of this code, shall propose an emergency rule for legislative approval in accordance with the provisions of §29A-3-15 *et seq.* of this code to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:

(1) The practice of the health care service occurs where the patient is located at the time the telehealth services are provided;

(2) The health care practitioner who practices telehealth shall be:

(A) Licensed in good standing in all states in which he or she is licensed and not currently under investigation or subject to an administrative complaint; and

(B) Registered as an interstate telehealth practitioner with the appropriate board in West Virginia;

(3) When the health care practitioner-patient relationship is established;

(4) The standard of care for the provision of telehealth services. The standard of care shall require that with respect to the established patient, the patient shall visit an in-person health care

practitioner within 12 months of using the initial telemedicine service or the telemedicine service shall no longer be available to the patient until an in-person visit is obtained. This requirement may be suspended, in the discretion of the health care practitioner, on a case-by-case basis, and it does not apply to the following services: Acute inpatient care, post-operative follow-up checks, behavioral medicine, addiction medicine, or palliative care;

(5) A prohibition of prescribing any controlled substance listed in Schedule II of the Uniform Controlled Substance Act, unless authorized by another section: *Provided*, That the prescribing limitations contained in this section do not apply to a physician or a member of the same group practice with an established patient;

(6) Establish the conduct of a registrant for which discipline may be imposed by the board of registration;

(7) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the interstate telehealth practitioner registered in the state;

(8) A reference to the board's discipline process;

(9) A prohibition of prescribing or dispensing an abortifacient; and

(10) A prohibition of prescribing or dispensing gender altering medication to a person who is under 18 years of age.

(c) A registration issued pursuant to the provisions of or the requirements of this section does not authorize a health care professional to practice from a physical location within this state without first obtaining appropriate licensure.

(d) By registering to provide interstate telehealth services to patients in this state, a health care practitioner is subject to:

(1) The laws regarding the profession in this state, including the state judicial system and all professional conduct rules and standards incorporated into the health care practitioner's practice act and the legislative rules of registering board; and

(2) The jurisdiction of the board with which he or she registers to provide interstate telehealth services, including such board's complaint, investigation, and hearing process.

(e) A health care professional who registers to provide interstate telehealth services pursuant to the provisions of or the requirements of this section shall immediately notify the board where he or she is registered in West Virginia and of any restrictions placed on the individual's license to practice in any state or jurisdiction.

(f) A person currently licensed in this state is not subject to registration but shall practice telehealth in accordance with the provisions of this section and the rules promulgated thereunder.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-20. Prohibited practice.

(a) For the purposes of this section:

"Gender" means the psychological, behavioral, social, and cultural aspects of being male or female.

"Gender altering medication" means the prescribing or administering of the following for the purpose of assisting an individual with a gender transition:

(1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking medication to stop or delay normal puberty; and

(2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would normally be produced endogenously in a healthy individual of the same age and sex.

"Gender reassignment surgery" means a surgical procedure performed for the purpose of assisting an individual with a gender transition, including any of the following:

(1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, hysterectomy, or ovariectomy;

(2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses; and

(3) Augmentation mammoplasty, subcutaneous mastectomy, or any plastic, cosmetic, or aesthetic surgery that feminizes or masculinizes the facial or other body features of an individual.

"Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to the person's sex to identifying with and living as a gender different from the person's sex and may involve social, legal, or physical changes.

"Sex" means the state of being either male or female as observed or clinically verified at birth. There are only two sexes, and every individual is either male or female: *Provided*, That individuals with congenital and medically verifiable "DSD conditions" (sometimes referred to as "differences in sex development", "disorders in sex development", or "intersex conditions") are not members of a third sex and must be accommodated consistent with state and federal law.

(b) A physician may not provide gender reassignment surgery or gender altering medication to a person who is under 18 years of age.

(c) A physician may provide any of the following to a person who is under 18 years of age:

(1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external sex characteristics that are irresolvably ambiguous, such as an individual born with 46 xx chromosomes with virilization, 46 xy chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in

which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not these procedures were performed in accordance with state and federal law; and

(4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed.

(d) The provisions of this section are effective on January 1, 2024. The amendments made to this article during the 2025 regular session of the Legislature are effective on August 1, 2025.

(e) If a physician provides either gender reassignment surgery or gender altering medication to a person who is under 18 years of age, the appropriate licensing board shall find the physician in violation of this section and shall immediately revoke the license of the physician.

(f) A person may assert an actual or threatened violation of this section as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, reasonable attorneys' fees, and any other appropriate relief. A person shall bring a claim for a violation of this section not later than two years after the day the cause of action accrues. A minor may bring an action before reaching 18 years of age through a parent or guardian and may bring an action in the minor's own name upon reaching 18 years of age at any time from that point until 20 years after. Inasmuch as the Legislature intends to make unlawful the provision of gender reassignment surgery or gender altering medication to a minor, it is the intent of the Legislature that this section be exempt from compliance with §55-7B-6 of this code.

(g) The Attorney General may bring an action to enforce compliance with this section. Nothing in this section shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the state, or any agency, officer, or employee of the state to institute or intervene in any proceeding.

(h) If any provision of this section, or the application thereof to any provision or circumstance, shall be held unconstitutional or otherwise invalid, such invalidity or unconstitutionality shall not affect the provisions or application of this section which can be given effect without the unconstitutional or invalid provisions of application, and to this end the provisions of this section are declared to be severable.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-20. Prohibited practice.

(a) For the purposes of this section:

"Gender" means the psychological, behavioral, social, and cultural aspects of being male or female.

"Gender altering medication" means the prescribing or administering of the following for the purpose of assisting an individual with a gender transition:

(1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking medication to stop or delay normal puberty; and

(2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would normally be produced endogenously in a healthy individual of the same age and sex.

"Gender reassignment surgery" means a surgical procedure performed for the purpose of assisting an individual with a gender transition, including any of the following:

(1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, hysterectomy, or ovariectomy;

(2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses; and

(3) Augmentation mammoplasty, subcutaneous mastectomy, or any plastic, cosmetic, or aesthetic surgery that feminizes or masculinizes the facial or other body features of an individual.

"Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to the person's sex to identifying with and living as a gender different from the person's sex and may involve social, legal, or physical changes.

"Sex" means the state of being either male or female as observed or clinically verified at birth. There are only two sexes, and every individual is either male or female: *Provided*, That individuals with congenital and medically verifiable "DSD conditions" (sometimes referred to as "differences in sex development", "disorders in sex development", or "intersex conditions") are not members of a third sex and must be accommodated consistent with state and federal law.

(b) A physician assistant may not assist in providing gender reassignment surgery or provide gender altering medication to a person who is under 18 years of age.

(c) A physician assistant may provide, within his or her scope of practice, any of the following to a person who is under 18 years of age:

(1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external sex characteristics that are irresolvably ambiguous, such as an individual born with 46 xx chromosomes with virilization, 46 xy chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome

structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not these procedures were performed in accordance with state and federal law; and

(4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed.

(d) The provisions of this section are effective on August 1, 2025.

(e) If a physician assistant provides either gender reassignment surgery or gender altering medication to a person who is under 18 years of age, the appropriate licensing board shall find the physician assistant in violation of this section and shall immediately revoke the license of the physician assistant.

(f) A person may assert an actual or threatened violation of this section as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, reasonable attorneys' fees, and any other appropriate relief. A person shall be required to bring a claim for a violation of this section not later than two years after the day the cause of action accrues. A minor may bring an action before reaching 18 years of age through a parent or guardian and may bring an action in the minor's own name upon reaching 18 years of age at any time from that point until 20 years after. Inasmuch as the Legislature intends to make unlawful the provision of gender reassignment surgery or gender altering medication to a minor, it is the intent of the Legislature that this section be exempt from compliance with §55-7B-6 of this code.

(g) The Attorney General may bring an action to enforce compliance with this section. Nothing in this section shall be

construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the state, or any agency, officer, or employee of the state to institute or intervene in any proceeding.

(h) If any provision of this section, or the application thereof to any provision or circumstance, shall be held unconstitutional or otherwise invalid, such invalidity or unconstitutionality shall not affect the provisions or application of this section which can be given effect without the unconstitutional or invalid provisions of application, and to this end the provisions of this section are declared to be severable.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-15f. Prohibited practice.

(a) For the purposes of this section:

"Gender" means the psychological, behavioral, social, and cultural aspects of being male or female.

"Gender altering medication" means the prescribing or administering of the following for the purpose of assisting an individual with a gender transition:

(1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking medication to stop or delay normal puberty; and

(2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would normally be produced endogenously in a healthy individual of the same age and sex.

"Gender reassignment surgery" means a surgical procedure performed for the purpose of assisting an individual with a gender transition, including any of the following:

(1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, hysterectomy, or ovariectomy;

(2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses; and

(3) Augmentation mammoplasty, subcutaneous mastectomy, or any plastic, cosmetic, or aesthetic surgery that feminizes or masculinizes the facial or other body features of an individual.

"Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to the person's sex to identifying with and living as a gender different from the person's sex and may involve social, legal, or physical changes.

"Sex" means the state of being either male or female as observed or clinically verified at birth. There are only two sexes, and every individual is either male or female: *Provided*, That individuals with congenital and medically verifiable "DSD conditions" (sometimes referred to as "differences in sex development", "disorders in sex development", or "intersex conditions") are not members of a third sex and must be accommodated consistent with state and federal law.

(b) An advanced practice registered nurse may not assist in providing gender reassignment surgery or provide gender altering medication to a person who is under 18 years of age.

(c) An advanced practice registered nurse may, within his or her scope of practice, provide any of the following to a person who is under 18 years of age:

(1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external sex characteristics that are irresolvably ambiguous, such as an individual born with 46 xx chromosomes with virilization, 46 xy chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not these procedures were performed in accordance with state and federal law; and

(4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed.

(d) The provisions of this section are effective on August 1, 2025.

(e) If an advanced practice registered nurse provides either gender reassignment surgery or gender altering medication to a person who is under 18 years of age, the appropriate licensing board shall find the advanced practice registered nurse in violation of this section and shall immediately revoke the license of the advanced practice registered nurse.

(f) A person may assert an actual or threatened violation of this section as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, reasonable attorneys' fees, and any other appropriate relief. A person shall bring a claim for a violation of this section not later than two years after the day the cause of action accrues. A minor may bring an action before reaching 18 years of age through a parent or guardian and may bring an action in the minor's own name upon reaching 18 years of age at any time from that point until 20 years after. Inasmuch as the Legislature intends to make unlawful the provision of gender reassignment surgery or gender altering medication to a minor, it is the intent of the Legislature that this section be exempt from compliance with §55-7B-6 of this code.

(g) The Attorney General may bring an action to enforce compliance with this section. Nothing in this section shall be construed to deny, impair, or otherwise affect any right or authority

of the Attorney General, the state, or any agency, officer, or employee of the state to institute or intervene in any proceeding.

(h) If any provision of this section, or the application thereof to any provision or circumstance, shall be held unconstitutional or otherwise invalid, such invalidity or unconstitutionality shall not affect the provisions or application of this section which can be given effect without the unconstitutional or invalid provisions of application, and to this end the provisions of this section are declared to be severable.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-17. Prohibited practice.

(a) For the purposes of this section:

"Gender" means the psychological, behavioral, social, and cultural aspects of being male or female.

"Gender altering medication" means the prescribing or administering of the following for the purpose of assisting an individual with a gender transition:

(1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking medication to stop or delay normal puberty; and

(2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would normally be produced endogenously in a healthy individual of the same age and sex.

"Gender reassignment surgery" means a surgical procedure performed for the purpose of assisting an individual with a gender transition, including any of the following:

(1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, hysterectomy, or ovariectomy;

(2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses; and

(3) Augmentation mammoplasty, and subcutaneous mastectomy, or any plastic, cosmetic, or aesthetic surgery that feminizes or masculinizes the facial or other body features of an individual.

"Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to the person's sex to identifying with and living as a gender different from the person's sex and may involve social, legal, or physical changes.

"Sex" means the state of being either male or female as observed or clinically verified at birth. There are only two sexes, and every individual is either male or female: *Provided*, That individuals with congenital and medically verifiable "DSD conditions" (sometimes referred to as "differences in sex development", "disorders in sex development", or "intersex conditions") are not members of a third sex and must be accommodated consistent with state and federal law.

(b) A physician may not provide gender reassignment surgery or gender altering medication to a person who is under 18 years of age.

(c) A physician may provide any of the following to a person who is under 18 years of age:

(1) Services provided to an individual born with a medically verifiable disorder of sex development, including, but not limited to, a person with external sex characteristics that are irresolvably ambiguous, such as an individual born with 46 xx chromosomes with virilization, 46 xy chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not these procedures were performed in accordance with state and federal law; and

(4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed.

(d) The provisions of this section are effective on January 1, 2024. The amendments made to this article during the 2025 regular session of the Legislature shall be effective on August 1, 2025.

(e) If a physician provides either gender reassignment surgery or gender altering medication to a person who is under 18 years of age, the appropriate licensing board shall find the physician in violation of this section and shall immediately revoke the license of the physician.

(f) A person may assert an actual or threatened violation of this section as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, reasonable attorneys' fees, and any other appropriate relief. A person shall bring a claim for a violation of this section not later than two years after the day the cause of action accrues. A minor may bring an action before reaching 18 years of age through a parent or guardian and may bring an action in the minor's own name upon reaching 18 years of age at any time from that point until 20 years after. Inasmuch as the Legislature intends to make unlawful the provision of gender reassignment surgery or gender altering medication to a minor, it is the intent of the Legislature that this section be exempt from compliance with §55-7B-6 of this code.

(g) The Attorney General may bring an action to enforce compliance with this section. Nothing in this section shall be construed to deny, impair, or otherwise affect any right or authority

of the Attorney General, the state, or any agency, officer, or employee of the state to institute or intervene in any proceeding.

(h) If any provision of this section, or the application thereof to any provision or circumstance, shall be held unconstitutional or otherwise invalid, such invalidity or unconstitutionality shall not affect the provisions or application of this section which can be given effect without the unconstitutional or invalid provisions of application, and to this end the provisions of this section are declared to be severable.

CHAPTER 49

(Com. Sub. for H. B. 2042 - By Delegates Burkhammer, Hornby, Kimble, and Heckert)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §49-4-601 of the Code of West Virginia, 1931, as amended, relating to procedures in cases of child neglect or abuse; allowing a prosecuting attorney on behalf of the Department of Human Services, attorneys for a parent, or a guardian ad litem to request, in accordance with the Rules of Procedure for Child Abuse and Neglect Proceedings, the appointment of a court appointed special advocate if that circuit court is serviced by a court appointed special advocate.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

Part VI. Procedures in Cases of Child Neglect or Abuse.

§49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.

(a) *Petitioner and venue.* — If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named party abuser resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

(b) *Contents of Petition.* — The petition shall be verified by the oath of some credible person having knowledge of the facts. The petition shall allege specific conduct including time and place, how the conduct comes within the statutory definition of neglect or abuse with references thereto, any supportive services provided by the department to remedy the alleged circumstances and the relief sought.

(c) *Court action upon filing of petition.* — Upon filing of the petition, the court shall set a time and place for a hearing and shall appoint counsel for the child. When there is an order for temporary custody pursuant to this article, the preliminary hearing shall be held within ten days of the order continuing or transferring custody, unless a continuance for a reasonable time is granted to a date certain, for good cause shown.

(d) *Department action upon filing of the petition*. — At the time of the institution of any proceeding under this article, the department shall provide supportive services in an effort to remedy circumstances detrimental to a child.

(e) *Notice of hearing.* —

(1) The petition and notice of the hearing shall be served upon both parents and any other custodian, giving to the parents or custodian at least five days' actual notice of a preliminary hearing and at least ten days' notice of any other hearing.

(2) Notice shall be given to the department, any foster or preadoptive parent, and any relative providing care for the child.

(3) In cases where personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified mail, addressee only, return receipt requested, to the last known address of the person. If the person signs the certificate, service shall be complete and the certificate shall be filed as proof of the service with the clerk of the circuit court.

(4) If service cannot be obtained by personal service or by certified mail, notice shall be by publication as a Class II legal advertisement in compliance with article three, chapter fifty-nine of this code.

(5) A notice of hearing shall specify the time and place of the hearing, the right to counsel of the child and parents or other custodians at every stage of the proceedings and the fact that the proceedings can result in the permanent termination of the parental rights.

(6) Failure to object to defects in the petition and notice may not be construed as a waiver.

(f) *Right to counsel. —*

(1) In any proceeding under this article, the child, his or her parents and his or her legally established custodian or other persons standing in *loco parentis* to him or her has the right to be represented by counsel at every stage of the proceedings and shall be informed by the court of their right to be so represented and that if they cannot pay for the services of counsel, that counsel will be appointed.

(2) Counsel shall be appointed in the initial order. For parents, legal guardians, and other persons standing in *loco parentis*, the representation may only continue after the first appearance if the parent or other persons standing in *loco parentis* cannot pay for the services of counsel.

(3) Counsel for other parties shall only be appointed upon request for appointment of counsel. If the requesting parties have not retained counsel and cannot pay for the services of counsel, the court shall, by order entered of record, appoint an attorney or attorneys to represent the other party or parties and so inform the parties.

(4) Under no circumstances may the same attorney represent both the child and the other party or parties, nor may the same attorney represent both parents or custodians. However, one attorney may represent both parents or custodians where both

parents or guardians consent to this representation after the attorney fully discloses to the client the possible conflict and where the attorney assures the court that she or he is able to represent each client without impairing her or his professional judgment; however, if more than one child from a family is involved in the proceeding, one attorney may represent all the children.

(5) A parent who is a copetitioner is entitled to his or her own attorney. The court may allow to each attorney so appointed a fee in the same amount which appointed counsel can receive in felony cases.

(g) *Continuing education for counsel.* — Any attorney representing a party under this article shall receive a minimum of eight hours of continuing legal education training per reporting period on child abuse and neglect procedure and practice. In addition to this requirement, any attorney appointed to represent a child must first complete training on representation of children that is approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop procedures for approval and certification of training required under this section. Where no attorney has completed the training required by this subsection, the court shall appoint a competent attorney with demonstrated knowledge of child welfare law to represent the parent or child. Any attorney appointed pursuant to this section shall perform all duties required of an attorney licensed to practice law in the State of West Virginia.

(h) *Right to be heard*. — In any proceeding pursuant to this article, the party or parties having custodial or other parental rights or responsibilities to the child shall be afforded a meaningful opportunity to be heard, including the opportunity to testify and to present and cross-examine witnesses. Foster parents, preadoptive parents, and relative caregivers shall also have a meaningful opportunity to be heard.

(i) *Findings of the court*. — Where relevant, the court shall consider the efforts of the department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected and whether the respondent is abusing,

neglecting, or, if applicable, a battered parent, all of which shall be incorporated into the order of the court. The findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.

(j) *Priority of proceedings.* — Any petition filed and any proceeding held under this article shall, to the extent practicable, be given priority over any other civil action before the court, except proceedings under section three hundred nine, article twenty-seven, chapter forty-eight of this code and actions in which trial is in progress. Any petition filed under this article shall be docketed immediately upon filing. Any hearing to be held at the end of an improvement period and any other hearing to be held during any proceedings under this article shall be held as nearly as practicable on successive days and, with respect to the hearing to be held at the end of an improvement period, shall be held as close in time as possible after the end of the improvement period and shall be held within thirty days of the termination of the improvement period.

(k) *Procedural safeguards*. — The petition may not be taken as confessed. A transcript or recording shall be made of all proceedings unless waived by all parties to the proceeding. The rules of evidence shall apply. Following the court's determination, it shall be inquired of the parents or custodians whether or not appeal is desired and the response transcribed. A negative response may not be construed as a waiver. The evidence shall be transcribed and made available to the parties or their counsel as soon as practicable, if the same is required for purposes of further proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating that he or she cannot pay therefor.

(l) *CASA.* — The department, guardian ad litem, or any parent as defined in §49-1-204 of this code who is a party to a proceeding instituted pursuant to the provisions of this section, may, in accordance with the Rules of Procedure for Child Abuse and Neglect Proceedings, request the appointment of a court appointed special advocate, which the circuit court may appoint if a court appointed special advocate provides services to the circuit court with jurisdiction over the proceedings instituted pursuant to this section.

CHAPTER 50

(Com. Sub. for H. B. 2129 - By Delegates Butler, Kump, Pinson, Kimble, Funkhouser, Ridenour, Horst, Heckert, and Dillon)

[Passed April 3, 2025; in effect 90 days from passage (July 2, 2025)]
[Approved by the Governor on April 12, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §49-12-1, §49-12-2, §49-12-3, §49-12-4, and §49-12-5 all relating to the Parents' Bill of Rights; creating a short title; providing legislative findings; creating definitions; creating a standard of review; clarifying parental rights; creating a defense; providing for certain injunctive relief; providing applicability; and providing certain limitations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. PARENTS' BILL OF RIGHTS.

§49-12-1. Short title.

This article shall be known and may be cited as the "Parents' Bill of Rights".

§49-12-2. Legislative findings and definition.

(a) The Legislature finds that it is a fundamental right of parents to direct the upbringing, education, care, and medical care of their minor children. The Legislature further finds that important information relating to a minor child should not be withheld, either inadvertently or purposefully, from his or her parent, including information relating to the minor child's health, well-being, and

education, while the minor child is in the custody of the school district.

(b) For purposes of this article, the term "parent" means a person who has legal custody of a minor child as a natural or adoptive parent or a legal guardian.

§49-12-3. Infringement of parental rights.

The state, any of its political subdivisions, any other governmental entity, or any other state institution may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of his or her minor child without demonstrating that such action is reasonable and necessary to achieve a compelling state interest and that such action is narrowly tailored and is not otherwise served by a less restrictive means.

§49-12-4. Parental rights.

(a) All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other state institution, including, but not limited to, all of the following rights of a parent of a minor child in this state:

(1) The right to direct the education and care of his or her minor child.

(2) The right to direct the upbringing and the moral or religious training of his or her minor child.

(3) The right to apply to enroll his or her minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or other available options, as authorized by law.

(4) The right to access and review all school records relating to his or her minor child.

(5) The right to make health care decisions for his or her minor child, unless otherwise prohibited by law.

(b) The right to parental rights guaranteed by this article shall not be denied or abridged on account of disability.

(c) A parent may raise this article as a defense before any court or administrative tribunal. In addition, any person aggrieved by the provisions of this article may bring an action for injunctive relief against a person who engages in conduct that constitutes a violation of this article in the circuit court of any county in which any part of the conduct occurs. The circuit court may grant any appropriate injunctive relief to prevent or abate the conduct, including a temporary restraining order, preliminary injunction, or permanent injunction.

§49-12-5. Applicability; limitations.

(a) This article applies to state and local laws, rules, or ordinances, and the implementation of that law, rule, or ordinance, whether statutory or otherwise. Statutory law adopted after the date of the enactment of this article is subject to this article unless such law explicitly excludes such application by reference to this article.

(b) This article does not:

(1) Authorize a parent of a minor child in this state to engage in conduct that is unlawful or to abuse or neglect his or her minor child in violation of general law.

(2) Condone, authorize, approve, or apply to a parental action or decision that would end life.

(3) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a government agency that is responsible for child welfare from acting in his or her official capacity within the reasonable and prudent scope of his or her authority; or

(4) Prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.

CHAPTER 51

(Com. Sub. for H. B. 2880 - By Delegates Burkhammer, Kimble, Mazzocchi, Pinson, and Petitto)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §49-1-201, §49-2-809, §49-4-405, §49-5-101, and §49-11-101 of the Code of West Virginia, 1931, as amended; to amend the code by adding a new section, designated §49-2-802a; and to amend the code by adding a new article, designated, §61-12B-1, §61-12B-2, §61-12B-3, §61-12B-4, §61-12B-5, §61- 12B-6, and §61-12B-7, relating to child welfare; requiring information to be provided at outset of investigation; stating form of centralized intake reporting procedures; including parent resource navigators within multidisciplinary teams; permitting the foster care ombudsman to access information related to child abuse and neglect proceedings; requiring the Bureau for Medical Services and the Bureau for Social Services to provide electronic access to various persons; requiring updates to the child welfare dashboard; establishing the Critical Incident Review Team; setting forth composition of members; setting forth the responsibilities of the Critical Incident Review Team; setting forth the reporting requirements of the Critical Incident review team; requiring cooperation with Critical Incident Team; and setting forth confidentiality of information.

Be it enacted by the Legislature of West Virginia:

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-201. Definitions related, but not limited to, child abuse and neglect.

When used in this chapter, terms defined in this section have the meanings ascribed to them that relate to, but are not limited to, child abuse and neglect, except in those instances where a different meaning is provided or the context in which the word is used clearly indicates that a different meaning is intended.

"Abandonment" means any conduct that demonstrates the settled purpose to forego the duties and parental responsibilities to the child;

"Abused child" means:

(1) A child whose health or welfare is being harmed or threatened by:

(A) A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict, physical injury or mental or emotional injury upon the child or another child in the home. Physical injury may include an injury to the child as a result of excessive corporal punishment;

(B) Sexual abuse or sexual exploitation;

(C) The sale or attempted sale of a child by a parent, guardian, or custodian in violation of §61-2-14h of this code;

(D) Domestic violence as defined in §48-27-202 of this code; or

(E) Human trafficking or attempted human trafficking in violation of §61-14-2 of this code.

(2) A child conceived as a result of sexual assault, as that term is defined in this section, or as a result of the violation of a criminal law of another jurisdiction which has the same essential elements: *Provided,* That no victim of sexual assault may be determined to

be an abusive parent as that term is defined in this section, based upon being a victim of sexual assault.

"Abusing parent" means a parent, guardian, or other custodian, regardless of his or her age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as alleged in the petition charging child abuse or neglect.

"Battered parent" for the purposes of §49-4-601 *et seq.* of this code means a respondent parent, guardian, or other custodian who has been adjudicated by the court to have not condoned the abuse or neglect and has not been able to stop the abuse or neglect of the child or children due to being the victim of domestic violence as defined by §48-27-202 of this code, which was perpetrated by the same person or persons determined to have abused or neglected the child or children.

"Child abuse and neglect" or "child abuse or neglect" means any act or omission that creates an abused child or a neglected child as those terms are defined in this section.

"Child abuse and neglect services" means social services which are directed toward:

(A) Protecting and promoting the welfare of children who are abused or neglected;

(B) Identifying, preventing, and remedying conditions which cause child abuse and neglect;

(C) Preventing the unnecessary removal of children from their families by identifying family problems and assisting families in resolving problems which could lead to a removal of children and a breakup of the family;

(D) In cases where children have been removed from their families, providing time-limited reunification services to the children and the families so as to reunify those children with their families, or some portion of the families;

(E) Placing children in suitable adoptive homes when reunifying the children with their families, or some portion of the families, is not possible or appropriate; and

(F) Assuring the adequate care of children or juveniles who have been placed in the custody of the department or third parties.

"Condition requiring emergency medical treatment" means a condition which, if left untreated for a period of a few hours, may result in permanent physical damage; that condition includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture, unconsciousness, and evidence of ingestion of significant amounts of a poisonous substance.

"Imminent danger to the physical well-being of the child" means an emergency situation in which the welfare or the life of the child is threatened. These conditions may include an emergency situation when there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited, or reasonable cause to believe that the following conditions threaten the health, life, or safety of any child in the home:

(A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling, babysitter, or other caretaker;

(B) A combination of physical and other signs indicating a pattern of abuse which may be medically diagnosed as battered child syndrome;

(C) Nutritional deprivation;

(D) Abandonment by the parent, guardian, or custodian;

(E) Inadequate treatment of serious illness or disease;

(F) Substantial emotional injury inflicted by a parent, guardian, or custodian;

(G) Sale or attempted sale of the child by the parent, guardian, or custodian;

(H) The parent, guardian, or custodian's abuse of alcohol or drugs or other controlled substance as defined in §60A-1-101 of this code, has impaired his or her parenting skills to a degree as to pose an imminent risk to a child's health or safety; or

(I) Any other condition that threatens the health, life or safety of any child in the home.

"Neglected child" means a child:

(A) Whose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care, or education, when that refusal, failure, or inability is not due primarily to a lack of financial means on the part of the parent, guardian, or custodian;

(B) Who is presently without necessary food, clothing, shelter, medical care, education, or supervision because of the disappearance or absence of the child's parent or custodian; or

(C) "Neglected child" does not mean a child whose education is conducted within the provisions of §18-8-1 *et seq.* of this code.

"Parent Resource Navigator" means an individual established through the Court Improvement Program (CIP) or Public Defender Services (PDS) model who is assisting a parent or parents through requirements to be unified or reunified with their child or children.

"Petitioner or copetitioner" means the department or any reputable person who files a child abuse or neglect petition pursuant to §49-4-601 *et seq.* of this code.

"Permanency plan" means the part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available.

"Respondent" means all parents, guardians, and custodians identified in the child abuse and neglect petition who are not petitioners or copetitioners.

"Sexual abuse" means:

(A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by §61-8c-3 of this code, which a parent, guardian, or custodian engages in, attempts to engage in, or knowingly procures another person to engage in, with a child notwithstanding the fact that for a child who is less than 16 years of age, the child may have willingly participated in that conduct or the child may have suffered no apparent physical, mental, or emotional injury as a result of that conduct or, for a child 16 years of age or older, the child may have consented to that conduct or the child may have suffered no apparent physical injury or mental, or emotional injury as a result of that conduct;

(B) Any conduct where a parent, guardian, or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian, or custodian, of the person making that display, or of the child, or for the purpose of affronting or alarming the child; or

(C) Any of the offenses proscribed in §61-8b-7, §61-8b-8, or §61-8b-9 of this code.

"Sexual assault" means any of the offenses proscribed in §61-8b-3, §61-8b-4, or §61-8b-5 of this code.

"Sexual contact" means sexual contact as that term is defined in §61-8b-1 of this code.

"Sexual exploitation" means an act where:

(A) A parent, custodian, or guardian, whether for financial gain or not, persuades, induces, entices, or coerces a child to engage in sexually explicit conduct as that term is defined in §61-8c-1 of this code;

(B) A parent, guardian, or custodian persuades, induces, entices, or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, or a third person, or to display his or her sex organs under circumstances in

which the parent, guardian, or custodian knows that the display is likely to be observed by others who would be affronted or alarmed; or

(C) A parent, guardian, or custodian knowingly maintains or makes available a child for the purpose of engaging the child in commercial sexual activity in violation of §61-14-5 of this code.

"Sexual intercourse" means sexual intercourse as that term is defined in §61-8b-1 of this code.

"Sexual intrusion" means sexual intrusion as that term is defined in §61-8b-1 of this code.

"Serious physical abuse" means bodily injury which creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-802a. Information to be provided at the outset of a child protective services investigation.

(a) Notwithstanding any other provision to the contrary, immediately upon initiating an investigation of a parent or other person having legal custody of a child, the department shall, upon first contact with the individual, provide the individual with a copy of A Parent's Guide to Working with Child Protective Services (Guide).

(b) The Guide shall include a short and plain statement to include, but not be limited to, the following:

(1) Steps that the department will take to investigate signs of abuse and neglect;

(2) Steps that may need to be taken to make a safer or healthier home for the child;

(3) An overview of the court process;

(4) The confidentiality of maltreatment reports and case appeals;

(5) Child visitation; and

(6) Case appeals.

§49-2-809. Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately to the Bureau for Social Services. Reports of child abuse and neglect shall be made to the Bureau of Social Services via a 24-hour, seven-day-a week hotline (centralized intake) that shall be maintained by the Bureau of Social Services to receive calls reporting suspected or known child abuse or neglect or such reports may be made via web-based reporting (email, electronic fax, fillable form, or other electronic form) that sends the reports to a live person to handle the reports immediately. Both systems shall give the reporter a specific case identifier immediately upon making a report.

(b) If a report of child abuse and neglect is made in any fashion other than specified in subsection (a) of this section, then Bureau of Social Services is still required to act upon such report as if the report were made to centralized intake.

(c) A copy of any report of serious physical abuse, sexual abuse, or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney, or the coroner or medical examiner's office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

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

basis, how many calls were screened out centralized intake on a per county basis, and the time from referral to investigation on a per county basis.

(e) All reports made to centralized intake by email, fax, fillable form, or other electronic form from a reporter, shall be retained in the Comprehensive Child Welfare Information System in its original format for at least 12 months.

(f) Audio files recorded from reports made to centralized intake shall be retained in the Comprehensive Child Welfare Information System for at least 12 months.

(g) Any such person receiving a report pursuant to subsection (b) of this section shall make a written record in the Comprehensive Child Welfare Information system detailing the report and retain that record in an appropriate format for a period of at least 12 months.

ARTICLE 4. COURT ACTIONS.

§49-4-405. Multidisciplinary treatment planning process involving child abuse and neglect; team membership; duties; reports; admissions.

(a) Within 30 days of the initiation of a judicial proceeding pursuant to part six of this article, the department shall convene a multidisciplinary treatment team to assess, plan, and implement a comprehensive, individualized service plan for children who are victims of abuse or neglect and their families. The multidisciplinary team shall obtain and utilize any assessments for the children or the adult respondents that it deems necessary to assist in the development of that plan.

(b) In a case initiated pursuant to part six of this article, the treatment team consists of:

(1) The child or family's case manager in the department;

(2) The adult respondent or respondents;

(3) The child's parent or parents, guardians, any copetitioners, custodial relatives of the child, foster or preadoptive parents;

(4) Any attorney representing an adult respondent or other member of the treatment team;

(5) The child's counsel or the guardian ad litem;

(6) The prosecuting attorney or his or her designee;

(7) A member of a child advocacy center when the child has been processed through the child advocacy center program or programs or it is otherwise appropriate that a member of the child advocacy center participate;

(8) Any court-appointed special advocate assigned to a case;

(9) Any other person entitled to notice and the right to be heard;

(10) An appropriate school official;

(11) A parent resource navigator;

(12) The managed care case coordinator; and

(13) Any other person or agency representative who may assist in providing recommendations for the particular needs of the child and family, including domestic violence service providers.

The child may participate in multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise ordered by the court, a party whose parental rights have been terminated and his or her attorney may not be given notice of a multidisciplinary treatment team meeting and do not have the right to participate in any treatment team meeting.

(c) Prior to disposition in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will

best serve the needs of the child, the team shall first consider placement with appropriate relatives then with foster care homes, facilities, or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

(d) The multidisciplinary treatment team shall submit written reports to the court as required by the rules governing this type of proceeding or by the court and shall meet as often as deemed necessary but at least every three months until the case is dismissed from the docket of the court. The multidisciplinary treatment team shall be available for status conferences and hearings as required by the court.

(e) If a respondent or copetitioner admits the underlying allegations of child abuse or neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her statements may not be used in any subsequent criminal proceeding against him or her, except for perjury or false swearing.

ARTICLE 5. RECORD KEEPING AND DATABASE.

§49-5-101. Confidentiality of records; non-release of records; exceptions; penalties.

(a) Except as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained by the Division of Corrections and Rehabilitation, the Department of Human Services, a child agency or facility, or court or law-enforcement agency, are confidential and may not be released or disclosed to anyone, including any federal or state agency.

(b) Notwithstanding the provisions of subsection (a) of this section or any other provision of this code to the contrary, records concerning a child or juvenile, except adoption records and records disclosing the identity of a person making a complaint of child abuse or neglect, may be made available:

(1) Where otherwise authorized by this chapter;

(2) To:

(A) The child;

(B) A parent whose parental rights have not been terminated;

(C) The attorney of the child or parent; and

(D) The Juvenile Justice Commission and its' designees acting in the course of their official duties;

(3) With the written consent of the child or of someone authorized to act on the child's behalf; and

(4) Pursuant to an order of a court of record: *Provided*, That the court shall review the record or records for relevancy and materiality to the issues in the proceeding and safety and may issue an order to limit the examination and use of the records or any part thereof.

(c) In addition to those persons or entities to whom information may be disclosed under subsection (b) of this section, information related to child abuse or neglect proceedings, except information relating to the identity of the person reporting or making a complaint of child abuse or neglect, shall be made available upon request to:

(1) Federal, state, or local government entities, or any agent of those entities, including law-enforcement agencies and prosecuting attorneys, having a need for that information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(2) The child fatality review team;

(3) Child abuse citizen review panels;

(4) Multidisciplinary investigative and treatment teams; or

(5) A grand jury, circuit court, or family court, upon a finding that information in the records is necessary for the determination of an issue before the grand jury, circuit court, or family court; and

(6) The West Virginia Crime Victims Compensation Fund and its designees acting in the course of their official duties.

(d) Information related to proceedings involving child abuse or neglect, or both, shall be made available, upon request, to the Foster Care Ombudsman, or his or her designee, with the exception of information related to the identity of the person making a referral or suspected abuse or neglect. Only in cases involving near fatalities or fatalities of a child in the foster care system, shall the information related to the identity of the person who reported the suspected abuse or neglect be made available to the Foster Care Ombudsman: *Provided,* That such request is made in the course of their official duties pursuant to §16B-16-1 *et seq.* of this code.

(e) If there is a child fatality or near fatality due to child abuse and neglect, information relating to a fatality or near fatality shall be made public by the Department of Human Services and provided to the entities described in subsection (c) of this section and to the Critical Incident Review Team as established in §61-12B-1 *et seq.* of this code: *Provided*, That information released by the Department of Human Services pursuant to this subsection may not include the identity of a person reporting or making a complaint of child abuse or neglect except when such information and records are released to the Foster Care Ombudsman or his or her designee acting in the course of their official duties related to a near fatality or fatality of a child with in the foster care system. Only in those circumstances shall the Department of Human Services include the identity of a person reporting or making a complaint of child abuse or neglect may be included: *Provided, however*, That the Foster Care Ombudsman or his or her designee is acting in the course of their official duties pursuant to §16B-16-1 *et seq.* of this code. For purposes of this subsection, "near fatality" means any medical condition of the child which is certified by the attending physician to be life-threatening.

(f) Except in juvenile proceedings which are transferred to criminal proceedings, law-enforcement records and files concerning a child or juvenile shall be kept separate from the records and files of adults and not included within the court files. Law-enforcement records and files concerning a child or juvenile shall only be open to inspection pursuant to §49-5-103 of this code.

(g) Any person who willfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail for not more than six months, or both fined and confined. A person convicted of violating this section is also liable for damages in the amount of $300, or actual damages, whichever is greater.

(h) Notwithstanding the provisions of this section, or any other provision of this code to the contrary, the name and identity of any juvenile adjudicated or convicted of a violent or felonious crime shall be made available to the public;

(i)(1) Notwithstanding the provisions of this section or any other provision of this code to the contrary, the Division of Corrections and Rehabilitation may provide access to, and the confidential use of, a treatment plan, court records, or other records of a juvenile to an agency in another state which:

(A) Performs the same functions in that state that are performed by the Division of Corrections and Rehabilitation in this state;

(B) Has a reciprocal agreement with this state; and

(C) Has legal custody of the juvenile.

(2) A record which is shared under this subsection may only provide information which is relevant to the supervision, care, custody, and treatment of the juvenile;

(3) The Division of Corrections and Rehabilitation may enter into reciprocal agreements with other states and propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this subsection; and

(4) Other than the authorization explicitly given in this subsection, this subsection may not be construed to enlarge or restrict access to juvenile records as provided elsewhere in this code.

(j) The records subject to disclosure pursuant to subsection (b) of this section may not include a recorded/videotaped interview, as defined in §62-6B-2(6) of this code, the disclosure of which is exclusively subject to §62-6B-6 of this code.

(k) Notwithstanding the provisions of subsection (a) of this section, records in the possession of the Division of Corrections and Rehabilitation declared to be confidential by the provisions of subsection (a) of this section may be published and disclosed for use in an employee grievance if the disclosure is done in compliance with subsections (l), (m), and (n) of this section.

(l) Records or information declared confidential by the provisions of this section may not be released for use in a grievance proceeding except:

(1) Upon written motion of a party; and

(2) Upon an order of the Public Employee's Grievance Board entered after an in-camera hearing as to the relevance of the record or information.

(m) If production of confidential records or information is disclosed to a grievant, his or her counsel or representative, pursuant to subsection (l) of this section:

(1) The division shall ensure that written records or information is redacted of all identifying information of any juvenile which is not relevant to the resolution of the grievance;

(2) Relevant video and audio records may be disclosed without redaction; and

(3) Records or other information released to a grievant or his or her counsel or representative pursuant to subsection (l) of this section may only be used for purposes of his or her grievance

proceeding and may not be disclosed, published, copied, or distributed for any other purpose, and upon the conclusion of the grievance procedure, returned to the Division of Corrections and Rehabilitation.

(n) If a grievant or the Division of Corrections and Rehabilitation seek judicial review of a decision of the Public Employee's Grievance Board, the relevant confidential records disclosed and used in the grievance proceeding may be used in the appeal proceeding upon entry of an order by the circuit court, and the order shall contain a provision limiting disclosure or publication of the records or information to purposes necessary to the proceeding and prohibiting unauthorized use and reproduction.

(o) Nothing in this section may be construed to abrogate the provisions of §29B-1-1 *et seq.* of this code.

(p) When requested, a child-placing agency or a residential childcare and treatment facility shall disclose otherwise confidential information to other child-placing agencies or residential childcare and treatment facilities when making referrals or providing services on behalf of the child. This information shall be maintained in the same manner as provided in this code.

(q) The department shall provide electronic access to information required to perform an adoption to child-placing agencies as necessary to complete the adoption.

(r) A child-placing agency completing adoption as a contractor on behalf of the department shall have access to secure records from vital statistics and other pertinent record holders.

(s) The Bureau for Social Services shall provide to the managed care organization, the child-placing agency, and the person having temporary custody of the child, the medical records of the child that are necessary for the care of treatment of the child.

ARTICLE 11. SYSTEM REPORTING.

§49-11-101. Systemic reporting transparency.

(a) The commissioner shall update the existing child welfare data dashboard by July 1, 2026, and shall update the child welfare data dashboard monthly thereafter to report on system-wide issues including, but not limited to, system-level performance indicators, intake hotline performance indicators, field investigation performance indicators, open case performance indicators, out-of-home placement performance indicators, and federally mandated performance indicators including, but not limited to, time to first contact to all children, information on children in non-placement or temporary lodging status.

(b) The Commissioner shall update the existing child welfare data dashboard with information on child fatality and near fatality information related to those cases subject to review by the Critical Incident Review Team as set forth in §61-12B-1 *et seq.* of this code within 48 hours of a child fatality or near fatality. With respect to child fatality or near fatality information, the Department of Human Services shall report the following variables: the date of the incident, the child's sex, and the child's age. The data dashboard shall provide a link to the final report of the Critical Incident Review Team within 24 hours of its completion. The Commissioner shall send a notification, within 24 hours of child fatalities or near fatalities, to the Secretary of Human Services to enable it to convene a meeting of the Critical Incident Review Team.

(c) The child welfare data dashboard shall include workforce information including, but not limited to, the number of child protective services staff that have been hired but who have not completed training, the number and vacancies of adoption workers, and the number and vacancies of home finders.

(d) Starting July 1, 2026, the data reported on the child welfare data dashboard shall be represented as a point in time number and trended over time. Beginning July 1, 2026, the data shall be saved in a way to allow public users to search the dashboard yearly by reporting date, and by county. The Department of Human Services may apply data suppression in order to protect individual identification as necessary.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 12B. CRITICAL INCIDENT REVIEW TEAM.

§61-12B-1. Purpose.

The Critical Incident Review Team is created under the Department of Human Services for the purpose of reviewing fatalities and near fatalities involving children involved in the child welfare system and making recommendations to identify effective prevention and intervention processes to decrease preventable child fatalities and near fatalities in the child welfare system.

§61-12B-2. Definitions.

As used in this article:

"Epidemiological analysis" means an analysis of demographic factors related to the child's fatality or near fatality including, but not limited to, an analysis of the following factors: the date of birth of the child; the sex of the child; the county of the child's residence; the race/ethnicity of the child; the date the child suffered the fatality or near fatality; the type of maltreatment; the cause of the fatality or near fatality; whether the agency had any contact, and if so, how many times, with the child or a member of the child's family or household before the fatality or near fatality; and maltreater demographic information.

"Known case" means any Child Protective Services case or youth services case in the Comprehensive Child Welfare Information System or a case assessed by Child Protective Services, youth services, or a contracted vendor;

"Near fatality" means any medical condition of the child which is certified by the attending physician to be life threatening. It shall also include incidents that have been found to have created a substantial risk of death or serious bodily injury to the child.

§61-12B-3. Creation of the Critical Incident Review Team and composition of members.

(a) The Critical Incident Review Team is created under the Office of the Inspector General and is a multidisciplinary team created to oversee and coordinate the examination, review, and assessment of:

(1) The fatality or near fatality of a child in the custody of the Department of Human Services;

(2) The fatality or near fatality of a child who has a known case with the Department of Human Services or who is the immediate family member or a member of a household of a person with a known case with the Department of Human Services; and

(3) The fatality or near fatality of a child whose identity has been brought to the attention of the Department of Human Services through a centralized intake report, regardless of whether the report was accepted for an investigation.

(b) The Critical Incident Review Team shall consist of the following members:

(1) The Commissioner of the Bureau for Social Services, or his or her designee, who is to serve as the chairperson, and is responsible for calling and coordinating meetings of the Critical Incident Review Team;

(2) The Director of the Division of Planning and Quality Improvement;

(3) The Deputy Commissioner of the Bureau for Social Services;

(4) A representative from the Office of Field Support, Programs and Resource Development, Planning and Research, or the Office of Field Operations;

(5) The social services manager for any district having a history with the child or his or her family or any household member that is the subject of the critical incident review;

(6) The Foster Care Ombudsman, or his or her designee;

(7) A representative of the West Virginia Supreme Court of Appeals, Division of Children Services;

(8) A representative from the Prosecuting Attorney's Institute;

(9) The Superintendent of the West Virginia State Police or his or her designee;

(10) A member of the West Virginia Senate, appointed by the President of the Senate, who shall serve as an ex officio member; and

(11) A member of the West Virginia House of Delegates, appointed by the Speaker of the House, who shall serve as an ex officio member.

(c) Each member shall serve without additional compensation and may not be reimbursed for any expenses incurred in the discharge of his or her duties under the provisions of this article.

(d) The Critical Incident Review Team may seek guidance and opinion regarding any matter under review from outside experts in any related field. At any such time, the Critical Incident Review Team shall require that all appropriate privacy requirements required in this article are in place.

§61-12B-4. Responsibilities of the Critical Incident Review Team.

(a) The Critical Incident Review Team shall:

(1) The team shall meet at least quarterly: *Provided,* That in the event of a fatality or near fatality, the team shall meet within 45 days of such fatality or near fatality to conduct the review required by this article;

(2) Review and analyze all fatalities and near fatalities as required by this article;

(3) Ascertain and document the trends, patterns, and risk factors associated with the fatalities and near fatalities evaluated;

(4) Provide statistical information and an epidemiological analysis regarding the causes of fatalities and near fatalities as specified in this article;

(5) Establish standard procedures for the handling of the critical incident review;

(6) Establish processes and protocols for the review and analysis of fatalities and near fatalities of those who were not suffering from mortal diseases shortly before fatality;

(7) Establish processes and protocols to ensure confidentiality of records obtained by the Critical Incident Review Team; and

(8) Seek additional expert guidance as necessary to complete a review of any fatality or near fatality evaluated.

(b) The team is prohibited from the following:

(1) Contacting a witness or witnesses to take testimony from individuals involved in the investigation of a fatality; or

(2) Otherwise take any action which impedes an ongoing law enforcement investigation.

§61-12B-5. Reporting of the Critical Incident Review Team.

(a)(1) The Critical Incident Review Team shall submit an initial report within 75 days of the fatality or near fatality to the Legislative Oversight Commission on Health and Human Resources Accountability with updated reports every 90 days.

(2) Any initial reports submitted mid-year and any other updated reports to be made shall be compiled into a final report to be submitted to the Legislative Oversight Commission on Health and Human Resources Accountability which shall be submitted no later than December 1 each year.

(b) The report is to include statistical information and an epidemiological analysis concerning cases reviewed during the year, trends and patterns concerning these cases, and the team's

recommendations to reduce the number of fatalities and near fatalities that occur in this state.

(c) The Critical Incident Review Team may provide reporting to child residential facilities to inform their internal peer review activities. Such information shall be deemed confidential and shall be used only for peer review purposes.

§61-12B-6. Access to information; other agencies of government required to cooperate.

(a) Notwithstanding any other provision of this code to the contrary, the Critical Incident Review Team may request information and records as necessary to carry out its responsibilities. Records and information that may be requested under this section include:

(1) Medical, dental, and mental health records;

(2) Substance abuse records to the extent allowed by federal law; and

(3) Information and records maintained by any state, federal, or local government agency.

(b) State, county, and local government agencies shall provide the Critical Incident Review Team with any information requested in writing by the team.

§61-12B-7. Confidentiality.

(a) Proceedings and records of the Critical Incident Review Team established pursuant to this article are confidential and are not subject to discovery, subpoena, or the introduction into evidence in any civil or criminal proceeding. This section does not limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the team.

(b) Members of the Critical Incident Review Team may not be questioned in any civil or criminal proceeding regarding

information presented or opinions formed as a result of a meeting of the team. This subsection does not prevent a member of a team from testifying to information obtained independently of the team which is public information.

(c) Proceedings and records of the Critical Incident Review Team established by the team are exempt from disclosure under the Freedom of Information Act as provided in §29B-1-1 *et seq.* of this code.

(d) Notwithstanding any other provision to the contrary, the Critical Incident Review Team shall prepare a compilation of data to be shared, on an annual basis or more often as requested or needed, with the Centers for Disease Control and Prevention to study child fatalities or near fatalities.

(e) Information shall be maintained by the Critical Incident Review Team in a confidential manner compliant with the Health Insurance Portability and Accountability Act of 1996.

CHAPTER 52

(Com. Sub. for H. B. 3338 - By Delegates Green, Burkhammer, Heckert, Hornby, Chiarelli, Mallow, Browning, Brooks, Martin, Leavitt, and Pinson.)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §62-6B-2 and §62-6B-3 of the Code of West Virginia, 1931, as amended, relating to amending the definition of "child witness", also relating to allowing testimony of child witnesses by closed-circuit television in matters that allege physical, sexual, or psychological abuse to the child.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6B. PROTECTION AND PRESERVATION OF STATEMENTS AND TESTIMONY OF CHILD WITNESS.

§62-6B-2. Definitions.

For the purposes of this article, the words or terms defined in this section, and any variation of those words or terms required by the context, have the meanings ascribed to them in this section. These definitions are applicable unless a different meaning clearly appears from the context.

(1) "Child witness" means a person under the age of sixteen years of age who is or will be called to testify in a criminal matter concerning any alleged violation of the provisions of this code.

(2) "Live, closed-circuit television" means a simultaneous transmission, by closed-circuit television or other electronic means, between the courtroom and the testimonial room.

(3) "Operator" means the individual authorized by the court to operate the closed-circuit television equipment used in accordance with the provisions of this article.

(4) "Testimonial room" means a room within the courthouse other than the courtroom from which the testimony of a child witness or the defendant is transmitted to the courtroom by means of live, closed-circuit television.

(5) “Interviewed child” shall mean any person under the age of eighteen who has been interviewed by means of any type of recording equipment in connection with alleged criminal behavior or allegations of abuse or neglect of any child under the age of eighteen.

(6) “Recorded interview” means any electronic recording of the interview, and any transcript thereof, of an interviewed child conducted by: (1) An employee or representative of a child advocacy center as that term is defined in §49-3-101 of this code; (2) any psychologist, psychiatrist, physician, nurse, social worker or other person appointed by the court to interview the interviewed child as provided in §62-6B-3(c) of this code; or (3) a child protective services worker, law-enforcement officer, prosecuting attorney or any representative of his or her office, or any other person investigating allegations of criminal behavior or behavior alleged to constitute abuse or neglect of a child.

§62-6B-3. Findings of fact required for taking testimony of child witness by closed-circuit television; considerations for court.

(a) Upon a written motion filed by the prosecuting attorney, the child's attorney or the child's guardian ad litem, and upon findings of fact determined pursuant to subsection (b) of this section, a circuit court may order that the testimony of a child witness may

be taken at a pretrial proceeding or at trial through the use of live, closed-circuit television.

(b) Prior to ordering that the testimony of a child witness may be taken through the use of live, closed-circuit television, the circuit court must find by clear and convincing evidence, after conducting an evidentiary hearing on this issue, that:

(1) The child is an otherwise competent witness;

(2) That, absent the use of live, closed-circuit television the child witness will be unable to testify due solely to being required to be in the physical presence of the defendant while testifying;

(3) The child witness can only testify if live, two-way closed-circuit television is used in the trial; and

(4) That the state's ability to proceed against the defendant without the child witness' live testimony would be substantially impaired or precluded.

(c) The court shall consider the following factors in determining the necessity of allowing a child witness to testify by the use of live, closed-circuit television:

(1) The age and maturity of the child witness;

(2) The facts and circumstances of the alleged offense;

(3) The necessity of the child's live testimony to the prosecution's ability to proceed as well as any prejudice to the defendant by allowing testimony through closed-circuit television;

(4) Whether or not the facts of the case involve alleged physical, sexual, or psychological abuse to the child witness, infliction of bodily injury to the child witness or the threat of bodily injury to the child witness, or another; and

(5) Any mental or physical handicap of the child witness.

(d) In determining whether to allow a child witness to testify through live, closed-circuit television the court shall appoint a

psychiatrist or a licensed psychologist with at least five years clinical experience who shall serve as an advisor or friend of the court to provide the court with an expert opinion as to whether, to a reasonable degree of professional certainty, the child witness will suffer severe emotional harm, be unable to testify based solely on being in the physical presence of the defendant while testifying and that the child witness does not evidence signs of being subjected to undue influence or coercion. The opinion of the psychiatrist or licensed psychologist shall be filed with the circuit court at least thirty days prior to the final hearing on the use of live, closed-circuit television and the defendant shall be allowed to review the opinion and present evidence on the issue by the use of an expert or experts or otherwise.

CHAPTER 53

(Com. Sub. for H. B. 3444 - By Delegate Worrell)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to repeal §16-3-7, §16-3-8, §16-3-9, §16-3-10, §16-3-11, §16-3-12, and §16-3-13 of the Code of West Virginia, 1931, as amended, relating to inflammation of the eyes of newborns.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-7. Inflammation of the eyes of the newborn.

[Repealed.]

§16-3-8. Inflammation of the eyes of the newborn — Duty of those assisting at childbirth to report cases; treatment.

[Repealed.]

§16-3-9. Inflammation of the eyes of the newborn — Duties of local health officer.

[Repealed.]

§16-3-10. Inflammation of eyes of newborn — Use of an appropriate medication as prophylactic.

[Repealed.]

§16-3-11. Same — Duty of clerk of county commission.

[Repealed.]

§16-3-12. Same — Duties of the state director of health; duties of board of health.

[Repealed.]

§16-3-13. Same — Offenses; penalties.

[Repealed.]

CHAPTER 54

(Com. Sub. for H. B. 3152 - By Delegates Criss and Riley)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 28, 2025.]

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

§1. Finding and declaring certain claims against the Department of Health, Bureau for Public Health; Department of Administration; Department of Health and Human Resources; Department of Military Affairs & Public Safety, Division of Corrections and Rehabilitation; Department of Transportation, Division of Highways; Department of Health, Office of the Chief Medical Examiner; Department of Administration, Office of Technology; and the West Virginia Developmental Disabilities Council, to be moral obligations of the state and directing payment thereof.

The Legislature has considered the findings of fact and recommendations reported to it by the Legislative Claims Commission concerning various claims against the state and agencies thereof and, in respect to each of the following claims, the Legislature adopts those findings of fact as its own and in respect of the claims herein, the Legislature has independently made findings of fact and determinations of award and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below and directs the Auditor to issue warrants

for the payment thereof out of any fund appropriated and available for the purpose.

(a) Claim against the Department of Health, Bureau for Public Health:

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) West Virginia Association of Rehabilitation Facilities...$14,497.79

(2) West Virginia Association of Rehabilitation Facilities.....$41.54

(b) Claims against the Department of Administration:

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) Eastern Electric LLC $362,572.39

(c) Claims against Department of Administration, General Services Division:

(TO BE PAID FROM GENERAL REVENUE FUND)

Progressive Electric, Inc $523,283.50

(d) Claims against the Department of Health and Human Resources:

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) West Virginia Association of Rehabilitation Facilities $69.25

(2) West Virginia Association of Rehabilitation Facilities $168.72

(3) West Virginia Association of Rehabilitation Facilities $327.50

(4) West Virginia Association of Rehabilitation Facilities $305.88

(5) West Virginia Electric Supply Company.....$3,448.00

(e) Claims against the Department of Military Affairs & Public Safety, Division of Corrections and Rehabilitation:

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) Shawn Thomas Lester.....$122.94

(2) Nathan A. Sites $3,174.97

(3) Donald B. Surber, Jr. $105.00

(f) Claims against Department of Transportation, Division of Highways:

(TO BE PAID FROM STATE ROAD FUND)

(1) Brenda Abbott-Fowler $500.00

(2) Jason Adams and Emilee N. Adams.....$208.40

(3) John Mark Adkins.....$338.98

(4) Karma Adkins.....$200.00

(5) Sundus Ahmed.....$190.26

(6) Ala Eddin Al-Astal and Amro Al-Astal $303.32

(7) Abigail Allen $565.94

(8) Abigail Allen $845.00

(9) Cary Allen.....$192.00

(10) Michael J. Allen.....$250.00

(11) Monica Allen $250.00

(12) Karen Altman $197.31

(13) John H. Alvis $456.26

(14) John H. Alvis $186.25

(15) Jessica Anderson and Andrew Feltner.....$392.00

(16) Jessie Anderson $226.37

(17) Sheila D. Anderson.....$139.91

(18) Tonya M. Anderson.....$151.22

(19) Arlens Enterprise, LLC.....$1,000.00

(20) Amy Arnett.....$148.71

(21) Christopher Audia.....$1,000.00

(22) John Auville.....$359.55

(23) Patricia Danielle Bailey and Alexis Danielle Bailey.$536.52

(24) Barbara Baker.....$1,000.00

(25) Paul W. Baker and Linda L. Baker.....$438.75

(26) Curtis L. Ball, Jr. $500.00

(27) Patricia L. Balla and Ronald A. Balla $500.00

(28) Christopher A. Barnum.....$500.00

(29) Kathy Lynn Barr.....$107.00

(30) Cecil Shane Bartram.....$15,000.00

(31) Frank Beck.....$430.24

(32) Amelia Bell and Stacey Bell.....$209.17

(33) Kendale Berry.....$118.76

(34) Karen Bewley $372.98

(35) Kyler D. Bird $349.87

(36) Brandi Blackburn.....$197.80

(37) Daniel Blake $1,187.20

(38) Emily Blake and Mark Blake $246.66

(39) Loretta Blake, next friend of Sara Queen, a mentally incompetent adult.....$25,000.00

(40) Lyndsey Blanco $500.00

(41) Gary Blankenship and April Blankenship $636.16

(42) Bridget Blanton.....$500.00

(43) Larry A. Blount.....$500.00

(44) Kelly C. Blunden $118.79

(45) Robert Boggs II $340.49

(46) William F. Bolinger II. $250.00

(47) Carol L. Bolyard.....$419.00

(48) Philip M. Bordinat $250.00

(49) Ryan Boso and Martha Boso $275.43

(50) Keenen Bowers.....$272.86

(51) Wendy Bowman and Paul Bowman $166.35

(52) Richard M. Boyd $241.66

(53) Rhonda June Brant.....$320.45

(54) Rhonda June Brant.....$320.72

(55) Rhonda June Brant.....$403.96

(56) Rhonda June Brant.....$393.04

(57) Randall S. Brewer.....$1,426.37

(58) Joshua H. Britton and James Britton $201.88

(59) James Keith Brock and Ashley Brock.....$119.65

(60) John W. Brooks $293.00

(61) Donald J. Brown.....$416.59

(62) Janet Brown $100.00

(63) Kelly Buckley $660.87

(64) Oather Burdette.....$186.45

(65) Stephen R. Burdette $250.00

(66) Brooklyn Burford and Zachary Horrocks.....$126.90

(67) Misty D. Burger and Stacey L. Smith $664.83

(68) Lori J. Burgess.....$250.00

(69) David R. Burgey and Teresa Burgey.....$385.48

(70) Brent M. Burns and Heather L. Burns.....$411.60

(71) Jonathan Byrd and Amy Byrd $12,000.00

(72) Keith Cameron.....$1,000.00

(73) Jessica M. Campbell.....$509.44

(74) Kenneth Campbell $466.54

(75) Tammy Campbell and Arlie Campbell.....$151.57

(76) Tammy Campbell and Arlie Campbell.....$186.99

(77) Mariah Carr.....$326.35

(78) Andy Carte.....$181.54

(79) Megan Casner $286.74

(80) Ralph Caudill and Kimberly Caudill $263.95

(81) Grace Chaffins. $500.00

(82) Teresa Chidester $500.00

(83) Kodi Cochran and Carley Cochran.....$749.89

(84) Michael Coen.....$219.19

(85) Courtney Coleman.....$138.00

(86) Shane Coleman and Beth Coleman.....$105.00

(87) Christina Colombo and Colin Colombo.....$250.00

(88) John B. Conrad.....$500.00

(89) Melissa Cooper.....$500.00

(90) Karen L. Coria.....$280.96

(91) Jeff Corra.....$5,000.00

(92) Marisa Correa.....$500.00

(93) Lynn D. Corrie.....$493.25

(94) Robert Cousins.....$180.07

(95) Allen Cox.....$364.51

(96) Katherine Crowe and Phyllis J. Tomblin.....$635.55

(97) Terry G. Crowl.....$229.00

(98) Donn Cyrus.....$103.79

(99) Robert Dahl and Donna Dahl.....$500.00

(100) Jesse Daniel and Michelle Daniel.....$500.00

(101) Lora L. Daniel and Charles Richard Daniel, Jr. $201.11

(102) Kathryn Daniels.....$227.93

(103) Maureen David.....$120,450.00

(104) David B. Davis.....$145.00

(105) Paul Davis, Jr.....$235.27

(106) Paul Davis, Jr. $203.63

(107) Tamara E. Davis and Robert Davis $4,130.00

(108) Rodney DeBerry $300.00

(109) Joshua M. Delaney and Cassie Delaney $260.01

(110) Stacia DeMoss $1,000.00

(111) Kiran Devaraj $1,000.00

(112) Jennings Dingess II $219.37

(113) Denise Dix and David Dix $164.24

(114) Daniel Doss $500.00

(115) Kyle Draper $500.00

(116) Elizabeth K. Dutchess $271.29

(117) East Wood Volunteer Fire Department, Inc. $426.24

(118) Teena Edmonds $77.38

(119) William R. Ellis and Carol S. Ellis $345.34

(120) Lawrence Eshenaur and Joyce Eshenaur $225.00

(121) James E. Farley $242.40

(122) Stacy L. Feather and Jordan L. Feather $500.00

(123) David Fillingham $228.96

(124) John Finland and Colleen Finland $1,473.75

(125) Joseph Finley $2,180.86

(126) Kelly J. Fitzsimmons $1,143.04

(127) Amy Fleming and Christopher Fleming $500.00

(128) Robert Fluharty and Janet Fluharty $186.55

(129) Shelia Marie Forbes and Roy Thomas Forbes $500.00

(130) Catrina Forrest $2,120.00

(131) Gary D. Foster $990.43

(132) Joshua C. Fowler $500.00

(133) Thomas William Fox II $314.97

(134) Michael F. Fragmin $238.73

(135) Peter Gant $199.21

(136) Donald G. Gibson $500.00

(137) Kendra S. Gibson.....$591.31

(138) Tommie Goff $269.64

(139) Edward M. Goldcamp and Jennifer C. Goldcamp.....$182.44

(140) Timothy Good and Wendy Good $241.45

(141) Skip A. Gosper $500.00

(142) Albert L. Graham.....$500.00

(143) Gary Graley $335.00

(144) Roy D. Grimm $400.00

(145) Lakeisha Guerrant $475.74

(146) Thomas N. Gwinn $500.00

(147) Seth Hansen $239.10

(148) Phyllis J. Hardesty $262.16

(149) Alyssa Hardin and Mike Hardin.....$354.45

(150) Beau Harman and Courtney Harman. $190.47

(151) Katrina Harmon $751.55

(152) Vanessa Harper.....$210.21

(153) Franklin D. Hayes, Jr. and Sherri Lynn Hayes $352.42

(154) Jason Andrew Helper and Kimberly Helper $284.21

(155) Charles Hendershot $246.50

(156) Trevor Hennig and Stephen Brown.....$383.06

(157) Larry D. Hensley $278.78

(158) Charles Brian Higbee $500.00

(159) Douglas Himes $279.78

(160) Benjamin M. Hingst and Heather N. Hingst $199.02

(161) Christopher L. Hinton.....$3,500.00

(162) Linda L. Hoff.....$500.00

(163) Candice Holbrook.....$692.40

(164) Timothy Holcomb and Diana Holcomb $500.00

(165) David L. Holman and Vandy A. Holman.....$1,600.00

(166) William D. Holstein and John Holstein.....$500.00

(167) Brittany Honaker $266.50

(168) Glenna Howell.....$970.10

(169) Whitney Huddleston.....$296.94

(170) Ethne Hudson $234.77

(171) Emily Ann Hutson.....$349.75

(172) Joan Marie Ingersoll.....$500.00

(173) Ana Jackson and Charles Jackson.....$198.11

(174) Connie L. Jarrett.....$454.84

(175) Zachary J. Jeffreys and Joel L. Jeffreys.....$269.11

(176) Briseis L. Jenkins.....$535.55

(177) Shannon Johnson.....$405.51

(178) Megan Joseph and Gavin Joseph.....$500.00

(179) Reshma Joy and Biju George.....$198.29

(180) Reshma Joy and Biju George.....$397.59

(181) Jonathan Kanoskie.....$220.52

(182) Sara Karsten.....$500.00

(183) James W. Kelley, Jr. and Letitia Kelly.....$496.52

(184) Robert W. Kelly.....$2,500.00

(185) Cecila Kennedy.....$94.19

(186) Michael L. Kidd.....$1,000.00

(187) Joseph Kimble.....$201.99

(188) Josephine Kincaid and Jimmy Kincaid.....$485.41

(189) Richard King and Celena King.....$569.00

(190) Ricky E. King and Valerie D. King.....$192.60

(191) Tiffany King.....$210.00

(192) Tammy Koontz.....$314.51

(193) Michael Kroll.....$500.00

(194) Helen Louise Krynicki and George Krynicki.....$267.41

(195) Joseph Cain Kurczak.....$236.50

(196) Rebecca Labelle.....$281.65

(197) Beverly Lafferty and Randall Lafferty.....$716.03

(198) Franklin Lambert.....$714.89

(199) Jeffrey Lapkowicz.....$500.00

(200) Joyce Larch.....$132.50

(201) Anna J. Latz.....$1,000.00

(202) Tiffani Legros.....$282.48

(203) Ryan Lenhart.....$550.01

(204) Virgil T. Leques and Virginia B. Leques.....$51.50

(205) Lorrie Ann Lewis.....$615.92

(206) Cynthia C. Lewis and Robert L. Lewis II.....$519.68

(207) Jessica Liller and Aaron Liller.....$239.80

(208) Scott Link and Kelly Link.....$691.80

(209) Timothy A. Liptrap and Jarod R. Liptrap.....$207.52

(210) LMS Construction, Inc.....$6,093.25

(211) Jennifer Long.....$259.30

(212) Rebecca Lucas.....$500.00

(213) Tina Lucas and Basil Lucas.....$72.01

(214) Travis Luther.....$8,000.00

(215) Farrah Machado.....$473.25

(216) Kaleb Mackey.....$180.00

(217) Erianna Macklin $500.00

(218) Wendy MacLeery $500.00

(219) John MacLeod $423.91

(220) Jordan Malone $132.99

(221) Olivia Mandich.....$204.36

(222) Philip R. Marchun $418.36

(223) Vincent Marino.....$500.00

(224) Makenzie Melko Marshall.....$1,000.00

(225) Gregory A. Martin $500.00

(226) June C. Martin $600.00

(227) Peri Martin and Leanna Martin $500.00

(228) William Martin $1,000.00

(229) Christopher Mason and Kim R. Mason.....$215.45

(230) Kenneth James Mason, Jr. $500.00

(231) Rachel Maxson $500.00

(232) Cindy May $302.00

(233) Dayton May $100.00

(234) Kevyn McBride and Lisa McBride $916.60

(235) Tanus McClanahan and Sheila McClanahan $250.00

(236) Michael McClaskey and McClaskey Trucking, Inc. $1,000.00

(237) Brian C. McClung $994.95

(238) Jillya McCown and Robert McCown $811.79

(239) James McCracken and Amy McCracken $451.32

(240) John McCutcheon and Dola McCutcheon.....$266.07

(241) Carolyn A. McDaniel and Joe R. McDaniel.....$100.00

(242) Erin McGhee $500.00

(243) Adam B. McKinney.....$500.00

(244) Josh McMillion.....$500.00

(245) Shenna Meadows and Michael Townsend $835.98

(246) Teresa Medley and Gary Medley $333.90

(247) Patrick Meighen.....$382.12

(248) Jason Merritt.....$500.00

(249) Beverly A. Michael $500.00

(250) Ryan J. Michael.....$233.21

(251) Christina Mikels $855.21

(252) Tabitha L. Miller $1,112.57

(253) Khaja Mohammed and Nazia Mohammed.....$500.00

(254) Rebecca Mohler and Harold R. Mohler $152.76

(255) Lorrie Moles.....$91.72

(256) Rebecca Morgan and James A. Morgan II $107.25

(257) Travis Robert Morgan $926.42

(258) Mindi Morrow $159.00

(259) Carolyn L. Mullins $453.43

(260) Nina Mullins.....$181.89

(261) Seth Nardo.....$569.21

(262) Jeffrey Naylor and Michelle L. Naylor $5,293.81

(263) Neier Inc. and Stephanie Wilson.....$1,250.00

(264) John L. Nelson and Winona M. Nelson $500.00

(265) Jamie Niday.....$500.00

(266) Roger E. Null.....$333.58

(267) Leah Oney $655.54

(268) Shannon Orso $295.95

(269) Debra Osborne and Dennis Osborne $263.37

(270) Max Alexander Ostrow $500.00

(271) Julia Ozie.....$379.85

(272) Natalie Pagan.....$392.57

(273) Donna L. Palmer.....$218.79

(274) Teresa Lewis Parrish $161.60

(275) Jordan Lee Pascoe $562.61

(276) Zacharias Pauley.....$500.00

(277) Carol Pavlik-Buck $241.77

(278) Ming Pei and Xiulian Hang.....$500.00

(279) Richard A. Penn and Phyllis E. Penn. $100.00

(280) Chad Pennington $750.00

(281) Willis Perrine and Crystal Ann Perrine.....$917.50

(282) Annadean Y. Petry.....$99.14

(283) Donna Peyatt $148.73

(284) Phillip J. Poling and Misty J. Bosnick.....$250.00

(285) Teresa M. Pittman and Donna S. Cooper.....$500.00

(286) Christina Poli. $500.00

(287) William D. Potter, Jr.....$818.02

(288) Jill Powell and Eric Powell.....$243.68

(289) Carrie Pratt and Shawn Pratt $32.75

(290) Keith A. Pratt.....$250.00

(291) Stacy Price.....$485.19

(292) Edward R. Prichard and Pamela Prichard $500.00

(293) Sydney Pringle.....$616.38

(294) Keri A. Prunty and John C. Prunty.....$500.00

(295) James Robert Quesenberry II $463.25

(296) Shanelle Rainer.....$500.00

(297) Jeremiah Raines.....$382.98

(298) Laura Randolph-Kennedy $1,000.00

(299) Robert W. Reed and Linda L. Reed $278.58

(300) Dencil E. Reynolds.....$1,882.62

(301) Barry Rickert $704.00

(302) Derek Robertson.....$500.00

(303) Craig Robinson and Heather DiMarzio.....$237.56

(304) David Rodavich.....$250.00

(305) Michael J. Rogier and Wanda J. Rogier.....$444.03

(306) Nathan T. Rohrbough.....$543.49

(307) Robert L. Rohrbough.....$139.05

(308) Angela Roop.....$154.07

(309) Jeff Roth and Lori Roth.....$500.00

(310) Aaron P. Rucker.....$737.31

(311) Chase A Russell.....$790.98

(312) David A. Russell, Jr.....$300.38

(313) Melissa Russell.....$500.00

(314) Sylvia Sager.....$500.00

(315) Zachary Sallade and Rachel Sallade.....$500.00

(316) Melissa Sampson.....$327.61

(317) Brenden Sarber and Hailey Sarber.....$197.09

(318) Brennan Sarver and Molly Brumfield.....$372.87

(319) Glen Micka Satterfield.....$269.41

(320) Samantha Scarneo-Miller.....$291.00

(321) George L. Schaefer, Jr. and Kim Schaefer.....$1,000.00

(322) Samuel Schultz.....$1,386.94

(323) Sharon Scott and Donovan Cutlip.....$500.00

(324) Daniel E. Seckman and Tamara L. Seckman.....$181.90

(325) Lauren Seggie and Maxx Biddle.....$500.00

(326) Kimberly Self and Todd Minkos.....$151.85

(327) Philip Demitrius Serevicz.....$478.10

(328) Stephanie Sheline $100.00

(329) Sally Shepherd and Walton Shepherd $1,000.00

(330) Troy Shepherd $1,000.00

(331) Andrew S. Shiflett and Edward S. Shiflett $500.00

(332) Anthony Shillingburg and Sarah Shillingburg $1,000.00

(333) Patsy A. Shinault $225.92

(334) Jerry Shoemaker and Joanna Shoemaker $180.83

(335) Jo Ann Shorac.....$250.00

(336) Robert Shrader.....$301.74

(337) Subodh Solar Shrestha.....$350.00

(338) William Shuff III and Theresa Shuff.....$1,000.00

(339) Rachael Siders $100.00

(340) Mary Carolyn Sisler $183.23

(341) Terry W. Sizemore $138.07

(342) Edward W. Sloan.....$500.00

(343) Andrew Smallridge.....$1,564.42

(344) Alec T. Smith $356.44

(345) Braxton Smith and Clarence Smith, Jr. $379.69

(346) Douglas A. Smith $250.00

(347) Michael P. Smith $674.69

(348) Ray A. Smith and V. Christine Smith $5,000.00

(349) Sinjin Smith and Paul Smith.....$118.87

(350) William M. Smith, Jr. $1,000.00

(351) Mark E. Snapp $250.00

(352) Julio Solares $685.25

(353) Source Contractors, LLC.....$220,791.27

(354) Bethany Sowards and Joshua Sowards.....$711.81

(355) Shafic Sraj $270.30

(356) Robert E. Stahl.....$411.15

(357) Jonathan C. Stalnaker and April D. Stalnaker $240.75

(358) Sean Stanley $352.77

(359) Sean M. Stanley.....$336.34

(360) Sherry Smith Stanley.....$296.01

(361) Miranda Stark $1,041.75

(362) Deborah Starks $108.06

(363) Taylor Stephenson.....$137.46

(364) Jeremy Stewart $500.00

(365) Ted Stilgenbauer and Johnna Stilgenbauer $224.60

(366) Ted Stilgenbauer and Johnna Stilgenbauer $170.13

(367) Gina Stoffer and Timothy Stoffer.....$169.60

(368) Edward A. Stone and Alice Stone $1,000.00

(369) Bill J. Stout $258.13

(370) Jared Stout $500.00

(371) Tanya M. Stricklin.....$500.00

(372) John J. Sullivan.....$1,128.88

(373) James Drew Summers $500.00

(374) Kandus H. Sumpter $194.20

(375) Jessica L. Suriano $500.00

(376) Rachel Sviantek.....$899.99

(377) Bruce L. Swanson and Linda S. Swanson.....$383.66

(378) Thomas Sykes and Caitlin Sykes $328.59

(379) Erdinc Tanriverdiler $503.13

(380) Jordan Terry.....$156.00

(381) Mia Terry and Shellie Terry $1,000.00

(382) Jerrid Thomas $342.12

(383) Sara D. Thomas $211.95

(384) Zachariah Thomas $500.00

(385) Jeanessa Thompson $500.00

(386) Kerry S. Thompson $668.39

(387) Clara L. Thorne $115.56

(388) Rachel Tolley and Jamie Tolley $250.00

(389) Robin Tomaselli $250.00

(390) Marilyn S. Tompa.....$416.10

(391) Amy Beth Toothman and Ryan Allen Toothman.....$500.00

(392) Union Oil and Gas, Inc. $7,647.36

(393) Michael R. Urban $415.16

(394) James W. Vance, Jr. $500.00

(395) Stephanie VanDerheyden $2,640.00

(396) Laura Via $176.12

(397) Kalee Vincent $369.00

(398) Glenna Elaine Wagner $98.98

(399) Ernst J. Wahl $764.20

(400) Jason Walker $120.84

(401) Peggy Watson $217.88

(402) Lesley R. Weiss $1,933.43

(403) Adam T. West $214.51

(404) Dustin L. Whitt $170.89

(405) Joseph Whittington and Nikki Whittington $500.00

(406) Jonathan Wileman $500.00

(407) Kylie A. Williams $243.36

(408) April Williamson $250.00

(409) Cathy E. Wilson $99.14

(410) Amy Wirts $289.24

(411) Leslie L. Wolfe and William J. Wolfe $447.86

(412) Brenda Kay Wooten $418.34

(413) David G. Yeater $140.00

(414) Howard F. Yost, Jr.....$462.30

(415) Eric Young and Elijah Young $500.00

(416) Eric J. Young.....$500.00

(417) John H. Zickefoose.....$259.49

(g) Claim against the Department of Health, Office of the Chief Medical Examiner:

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) West Virginia Association of Rehabilitation Facilities.....$13,876.80

(h) Claims against Department of Administration, Office of Technology:

(TO BE PAID FROM SPECIAL REVENUE FUND)

(1) Ricoh USA, Inc.....$121,010.48

(2) Ricoh USA, Inc.....$78,642.30

(i) Claims against the West Virginia Developmental Disabilities Council

(TO BE PAID FROM THE GENERAL REVENUE FUND)

(1) West Virginia Association of Rehabilitation Facilities.....$4,467.35

The Legislature finds that the above moral obligations and the appropriations made in satisfaction thereof shall be the full compensation for all claimants and that prior to the payments to any claimant provided in this bill, the Legislative Claims Commission shall receive a release from said claimant releasing any and all claims for moral obligations arising from the matters considered by the Legislature in the finding of the moral obligations and the making of the appropriations for said claimant. The Legislative Claims Commission shall deliver all releases obtained from claimants to the department against which the claim was allowed.

CHAPTER 55

(H. B. 3157 - By Delegate Hanshaw (Mr. Speaker))

[Passed April 8, 2025; in effect 90 days from passage (July 7, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §14-2-17a of the Code of West Virginia, as amended, relating to the shortened procedure for road condition claims; and establishing process by which the Clerk of the Claims Commission, the Claims Commission, and the Division of Highways expedite certain road condition claims.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-17a. Shortened procedure for road condition claims.

(a) Notwithstanding the regular and shortened procedures provided for in §14-2-16 and §14-2-17 of this code, there shall be a shortened procedure for road condition claims. The shortened procedure authorized by this section shall apply only to a claim possessing all of the following characteristics:

(1) The claim does not arise under an appropriation for the current fiscal year.

(2) The claim alleges that a condition on the state's highways or roads caused property damage.

(3) The Division of Highways concurs in the claim and informs the clerk that it will stipulate to the entire amount of the claims or to a specific amount of the claim.

(4) The stipulated amount claimed does not exceed $3,000.

(b) The clerk shall prepare a stipulation concerning the claim to be approved by the commission. When approved by the commission the clerk shall mail a release to the claimant and inform the claimant that once the release is signed and returned to the commission, the clerk will notify the Division of Highways that the executed release has been received. Upon receipt from the clerk of confirmation that an executed release has been received from the claimant, the Division of Highways shall certify each approved claim and award, and requisition relating thereto, to the State Auditor. The State Auditor thereupon shall issue his or her warrant to the Treasurer in favor of the claimant. The State Auditor shall issue his or her warrant without further examination or review of the claim except for the question of a sufficient unexpended balance in the appropriation.

CHAPTER 56

(S. B. 734 - By Senator Rucker)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to repeal §22-15A-21 of the Code of West Virginia, 1931, as amended, relating to the A. James Manchin Rehabilitation Environmental Action Plan's procurement of recycled products.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-21. Procurement of recycled products.

[Repealed].

CHAPTER 57

(S. B. 862 - By Senator Rucker)

[Passed April 9, 2025; in effect 90 days from passage (July 8, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to repeal §5A-9-1, §5A-9-2, §5A-9-3, §5A-9-4, and §5A-9-5 of the Code of West Virginia, 1931, as amended, relating to repeal of antiquated language related to the Voluntary Gilding the Dome Check-Off Program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. VOLUNTARY GILDING THE DOME CHECK-OFF PROGRAM.

§1. Repeal of article creating Voluntary Gilding the Dome Check-Off Program.

That §5A-9-1 through §5A-9-5 of the Code of West Virginia, 1931, as amended, are repealed.

CHAPTER 58

(H. B. 2387 - By Delegates Horst, Funkhouser, D. Smith, Coop-Gonzalez, Hornby, Sheedy, Worrell, Jeffries, Maynor, W. Clark, and Crouse)

[Passed March 31, 2025; in effect 90 days from passage (June 29, 2025)]
[Approved by the Governor on April 8, 2025.]

AN ACT to repeal §20-2-42L of the Code of West Virginia, 1931, as amended; relating to repeal of the Class A-1 small arms hunting stamp.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-42L. Class A-1 small arms hunting stamp.

[Repealed].

CHAPTER 59

(H. B. 2516 - By Delegates Ellington, Statler, Hornby, Crouse, Willis, Dittman, Toney, and Campbell)

[Passed March 31, 2025; in effect 90 days from passage (June 29, 2025)]
[Approved by the Governor on April 8, 2025.]

AN ACT to repeal §18-1-4, §18-2-16, §18-2-16a, §18-2-39, §18-2A-1, §18-2A-2, §18-2A-3, §18-2A-4, §18-2A-5, §18-2A-6, §18-2A-7, §18-2A-8, §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-10, §18-5B-11, §18-5B-12, §18-5B-13, §18-5B-14, §18-10H-6 and §18-10H-7 of the Code of West Virginia, 1931, as amended; relating to repeal of antiquated and inoperative provisions of code.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.

§1. Repeal of section relating to Vision 2020.

§18-1-4. Vision 2020: An Education Blueprint for Two Thousand Twenty.

[Repealed].

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-16. Establishment and operation of state camp and conference center; rental thereof; expenditures; gifts and donations; county court may erect and equip buildings.

[Repealed].

§18-2-16a. Construction of buildings and recreational facilities at state camp and conference center; charges for use; financing by revenue bonds or notes permissible; trustee for holders of bonds or notes; contents of trust agreement.

[Repealed].

§18-2-39. College and career readiness initiative.

[Repealed].

ARTICLE 2A. ADOPTIONS OF TEXTBOOKS, INSTRUCTIONAL MATERIALS AND LEARNING TECHNOLOGIES.

§18-2A-1. Definition; adoption groups; adoption schedule.

[Repealed].

§18-2A-2. Request for samples and bids; deposit by bidder; selection, approval and publication of multiple list.

[Repealed].

§18-2A-3. Disposition of and requests for samples.

[Repealed].

§18-2A-4. Execution of contracts; bond.

[Repealed].

§18-2A-5. Selection by county boards; school curriculum teams.

[Repealed].

§18-2A-6. Retail prices; limitation on profit; violation; penalty.

[Repealed].

§18-2A-7. Exchange privilege; use of supplementary items; state-approved depositories authorized.

[Repealed].

§18-2A-8. Instructional resources must be approved and listed; when changes may be effected; rules.

[Repealed].

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

§18-5B-1. Title.

[Repealed].

§18-5B-2. Legislative findings and purpose.

[Repealed].

§18-5B-3. School innovation zones; application for designation; state board rule.

[Repealed].

§18-5B-4. Innovation zones; required plans; plan approval; state board rule.

[Repealed].

§18-5B-5. Approval of innovation zone plans; waiver of statutes, policies, rules or interpretations.

[Repealed].

§18-5B-6. Employee approval of innovation plan application and plan; transfer of employees.

[Repealed].

§18-5B-7. Progress reviews and annual reports.

[Repealed].

§18-5B-8. Teacher vacancies in an innovation zone; job postings exceeding certain qualifications and requirements; approval of postings.

[Repealed].

§18-5B-9. Establishment of new innovation zone schools by state institutions of higher education.

[Repealed].

§18-5B-10. Exceptions to statutes granted to innovation zones; limitations.

[Repealed].

§18-5B-11. Local Solution Dropout Prevention and Recovery Innovation Zone Act.

[Repealed].

§18-5B-12. School system collaborative innovation zone; requirements to qualify; application for designation; required plans for innovation zones; plan approval; waiver of statutes, policies, rules or interpretations; progress reviews and annual reports; teacher vacancies, job postings and approval.

[Repealed].

§18-5B-13. Innovation school district Act; legislative findings, intent and purpose; eligibility; application; innovation plan and plan approval; designation; waiver of statutes, policies, rules or interpretations; exceptions; progress reviews and annual reports; state board rule.

[Repealed].

§18-5B-14. Termination of funding for School Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones.

[Repealed].

ARTICLE 10H. ALBERT YANNI PROGRAMS OF EXCELLENCE IN VOCATIONAL-TECHNICAL EDUCATION.

§18-10H-6. Effective schools program in vocational-technical education.

[Repealed].

§18-10H-7. Unified technology transfer program.

[Repealed].

CHAPTER 60

(Com. Sub. for H. B. 2711 - By Delegates Akers, Criss, Hott, Barnhart, and Funkhouser)

[Passed April 8, 2025; in effect 90 days from passage (July 7, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §36-1A-1, §36-1A-2, §36-1A-5, §36-1A-6, and §36-1A-7, of the Code of West Virginia, 1931, as amended, by treating all future interests created through a chain of nongeneral or testamentary powers of appointment as if they were created at the time of the first such power, and establishing a rule of construction for interests that are subject to the rule against perpetuities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. UNIFORM STATUTORY RULES AGAINST PERPETUITIES.

§36-1A-1. Statutory rule against perpetuities.

(a) Except as provided in subsection (e) of this section, a nonvested property interest is invalid unless:

(1) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) The interest either vests or terminates within 90 years after its creation.

(b) Except as provided in subsection (e) of this section, a general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) When the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) Except as provided in subsection (e) of this section, a nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under the provisions of this section, the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) As to any trust created on or after July 1, 2025, this article shall apply to a nonvested property interest or power of appointment contained in a trust by substituting 1,000 years in place of "90 years" in each place such term appears in this article, unless the terms of the trust expressly require that all beneficial interests in the trust vest or terminate within a lesser period.

§36-1A-2. When nonvested property interest or power of appointment created.

(a) Except as provided in subsections (b) and (c) of this section and in subsection (a), section five of this article, the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

(b) For purposes of this article, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of (1) a nonvested property

interest or (2) a property interest subject to a power of appointment described in subsections (b) or (c), section one of this article, the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(c) For purposes of this article, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

(d) For the purposes of this article, if a nongeneral or testamentary power of appointment created for any trust is exercised to create another nongeneral or testamentary power of appointment, every nonvested property interest or power of appointment created through the exercise of such nongeneral or testamentary power of appointment is considered to have been created at the time of the creation of the first nongeneral or testamentary power of appointment.

§36-1A-5. Application.

(a) Except as extended by subsection (c) of this section, this article applies to a nonvested property interest or a power of appointment that is created on or after July 1, 2025. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

(b) This article also applies to a power of appointment that was created before July 1, 2025, but only to the extent that it remains unexercised on July 1, 2025.

(c) If a nonvested property interest or a power of appointment was created before the effective date of this article and is determined in a judicial proceeding, commenced on or after the effective date of this article, to violate this state's rule against perpetuities as that rule existed before the effective date of this

article, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

§36-1A-6. Short title.

This article may be cited as the "West Virginia Uniform Statutory Rule Against Perpetuities."

§36-1A-7. Uniformity of application and construction.

(a) With respect to any matter relating to the validity of an interest within the rule against perpetuities, unless a contrary intent appears in the instrument, as a rule of construction it shall be presumed that the transferor of the interest intended that the interest be valid.

(b) The provisions of this article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

CHAPTER 61

(Com. Sub. for H. B. 3440 - By Delegate Riley)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to repeal §12-1A-1, §12-1A-2, §12-1A-3, §12-1A-4, §12-1A-5, §12-1A-6, §12-1A-7, §12-1A-8 and §12-1A-9 of the Code of West Virginia, 1931, as amended, relating to repealing obsolete provisions establishing the West Virginia Small Business Linked Deposit Program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. WEST VIRGINIA SMALL BUSINESS LINKED DEPOSIT PROGRAM.

§12-1A-1. Definitions.

[Repealed.]

§12-1A-2. Legislative findings.

[Repealed.]

§12-1A-3. Limitations on investment in linked deposits.

[Repealed.]

§12-1A-4. Applications for loan priority; loan package; counseling.

[Repealed.]

§12-1A-5. Acceptance or rejection of loan package; deposit agreement for linked deposits.

[Repealed.]

§12-1A-6. Certification and monitoring of compliance; accountability and reporting.

[Repealed.]

§12-1A-7. Liability of state.

[Repealed.]

§12-1A-8. Penalties for violation of article.

[Repealed.]

§12-1A-9. Effective dates.

[Repealed.]

CHAPTER 62

(H. B. 3434 - By Delegate Kelly)

(By Request of the Department of Homeland Security – West Virginia State Police)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §60A-2-204, §60A-2-206, §60A-2-208, §60A-2-210, and §60A-2-212 of the Code of West Virginia, 1931, as amended, relating to the controlled substance schedules and to clean-up errors identified in the code sections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-204. Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

(b) Opiates.

Acetyl-alpha-methylfentanyl(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-phenylacetamide);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-((propanilido) piperidine);

Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-phenylpropanamide);

Benzethidine;

Betacetylmethadol;

Beta-hydroxyfentanyl(N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);

Betameprodine;

Betamethadol;

Betaprodine;

Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2*H*-benzo[*d*]imidazol-2-one);

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetyl butyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxeridine;

Fentanyl analog or derivative, as that term is defined in article one of this chapter: *Provided*, That fentanyl and carfentanil remains a Schedule II substance, as set forth in W. Va. Code §60A-2-206;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacylmorphan;

3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4-piperidinyl]-phenylpropanamide);

Morpheridine;

N-Methylnorfentanyl (N-(1-Methyl-4-piperidinyl)-N-phenyl-propanamide, monohydrochloride);

MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

Phenadoxone;

Phenampromide;

Phenomorphan;

Phenoperidine;

Piritramide;

Proheptazine;

Properidine;

Propiram;

Racemoramide;

Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

Tilidine;

Trimeperidine.

(c) Opium derivatives,

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine (except HCl Salt);

Heroin;

Hydromorphinol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myrophine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

(d) Hallucinogenic substances.

Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-methoxymethamphetamine, PMMA);

4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe;

2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe);

2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe);

2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

3-Hydoxy-phencyclidine (other name hydroxy PCP);

5-methoxy-3, 4-methylenedioxy-amphetamine;

4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

3,4-methylenedioxy amphetamine;

3,4-methylenedioxymethamphetamine (MDMA);

3,4-methylenedioxy-N-ethylamphetamine (also known as (ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (also known as (hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and (hydroxy MDA);

3,4,5-trimethoxy amphetamine;

5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

Alpha-methyltryptamine (other name: AMT);

Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

Diethyltryptamine; sometrade and other names: N, N-Diethyltryptamine; DET;

Dimethyltryptamine; some trade or other names: DMT;

5-Methoxy-N,N-disopropyltryptamine (5-MeO-DIPT);

Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

Lysergic acid diethylamide;

Marihuana; Marijuana (Cannabis, sp.);

Mescaline;

Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

Peyote; meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture, or preparation of such plant, its seeds or extracts;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity including, but not limited to the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

delta-8 Cis or trans tetrahydrocannabinol and its optical isomers; and

delta-10 Cis or trans tetrahydrocannabinol and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Delta-8-tetrahydrocannabinol-O (delta-8-THC-0), Delta-9-tetrahydrocannabinol (delta-9-THC-0) and Synthetic and non-naturally occurring cannabinoids.

The provisions of this section related to tetrahydrocannabinols are inapplicable to products or substances lawfully manufactured, distributed, or possessed under the provisions of §19-12E-1 *et seq.* and Chapter 16H of this code.

Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP, TCP;

1[1-(2-thienyl)cyclohexyl]pyrroldine; some other names: TCPy;

4-methylmethcathinone (Mephedrone);

3,4-methylenedioxypyrovalerone (MDPV);

2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);

2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);

3,4-Methylenedioxy-N-methylcathinone (Methylone);

2,5-dimethoxy-4-(n)-propyltghiophenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers;

5-methoxy-N,N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT);

Alpha-methyltryptamine (other name: AMT);

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Synthetic Cannabinoids as follows:

2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol) { also known as CP 47,497 and homologues} ;

rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl)phenol { also known as CP 47,497-C8 homolog} ;

[(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] { also known as HU-210} ;

(dexanabinol);

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzol[c]chromen-1-ol) { also known as HU-211} ;

1-Pentyl-3-(1-naphthoyl)indole { also known as JWH-018} ;

1-Butyl-3-(1-naphthoyl)indole { also known as JWH-073} ;

(2-methyl-1-propyl-1H-indol-3-yl)-1-napthalenyl-methanone { also known as JWH-015} ;

(1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone { also known as JWH-019} ;

[1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone { also known as JWH-200} ;

1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone { also known as JWH-250} ;

2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxtpropyl)cyclohexyl) -5-(2-methyloctan-2-yl)phenol { also known as CP 55,940} ;

(4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl)-methanone { also known as JWH-122};

(4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl)-methanone { also known as JWH-398;

(4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone { also known as RCS-4} ;

1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone { also known as RCS-8} ;

1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201); and

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694).

Synthetic cannabinoids:

CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL)phenol);

HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10, 10A-tetrahydrobenzo[C] chromen-1-OL)];

HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10atetrahydrobenzo[C]chromen-1-OL);

JWH-018, 1-pentyl-3-(1-naphthoyl)indole;

JWH-019, 1-hexyl-3-(1-naphthoyl)indole;

JWH-073, 1-butyl-3-(1-naphthoyl)indole;

JWH-200, (1-(2-morpholin-4-ylethyl)indol-3-yl)- Naphthalen-1-ylmethanone;

JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl)indole.]

Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-ADB);

Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F-AMB);

Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (FUB-AMB);

N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-APINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (ADB-FUBINACA);

Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (MDMB-CHMICA);

Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (MDMB-FUBINACA);

Tetrahydrocannabinols:

DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.

DELTA-6 CIS OR trans tetrahydrocannabinol and their optical isomers.

DELTA-3,4 CIS or their trans tetrahydrocannabinol and their optical isomers.

Synthetic Phenethylamines

2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-NBOMe);

2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-C-NBOMe);

2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-NBOMe);

Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers, esters and ethers):

N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

furanyl fentanyl;

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700);

N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl);

N-[1-[2-hydroxy-2-(thiophen-2-yl)ethylpiperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-hydroxythiofentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (acryl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (isobutyryl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (cyclopropyl fentanyl);

2-(2,4-dichlorophenyl)-N-((1S,2S)-2-(dimethylamino)cyclohexyl)-N-methylacetamide (also known as U-48800);

Trans-3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methyl-benzamide (also known as U-49900);

Trans-3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzeneacetamide (also known as U-51754);

2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine (butonitazene);

2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine (etodesnitazene);

N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (flunitazene);

N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine (metodesnitazene);

N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (metonitaze);

2-(4-ethoxybenzyl)5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1 H-benzimidazole (N-pyrrolidino etonitazene, etonitazepyne);

N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine (protonitazene);

N-pyrrolidino etonitazene;

Etodesnitazene;

Isotonitazene;

Protonitazene;

Metonitazene;

Butonitazene;

Metodesnitazene;

Flunitazene;

Opioid Receptor Agonist

2-Methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one)

AH-7921 (3,4-dichloro-N-(1dimethylamino)cyclohexylmethyl]benzamide).

Naphthoylindoles or any compound containing a 3-(-1-Napthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

JWH 015;

JWH 018;

JWH 019;

JWH 073;

JWH 081;

JWH 122;

JWH 200;

JWH 210;

JWH 398;

AM 2201; and

WIN 55,212.

Naphylmethylindoles or any compound containing a 1hindol-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further substituted

in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

Naphthylmethylindenes or any compound containing a Naphthylideneindene structure with substitution at the 3- Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

Phenylacetylindoles or any compound containing a 3-Phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

RCS-8, SR-18 OR BTM-8;

JWH 250;

JWH 203;

JWH 251; and

JWH 302.

Cyclohexylphenols or any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with a substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

CP 47,497 and its homologues and analogs;

Cannabicyclohexanol; and

CP 55,940.

Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogren atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

AM 694;

Pravadoline WIN 48,098;

RCS 4; and

AM 679.

[2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-napthalenymethanone. This shall include WIN 55,212-2.

Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051, and JWH 133.

Adamantoylindoles or any compound containing a 3-(-1-Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM1248.

Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and

functional assays that is not listed in Schedules II, III, IV, and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these substances shall be covered.

Tryptamines:

5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);

4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT);

4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT);

4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET);

4-acetoxy-N,N-diisopropyltryptamine (4-AcO-DiPT);

5-methoxy-α-methyltryptamine (5-MeO-AMT);

4-methoxy-N,N-Dimethyltryptamine (4-MeO-DMT);

4-hydroxy Diethyltryptamine (4-HO-DET);

5-methoxy-N,N-diallyltryptamine (5-MeO-DALT);

4-acetoxy-N,N-Dimethyltryptamine (4-AcO DMT);

4-hydroxy Diethyltryptamine (4-HO-DET);

FDU-PB-22 (1-Naphthyl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate);

FUB-PB-22 (Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate);

5-Fluoro-MN-24 (1-(5-Fluoropentyl)-N-(naphthalen-1-yl)-1H-indole-3-carboxamide);

MN-24 (N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide);

SDB-005 (Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate);

SDB-006 (1-Pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide);

Methyl-Ethylaminopentiophenone;

FUB-AMB (Methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate);

5-Fluoro-SDB-005 Indole (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate);

5F-AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide);

MMB-CHMICA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoat);

MN-24 (N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide);

SDB-005 (Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate);

SDB-006 (1-Pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide);

Ethcathinone (2-(ethylamino)-1-phenyl-1-propanone, monohydrochloride);

Methyl-Ethylaminopentiophenone;

FUB-AMB (Methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate);

5-Fluoro-SDB-005 Indole (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate);

5F-AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide);

MMB-CHMICA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoat);

Bromazolam (8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4 H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Cloniprazepam (5-(2-chlorophenyl)-1-(cyclopropylmethyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one);

Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f] [1,2,4]triazolo[4,3-a][1,4]diazepine);

Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flubromazepam (7-bromo-5-(2-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one);

Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flunitrazolam (6-(2-fluorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine);

Nifoxipam (5-(2-fluorophenyl)-1,3-dihydro-3-hydroxy-7-nitro-2H-1,4-benzodiazepin-2-one) ;

Nitrazolam (1-methyl-8-nitro-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); and

Pyrazolam (8-bromo-1-methyl-6-(2-pyridinyl)-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine).

(e) Depressants.

4-CN-CUMYL-BUTINACA (1-(4-Cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide);

Alpha-Phenylacetoacetonitrile (3-Oxo-2-phenylbutanenitrile);

2-Fluoro Deschloroketamine (2-(2-Fluorophenyl)-2-(methylamino)-cyclohexanone, monohydrochloride);

4-MEAP (2-(Ethylamino)-1-(4-methylphenyl)pentan-1-one);

Mecloqualone;

Methaqualone;

Bromazolam (8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4 H-[1,2,4]triazolo[4,3 a][1,4]benzodiazepine);

Cloniprazepam (5-(2-chlorophenyl)-1-(cyclopropylmethyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one);

Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f] [1,2,4]triazolo[4,3-a][1,4]diazepine);

Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flubromazepam (7-bromo-5-(2-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one);

Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flunitrazolam (6-(2-fluorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine);

gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Nifoxipam (5-(2-fluorophenyl)-1,3-dihydro-3-hydroxy-7-nitro-2H-1,4-benzodiazepin-2-one);

Nitrazolam (1-methyl-8-nitro-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Pyrazolam (8-bromo-1-methyl-6-(2-pyridinyl)-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Diclazepam (7-Chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-1,4-benzodiazepin-2-one); and

Deschloroetizolam (2-Ethyl-9-methyl-4-phenyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine);

(f) Stimulants.

Aminorex; some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

4,4'-Dimethylaminorex (4,4′-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine);

Cathinone; some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

Ethylphenidate (ethyl 2-phenyl-2-(piperidin-2-yl)acetate);

Fenethylline;

Mesocarb (*N*-phenyl-*N*′-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate);

Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propiophenone; alpha-

(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypyrovalerone and/or mephedrone;3,4-methylenedioxypyrovalerone (MPVD); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432;

(+-) cis-4-methylaminorex; ((+-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

N-ethylamphetamine;

N,N-dimethylamphetemine; also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine;

Alpha-pyrrolidinopentiophenone, also known as alpha-PVP, optical isomers, salts and salts of isomers;

Substituted amphetamines:

2-Fluoroamphetamine;

3-Fluoroamphetamine;

4-Fluoroamphetamine;

2-chloroamphetamine;

3-chloroamphetamine;

4-chloroamphetamine;

2-Fluoromethamphetamine;

3-Fluoromethamphetamine;

4-Fluoromethamphetamine;

4-chloromethamphetamine;

Ethcathinone (2-(ethylamino)-1-phenyl-1-propanone, monohydrochloride);

Alpha-PHP (1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one);

MPHP (1-(4-Methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one);

PV8 (1-Phenyl-2-(pyrrolidin-1-yl)heptan-1-one);

4-Chloro-Alpha-PVP (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one);

N-Ethylhexedrone (2-(Ethylamino)-1-phenylhexan-1-one);

Methoxetamine (2-(Ethylamino)-2-(3-methoxyphenyl)-cyclohexanone); and

3-Fluorophenmetrazine (2-(3-Fluorophenyl)-3-methylmorpholine);

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture, or preparation which contains any quantity of the following substances:

N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers;

N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers.

N-benzylpiperazine, also known as BZP;

Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);

4-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]-butyramide);

Isobutyryl fentanyl (2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-propanamide);

Methoxyacetyl fentanyl (2-methoxy-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-acetamide);

3-methylbutyryl fentanyl (N-[3-methyl-1-(2-phenylethyl)piperidin-4-yl]-N-phenylbutyramide);

4-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide);

Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)piperidin-4-yl]-acetamide);

Tetrahydrofuran fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide); and

Valeryl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]pentanamide).

(h) The following controlled substances are included in Schedule I:

Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2-Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

By substitution in the ring system to any extent with Alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide Substituents whether or not further substituted in the ring system by one or more other univalent substituents;

By substitution at the 3-position with an acyclic alkyl substituent;

By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups;

By inclusion of the 2-amino nitrogen atom in a cyclic structure; or

Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV, and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

§60A-2-206. Schedule II.

(a) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of

the following substances, including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

(b) Substances, vegetable origin or chemical synthesis. — Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts, but including the following:

Raw opium;

Opium extracts;

Opium fluid;

Powdered opium;

Granulated opium;

Tincture of opium;

Codeine;

Dihydroetorphine;

Ethylmorphine;

Etorphine hydrochloride;

Hydrocodone;

Hydromorphone;

Metopon;

Morphine;

Oripavine;

Oxycodone;

Oxymorphone; and

Thebaine;

Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1) of this subsection, except that these substances shall not include the isoquinoline alkaloids of opium;

Opium poppy and poppy straw;

Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or ecgonine;

Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) Opiates.

Alfentanil;

Alphaprodine;

Anileridine;

Bezitramide;

Bulk dextropropoxyphene (nondosage forms);

Carfentanil;

Dihydrocodeine;

Diphenoxylate;

Fentanyl;

Isomethadone;

Levo-alphacetylmethadol; some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM;

Levomethorphan;

Levorphanol;

Metazocine;

Methadone;

Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

Moramide-Intermediate, 2-methyl-3-morpholino-1;

Norfentanyl;

Oliceridine;

1-diphenylpropane-carboxylic acid;

Pethidine; (meperidine);

Pethidine-Intermediate-A, 4-cyano-1-methyl-4- phenylpiperidine;

Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

Phenazocine;

Piminodine;

Racemethorphan;

Racemorphan;

Remifentanil;

Sufentanil;

Tapentadol; and

Thiafentanil (4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-2-(thienyl)ethylpiperidine), including its isomers, esters, ethers, salts and salts of isomers, esters and ethers.

(d) Stimulants.

Amphetamine, its salts, optical isomers, and salts of its optical isomers;

Methamphetamine, its salts, isomers, and salts of its isomers;

Methylphenidate;

Phenmetrazine and its salts; and

Lisdexamfetamine.

(e) Depressants.

Amobarbital;

Glutethimide;

Pentobarbital;

Phencyclidine; and

Secobarbital.

(f) Hallucinogenic substances:

Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] if in an FDA approved oral solution; and

Nabilone: [Another name for nabilone: (-)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo [b,d] pyran-9-one].

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

Immediate precursor to amphetamine and methamphetamine:

Phenylacetone;

Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

Immediate precursors to phencyclidine (PCP):

1-phenylcyclohexylamine; and

1-piperidinocyclohexanecarbonitrile (PCC).

Immediate precursor to fentanyl:

4-anilino-N-phenethyl-4-piperidine (ANPP).

§60A-2-208. Schedule III.

(a) Schedule III consists of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) Stimulants. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of the salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under 21 C.F.R. §1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Phendimetrazine.

(c) Depressants. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(A) Amobarbital;

(B) Secobarbital;

(C) Pentobarbital; or any salt of pentobarbital and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

(A) Amobarbital;

(B) Secobarbital;

(C) Pentobarbital; or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt of barbituric acid;

(4) Aprobarbital;

(5) Butabarbital (secbutabarbital);

(6) Butalbital (including, but not limited to, Fioricet);

(7) Butobarbital (butethal);

(8) Chlorhexadol;

(9) Embutramide;

(10) Gamma Hydroxybutryic Acid preparations;

(11) Ketamine, its salts, isomers and salts of isomers [Some other names for ketamine: (+-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone];

(12) Lysergic acid;

(13) Lysergic acid amide;

(14) Methyprylon;

(15) Perampanel, and its salts, isomers, and salts of isomers;

(16) Sulfondiethylmethane;

(17) Sulfonethylmethane;

(18) Sulfonmethane;

(19) Thiamylal;

(20) Thiopental;

(21)Tiletamine and zolazepam or any salt of tiletamine and zolazepam; some trade or other names for a tiletamine-zolazepam combination product: Telazol; some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; some

trade or other names for zolazepam: 4-(2-flurophenyl)-6, 8-dihydro-1, 3, 8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon; and

(22) Vinbarbital.

(d) Nalorphine.

(e) Narcotic drugs. — Unless specifically excepted or unless listed in another schedule:

(1) Any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(A) Not more than 1.8 grams of codeine per 100 milliliters and not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(C) Not more than 1.8 grams of dihydrocodeine per 100 milliliters and not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(D) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(F) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture or preparation containing buprenorphine or its salts (including, but not limited to, Suboxone).

(f) Anabolic steroids. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of anabolic steroids, including its salts, isomers and salts of isomers whenever the existence of the salts of isomers is possible within the specific chemical designation.

(g) Human growth hormones.

(h) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a- tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1- ol or (-)-delta-9-(trans)-tetrahydrocannabinol).

(i) Human chorionic gonadotropin, except when used for injection or implantation in cattle or any other nonhuman species and when that use is approved by the Food and Drug Administration.

§60A-2-210. Schedule IV.

(a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

(b) Narcotic drugs. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

Dextropropoxyphene (alpha-( )-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants.

Alfaxalone;

Alprazolam;

Barbital;

Bromazepam;

Camazepam;

Carisoprodol;

Chloral betaine;

Chloral hydrate;

Chlordiazepoxide;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Daridorexant;

Delorazepam;

Diazepam;

Dichloralphenazone;

Estazolam;

Ethchlorvynol;

Ethinamate;

Ethyl loflazepate;

Fludiazepam;

Flunitrazepam;

Flurazepam;

Fospropofol;

Halazepam;

Haloxazolam;

Ketazolam;

Lemborexant.

Loprazolam;

Lorazepam;

Lormetazepam;

Mebutamate;

Medazepam;

Meprobamate;

Methohexital;

Methylphenobarbital (mephobarbital);

Midazolam;

Nimetazepam;

Nitrazepam;

Nordiazepam;

Oxazepam;

Oxazolam;

Paraldehyde;

Petrichloral;

Phenobarbital;

Pinazepam;

Prazepam;

Quazepam;

Remimazolam.

Temazepam;

Tetrazepam;

Triazolam;

Xylazine;

Zaleplon;

Zolpidem;

Zopiclone; and

Suvorexant ([(7R)-4-(5-chloro-1,3-benzoxazol-2-yl)-7-methyl-1,4-diazepan-1-yl] [5-methyl-2-(2H-1,2,3-triazol-2-yl)phenyl]methanone).

Zuranolone;

(d) Any material, compound, mixture, or preparation which contains any quantity of Fenfluramine and Dexfenfluramine.

(e) Stimulants.

Cathine (( )-norpseudoephedrine);

Diethylpropion;

Fencamfamin;

Fenproporex;

Mazindol;

Mefenorex;

Modafinil;

Pemoline (including organometallic complexes and chelates thereof);

Phentermine;

Pipradrol;

Serdexmethylphenidate;

Sibutramine;

SPA ((-)-1-dimethylamino-1,2-diphenylethane); and

Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl [(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid);

(f) Other substances.

Lorcaserin;

Pentazocine;

Butorphanol;

Tramadol (2-[(dimethylamino)methyl]-1-(3-methoxyphenyl) cyclohexanol); and

Amyl nitrite, butyl nitrite, isobutyl nitrite, and the other organic nitrites are controlled substances and no product containing these compounds as a significant component shall be possessed, bought, or sold other than pursuant to a bona fide prescription or for industrial or manufacturing purposes.

§60A-2-212. Schedule V.

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone.

Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; and

Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Stimulants:

Pyrovalerone.

(d) Any compound, mixture, or preparation containing as its single active ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers except products which are for pediatric use primarily intended for administration to children under the age of 12: *Provided*, That neither the offenses set forth in section four hundred one, article four of this chapter, nor the penalties therein, shall be applicable to ephedrine, pseudoephedrine or phenylpropanolamine which shall be subject to the provisions of article ten of this chapter.

(e) Depressants:

Ezogabine [N-[2-amino-4-94-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester];

Ganaxolone (3α-hydroxy-3β-methyl-5α-pregnan-20-one);

Lacosamide [(R)-2-acetoamido- N -benzyl-3-methoxy-propionamide]; and

Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact).

(f) Other substances:

Gabapentin;

Pregabalin;

Cenobamate; and

Lasmiditan.

CHAPTER 63

(S. B. 828 - By Senators Rucker and Garcia)

[Passed April 4, 2025; in effect 90 days from passage (July 3, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, relating to sexual offenses against incarcerated, detained, or under supervision persons; and clarifying that any person employed by the Division of Corrections and Rehabilitation pursuant to a contract includes contracted staff that work for vendors.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-10. Imposition of sexual acts on persons incarcerated, detained, or under supervision; penalties.

(a) Any person employed by the Division of Corrections and Rehabilitation, any person working at a correctional or juvenile facility managed by the Commissioner of Corrections and Rehabilitation pursuant to contract, such as a vendor, or as an employee of a state agency or as a volunteer or any person employed by, or acting pursuant to, the authority of any sheriff, county commission, municipality, or court to ensure compliance with the provisions of §62-11B-1 *et seq.* of this code who engages in sexual intercourse, sexual intrusion, or sexual contact with a person who is incarcerated or detained in this state is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Any person employed by the Division of Corrections and Rehabilitation as a parole officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer, who engages in sexual intercourse, sexual intrusion, or sexual contact with a person said parole officer or probation officer is charged as part of his or her employment with supervising, is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(c) Any person working or volunteering in an alternative sentence program authorized by the provisions of §62-11C-1 *et seq.* of this code who, as part of his or her employment or volunteer duties, supervises program participants, and engages in sexual intercourse, sexual intrusion, or sexual contact with a program participant is guilty of a felony, and upon conviction thereof, shall be fined not more than $5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(d) The term "incarcerated or detained in this state" for purposes of this section includes, in addition to its usual meaning, adult offenders serving a sentence or a period of supervision under the provisions of §62-11B-1 *et seq.* of this code, and juvenile offenders detained, committed, or serving a period of supervision under the provisions of §62-11B-1 *et seq.* of this code.

(e) An authorized pat-down, strip search, or other security-related task does not constitute sexual contact pursuant to this section.

CHAPTER 64

(H. B. 3424 - By Delegate Kelly)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §15A-4-21 of the Code of West Virginia, 1931, as amended, relating to corrections management; and removing language authorizing short term loans to released inmates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-21. Director of employment; director of housing; released inmates; duties.

The commissioner may employ or contract for a Director of Employment and a Director of Housing for released inmates. The Director of Employment shall work with federal, state, county, and local government and private entities to negotiate agreements which facilitate employment opportunities for released inmates. The Director of Housing shall work with federal, state, county, and local government and private entities to negotiate agreements which facilitate housing opportunities for released inmates. The Director of Employment shall investigate job opportunities and give every possible assistance in helping released inmates find employment. The Director of Housing shall work in conjunction with the Bureau of Community Corrections and the Parole Board to reduce release delays due to lack of a home plan and develop community housing resources.

CHAPTER 65

(H. B. 3456 - By Delegate Green)

(By Request of the Division of Corrections and Rehabilitation)

[Passed April 9, 2025; in effect 90 days from passage (July 8, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §15A-3-12 of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §15A-3-4a, relating to the powers and duties of the commissioner of the Division of Corrections and Rehabilitation generally regarding Stevens Correctional Center; clarifying the authority of the commissioner of the Division of Corrections and Rehabilitation to manage, direct, control, and govern Stevens Correctional Center; authorizing the transfer of facilities, equipment, and assets of the Stevens Correctional Center to the Division of Corrections and Rehabilitation; clarifying the debt liability of Stevens Correctional Center; authorizing the transfer of employees of the Stevens Correctional Center to the Division of Corrections and Rehabilitation; and clarifying that the Stevens Correctional Center is an institution managed by the commissioner of the Division of Corrections and Rehabilitation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.

§15A-3-4a. Powers and duties of commissioner generally regarding Stevens Correctional Center.

(a) In compliance with the powers and duties of the commissioner in §15A-3-4 of this code, the commissioner shall manage, direct, control, and govern Stevens Correctional Center in McDowell County consistent with any other juvenile or adult facility since Stevens Correctional Center in McDowell County has been transferred to the commissioner and is no longer contracted with the county commission of McDowell County to house and incarcerate inmates.

(1) Under prior actions, all of the facilities, equipment, and assets, associated with and on the property known as Stevens Correctional Center have been acquired and ownership assumed by the State of West Virginia through the Division of Corrections and Rehabilitation.

(2) All debt liability related to the operation of the Stevens Correctional Center in its capacity and previous agreements related to the West Virginia Division of Corrections and Rehabilitation currently owed by the County of McDowell have been paid and acquired by the West Virginia Division of Corrections and Rehabilitation and the State, or both.

(3) All county employees of the Stevens Correctional Center shall be transferred to the West Virginia Division of Corrections and Rehabilitation in the state classified service system, subject to a one year probationary period, and shall carry over all rank and accrued annual and sick leave balances.

§15A-3-12. Institutions managed by commissioner.

(a) The commissioner shall manage, direct, control, and govern the prisons, jails, or correctional institutions of this state, and the juvenile facilities of this state, including, but not limited to:

Mount Olive Correctional Complex and Jail;

Huttonsville Correctional Center and Jail;

Anthony Correctional Center and Jail;

Denmar Correctional Center and Jail;

Pruntytown Correctional Center and Jail;

Northern Regional Jail and Correctional Center;

Saint Marys Correctional Center and Jail;

Lakin Correctional Center and Jail;

Ohio County Correctional Center and Jail;

Beckley Correctional Center and Jail;

Martinsburg Correctional Center and Jail;

Salem Correctional Center and Jail;

Stevens Correctional Center;

Parkersburg Correctional Center and Jail;

Charleston Correctional Center and Jail;

Central Regional Jail and Corrections Facility;

Eastern Regional Jail and Corrections Facility;

North Central Regional Jail and Corrections Facility;

Potomac Highlands Regional Jail and Corrections Facility;

South Central Regional Jail and Corrections Facility;

Southern Regional Jail and Corrections Facility;

Southwestern Regional Jail and Corrections Facility;

Tygart Valley Regional Jail and Corrections Facility;

Western Regional Jail and Corrections Facility;

Donald R. Kuhn Juvenile Center;

Gene Spadaro Juvenile Center;

J.M. Chick Buckbee Juvenile Center;

Kenneth "Honey" Rubenstein Juvenile Center;

Lorrie Yeager Juvenile Center;

Robert L. Shell Juvenile Center;

Sam Perdue Juvenile Center;

Tiger Morton Juvenile Center;

Vicki Douglas Juvenile Center; and

Any other juvenile or adult facility later transferred to the commissioner.

(b) The commissioner may contract with Youth Services System to house and detain juveniles at the Ronald Mulholland Juvenile Center consistent with all the requirements and standards governing the division.

(c) The commissioner may establish work and study release units as extensions and subsidiaries of those state institutions under his or her control and authority. The work and study release units may be coeducational and shall be managed, directed, and controlled as provided in this article.

(d) The commissioner may contract with nonprofit or charitable entities including, but not limited to, nonprofit community mental health clinics, operating half-way houses, or transitional housing facilities for the placement of persons in the commissioner's custody, whether confined or under parole supervision, as long as the facilities meet standards and criteria established by the commissioner.

(1) The commissioner may direct that a person who is placed in a half-way house or transitional housing facility under this section make reimbursement to the state in the amount of a reasonable sum calculated to offset all or part of the costs of the placement. Prior to ordering the person to make the reimbursement,

the commissioner, or his or her designee, shall consider the following:

(A) The person's ability to pay;

(B) The nature and extent of the person's responsibilities to his or her dependents, if any;

(C) The length of probable incarceration under the court's sentence; and

(D) The effect, if any, that reimbursement might have on the person's rehabilitation.

(2) The division shall provide the number of persons placed in a half-way house or a transitional housing facility as authorized in this section in its report made pursuant to §5-1-20 of this code, and shall describe its plans to use the authority provided under the provisions of §15A-3-12 (f) of this code in furtherance of the duties and responsibilities imposed by this article.

(e) All adult persons sentenced by a court to serve a sentence of incarceration in a prison, jail, or correctional institution under the jurisdiction of the commissioner shall be deemed to be sentenced to the custody of the commissioner. The commissioner, or his or her designee, may order the transfer of any adult to any appropriate institution within the division.

(f) The commissioner may contract with any county jail, or other appropriate facility or institution for the incarceration and care of adult inmates. If a felony sentenced inmate is held in a jail facility or unit, under the jurisdiction of the commissioner, the commissioner shall pay a per diem rate, not subject to the limitations set forth in §15A-3-16(g) of this code.

(g) The commissioner, or his or her designee, may transfer any adult prisoner or inmate who is mentally disturbed and who would more appropriately be treated in an institution under the jurisdiction of the Bureau of Health, to the Bureau, subject to the approval of the Director of Health, and may transfer any adult

prisoner or inmate to an appropriate mental facility for specialized medical treatment.

(h) The commissioner shall, no later than July 1, 2019, complete an evaluation of all facilities within his or her control for the most appropriate space to house each type of inmate, and shall consult with the Juvenile Justice Commission on any and all intended uses of current or prospective juvenile facilities. This evaluation shall include an assessment of the physical plant of each institution, the inmate population size and type, and classification of inmates. Following completion of the evaluation, the commissioner shall develop a plan on how to best utilize the institutional space, and shall report to the Joint Committee on Government and Finance with recommendations regarding implementation of that plan. The commissioner may, from time to time, and as circumstances dictate, reorganize the facilities, and units within the facilities, to house pretrial inmates, convicted misdemeanants, and convicted felons in the most appropriate manner. No facility shall be converted from a juvenile to an adult facility, or from an adult to a juvenile facility, without legislative authorization.

CHAPTER 66

(Com. Sub. for S. B. 459 - By Senators Thorne, Helton, Hamilton, and Willis)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §8A-2-3, §8A-2-4, and §8A-2-5 of the Code of West Virginia, 1931, as amended, relating to requiring that members of municipal, county, and other planning commissions meet certain residency requirements; mandating that members of municipal and county planning commissions be West Virginia residents for the three years immediately preceding the appointment; requiring that such members be residents of the county or municipality in which the planning commission to which they are appointed is situated for a certain time period prior to appointment; requiring that members of multicounty, regional, and joint planning commissions be residents of the jurisdiction of the planning commission to which they are appointed for at least three years immediately preceding the appointment; and prohibiting members of planning commissions who do not meet residency requirements from remaining on the planning commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. PLANNING COMMISSIONS.

§8A-2-3. Municipal planning commission.

(a) A municipal planning commission in a Class I, II, or III city shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission. A municipal planning commission in a Class IV town

or village shall have not less than three nor more than nine members, the exact number to be specified in the ordinance creating the planning commission.

(b) Each member of a municipal planning commission must be:

(1) A West Virginia resident who has maintained continuous West Virginia residency for the three years immediately preceding his or her appointment;

(2) A resident of the municipality for one year immediately preceding his or her appointment; and

(3) Qualified by knowledge and experience in matters pertaining to the development of the municipality.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

(d) At least three fifths of all of the members must have been residents of the municipality for at least three years prior to nomination or appointment and confirmation.

(e) The members of a municipal planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, government, and other relevant disciplines. One member must be a member of the municipal governing body or a designee and one member must be a member of the administrative department of the municipality or a designee. The term of membership for these two members is the same as their term of office.

(f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts

business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

(g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided,* That such members do not constitute a majority of the members of the planning commission at the same time.

(h) The remaining members of the municipal planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

(i) The members of a municipal planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(j) Nominations for municipal planning commission membership shall be made by the administrative authority and confirmed by the governing body when the administrative authority and the governing body are separate, or appointed and confirmed by the governing body where the administrative authority and governing body are the same.

(k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

(l) The governing body of the municipality may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

§8A-2-4. County planning commission.

(a) A county planning commission shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission.

(b) Each member of a county planning commission must be:

(1) A West Virginia resident who has maintained continuous West Virginia residency for the three years immediately preceding his or her appointment;

(2) A resident of the county for one year immediately preceding his or her appointment; and

(3) Qualified by knowledge and experience in matters pertaining to the development of the county.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

(d) At least three fifths of all of the members must have been residents of the county for at least three years prior to appointment and confirmation by the county commission.

(e) The members of a county planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, farming, government, and other relevant disciplines. One member must be a member of the county commission or a designee. The term of membership for this member is the same as the term of office.

(f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

(g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself

or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided,* That such members do not constitute a majority of the members of the planning commission at the same time.

(h) The remaining members of the county planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

(i) The members of a county planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(j) Appointments for county planning commission membership shall be made and confirmed by the county commission.

(k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

(l) The county commission may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

§8A-2-5. Multicounty planning commission, regional planning commission, or joint planning commission.

(a) A multicounty planning commission, a regional planning commission, or a joint planning commission shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission.

(b) Each member of a multicounty planning commission, a regional planning commission, or a joint planning commission must be:

(1) A resident of the jurisdiction of the multicounty planning commission, regional planning commission, or joint planning commission for at least three years immediately preceding his or her appointment; and

(2) Qualified by knowledge and experience in matters pertaining to the development of the jurisdiction.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

(d) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission must equally represent the jurisdictions in the planning commission.

(e) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, farming, government, and other relevant disciplines. Each governing body participating in the planning commission must have one member from its governing body on the planning commission. The term of membership for this member is the same as the term of office.

(f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also

serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

(g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided,* That such members do not constitute a majority of the members of the planning commission at the same time.

(h) The remaining members of the multicounty planning commission, regional planning commission or joint planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

(i) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(j) Appointments for a multicounty planning commission, a regional planning commission, or a joint planning commission membership shall be made and confirmed by each governing body participating in the planning commission.

(k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

(l) The governing bodies may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

CHAPTER 67

(H. B. 2479 - By Delegates Maynor, Petitto, J. Cannon, Hornby, Holstein, Chiarelli, Browning, Jeffries, Gearheart, Roop, and Dean)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to management and control of county authority vested in a board; and reducing minimum number of members of county economic development authority.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.

§7-12-3. Management and control of county authority vested in board; appointment and terms of members; vacancies; removal of members.

The management and control of a county authority, its property, operations, business, and affairs shall be lodged in a board of not fewer than seven nor more than 21 persons who shall be appointed by the county commission and be known as members of the authority. The county commission shall appoint one member to represent the county commission on the board. Members of the board shall be appointed by the county commission. The members of the authority first appointed shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between these terms. Thereafter, members shall be appointed for terms of three years each. A member may be reappointed for such additional term or terms as the county

commission may deem proper. If a member resigns, is removed or for any other reason his or her membership terminates during his or her term of office, a successor shall be appointed by the county commission to fill out the remainder of his or her term. Members in office at the expiration of their respective terms shall continue to serve until their successors have been appointed and have qualified. The county commission may at any time remove any member of the board by an order duly entered of record and may appoint a successor member for any member so removed.

Other persons, firms, unincorporated associations, and corporations, who reside, maintain offices, or have economic interests in the county, are eligible to participate in and request the county commission to appoint members to the development authority as the said authority shall by its bylaws provide.

CHAPTER 68

(H. B. 2484 - By Delegates Crouse, Akers, Heckert, Drennan, Phillips, Hornby, Worrell, Mallow, Kelly, and Chiarelli)

[Passed April 9, 2025; in effect 90 days from passage (July 8, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §8-15-20 of the Code of West Virginia, 1931, as amended, relating to increasing the probationary appointment period for vacancies filled by the Firemen's Civil Service Commission from six months to one year.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. FIRE FIGHTING, FIRE COMPANIES AND DEPARTMENTS, CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-20. Appointments from list of eligible applicants; special examinations for electricians or mechanics.

(a) Every position, unless filled by promotion, reinstatement, or reduction, shall be filled only in the manner specified in this section. The appointing officer shall notify the Firemen's Civil Service Commission of any vacancy in a position which he or she desires to fill, and shall request the certification of eligible applicants. The commission shall immediately certify, from the eligible list, the names of the three individuals on the eligible list who received the highest averages at preceding competitive examinations held under the civil service provisions of this article within a period of three years next preceding the date of the prospective appointment. The appointing officer shall, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three certified names: *Provided*, That if

the appointing officer objects, to the commission, to one or more of these individuals, for any of the reasons stated in §8-15-19 of this code, and the objection is sustained by the commission, after a public hearing along the lines of the hearing provided for in §8-15-19 of this code, if a hearing is requested, the commission shall strike the name of the individual from the eligible list, and certify the next highest name for each individual stricken. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: *Provided, however*, That after any name has been rejected three times for the same or another position in favor of a name or names below it on the same list, the name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the provisions of this section. When an appointment is made under the provisions of this section it shall be, in the first instance, for the probationary period of one year, as provided in §8-15-16 of this code: *Provided further*, That in the event any position as an electrician or mechanic is to be filled in any paid fire department, then the examinations to be given to applicants for either position shall be drawn to test only the qualifications of the applicants in regard to their ability as electricians or mechanics, the examinations to be special examinations.

(b) If there are not enough eligible applicants to certify a list of three, then the appointing officer may appoint a qualified individual to fill the position.

CHAPTER 69

(Com. Sub. for S. B. 128 - By Senators Tarr and Fuller)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §49-4-108 of the Code of West Virginia, 1931, as amended, relating to courts ordering payment for services in child welfare proceedings; and eliminating the ability of a court to order certain services for adults to be paid at a higher rate than the Medicaid rate or the rate established by the Department of Human Services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

Part I. General Provisions.

§49-4-108. Payment of services.

(a) At any time during any proceedings brought pursuant to this chapter, the court may upon its own motion, or upon a motion of any party, order the Department of Human Services to pay the Medicaid rates for professional services rendered by a health care professional to a child or other party to the proceedings. Professional services include, but are not limited to, treatment, therapy, counseling, evaluation, report preparation, consultation, and preparation of expert testimony. A health care professional shall be paid by the Department of Human Services upon completion of services and submission of a final report or other information and documentation as required by the policies implemented by the Department of Human Services: *Provided*, That if the service is covered by Medicaid, being rendered to a child, and is not provided within 30 days, the court may order the

service to be provided to the child by a provider at a rate higher than the Medicaid rate. The department may object and request to be heard, after which the court shall issue findings of fact and conclusions of law supporting its decision.

(b) At any time during any proceeding brought pursuant to this chapter, the court may upon its own motion, or upon a motion of any party, order the Department of Human Services to pay for socially necessary services rendered by an entity who has agreed to comply with §9-2-6(20) of this code. The Department of Human Services shall set the reimbursement rates for the socially necessary services: *Provided*, That if services being rendered to a child are not provided within 30 days, the court may order a service to be provided to the child by a provider at a rate higher than the department established rate. The department may object and request to be heard, after which the court shall issue findings of fact and conclusions of law supporting its decision.

CHAPTER 70

(S. B. 621 - By Senators Willis, Woelfel, and Thorne)

[Passed March 24, 2025; in effect 90 days from passage (June 22, 2025)]
[Approved by the Governor on April 1, 2025.]

AN ACT to amend and reenact §51-1-12 and §51-3-4 of the Code of West Virginia, 1931, as amended, relating to authorizing digital court records; providing duties of Clerk of Supreme Court of Appeals or designated staff to include preserving digital and physical court records; requiring orders to be entered in a book or kept digitally by clerk of court; and removing requirement that order books be signed by judge or presiding officer.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-12. Duties of clerk.

It shall be the duty of the Clerk of the Supreme Court of Appeals to attend in person, or by designated staff, all the sessions of the court, to obey its orders and directions, to preserve all digital and physical court records, and to perform such other duties as may be prescribed by law or required of him or her by the court.

ARTICLE 3. COURTS IN GENERAL.

§51-3-4. Records.

The orders of every court shall be entered in a book or kept digitally by the clerk of court.

CHAPTER 71

(Com. Sub. for H. B. 2761 - By Delegates Akers, Maynor, Barnhart, Criss, D. Cannon, and Funkhouser)

[Passed April 8, 2025; in effect 90 days from passage (July 7, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §50-2-1 of the Code of West Virginia, 1931, as amended, relating to increasing the jurisdictional limits of magistrate courts in civil actions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. JURISDICTION AND AUTHORITY.

§50-2-1. Civil jurisdiction.

Except as limited herein and in addition to jurisdiction granted elsewhere to magistrate courts, such courts shall have jurisdiction of all civil actions wherein the value or amount in controversy or the value of property sought, exclusive of interest and cost, is not more than $20,000. Magistrate courts shall have jurisdiction of all matters involving unlawful entry or detainer of real property or involving wrongful occupation of residential rental property, so long as the title to such property is not in dispute. Except as the same may be in conflict with the provisions of this chapter, the provisions of article three, chapter fifty-five of this code, regarding unlawful entry and detainer, shall apply to such actions in magistrate court. Magistrate courts shall have jurisdiction of actions on bonds given pursuant to the provisions of this chapter. Magistrate courts shall have continuing jurisdiction to entertain motions in regard to post-judgment process issued from magistrate court and decisions thereon may be appealed in the same manner as judgments.

Magistrate courts do not have jurisdiction of actions in equity, of matters in eminent domain, of matters in which the title to real estate is in issue, of proceedings seeking satisfaction of liens through the sale of real estate, of actions for false imprisonment, of actions for malicious prosecution or of actions for slander or libel or of any of the extraordinary remedies set forth in chapter fifty-three of this code.

Magistrates, magistrate court clerks, magistrate court deputy clerks and magistrate assistants shall have the authority to administer any oath or affirmation, to take any affidavit or deposition, unless otherwise expressly provided by law, and to take, under such regulations as are prescribed by law, the acknowledgment of deeds and other writings.

CHAPTER 72

(H. B. 3274 - By Delegates Akers, Leavitt, Flanigan, Funkhouser, and Kelly)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §51-7-1 of the Code of West Virginia, 1931, as amended, relating to reports of circuit court proceedings; and authorizing circuit courts to appoint court reporters or use electronic means approved by the Supreme Court of Appeals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. OFFICIAL REPORTERS.

§51-7-1. Appointment; oath; attendance at grand jury sessions.

The circuit courts of the several judicial circuits in this state, or the judges thereof in vacation, or the judges of any intermediate, criminal or common pleas court, are hereby empowered and authorized to appoint court reporters, or use electronic means approved by the Supreme Court of Appeals, to take and report, under such regulations as such judges, or any of them, may prescribe, the proceedings had and the testimony given in any case, either civil or criminal, or in any other proceeding had in such court, including the taking of testimony before the grand jury of such court for the use of the prosecuting attorney of the county, and in proceedings before the judge of such court in vacation, and otherwise to aid the judge in the performance of his or her official duties.

The appointment of such reporter may be made by the judge of such court by an order entered of record, and the reporter so

appointed shall be designated the "official reporter" of the court for which he or she shall be appointed.

Such reporter, when appointed, shall be qualified under oath, and shall be authorized to attend the sessions of the grand jury, but shall retire from such session when directed by the foreman, or a majority of the grand jury, or when ordered to do so by the court, and when the grand jury desires to consult or vote upon any matters before them.

CHAPTER 73

(H. B. 2360 - By Delegate Kelly)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11-27, relating to the definition of law-enforcement officers; and clarifying that term includes chief executives, law-enforcement officials, pre-certified law-enforcement officers, and others authorized to enforce the criminal laws of this state.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-27. Definition of law-enforcement officer.

For purposes of §61-2-10b, §61-5-17, and §61-5-17a, "law-enforcement officer" has the same definition as this term is defined in §30-29-1 and shall additionally include individuals defined as "chief executive", "law-enforcement official", and "pre-certified law-enforcement officer" in §30-29-1, and any person hired, elected, appointed, or otherwise authorized by this code to engage in or supervise the prevention, detection, or investigation of the criminal laws of this state.

CHAPTER 74

(Com. Sub. for S. B. 196 - By Senators Deeds, Taylor, Woodrum, and Willis)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §60A-4-401, §60A-4-409, §60A-4-414, §60A-4-416, §61-11-8, and §62-12-2 of the Code of West Virginia, 1931, as amended; and to amend the code by adding thereto a new section, designated §60A-4-419, relating to controlled substances violations; clarifying certain requirements for the enhanced sentencing of crimes involving fentanyl; increasing sentences for certain controlled substances offenses; modifying the weight of certain controlled substances for purposes of sentencing; making certain offenses ineligible for suspension or probation, or alternative sentencing; clarifying the offense of drug delivery resulting in death; creating a separate offense for drug delivery in exchange for money or any other thing of value resulting in death; modifying the penalties for failure to render aid in certain circumstances; creating definitions related to the offense of failure to render aid; creating a new offense for conspiracy involving a drug kingpin; creating a definition of "drug kingpin"; clarifying certain procedures for prosecution of a drug kingpin; clarifying the penalty where a detectable amount of controlled substances is found in certain circumstances for purposes of weight; setting forth a method for measurement where more than one controlled substance is in a mixture; modifying sentences for certain offenses; updating list of offenses related to controlled substances that are qualifying offenses for recidivist sentencing enhancements; declaring certain offenses to be ineligible for probation; and creating criminal penalties.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-401. Prohibited acts; penalties.

(a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

Any person who violates this subsection with respect to:

(i) A controlled substance classified in Schedule I or II, which is a narcotic drug or which is methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than $25,000, or both fined and imprisoned: *Provided*, That any person who violates this section when the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than $50,000, or be imprisoned in a state correctional facility for not less than 3 nor more than 15 years, or both fined and imprisoned;

(ii) Any other controlled substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than $15,000, or both fined and imprisoned;

(iii) A substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than $10,000, or both fined and imprisoned;

(iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and confined: *Provided,* That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, or methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than $25,000, or both fined and imprisoned;

(ii) Any other counterfeit substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than $15,000, or both fined and imprisoned;

(iii) A counterfeit substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than $10,000, or both fined and imprisoned;

(iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and confined: *Provided,* That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor, and disposition may be made under §60A-4-407 of this code, subject to the limitations specified in said section, or upon conviction thereof,

the person may be confined in jail not less than 90 days nor more than six months, or fined not more than $1,000, or both fined and confined: *Provided,* That notwithstanding any other provision of this act to the contrary, any first offense for possession of synthetic cannabinoids as defined by §60A-1-101(d)(32) of this code; 3,4-methylenedioxypyrovalerone (MPVD) and 3,4-methylenedioxypyrovalerone and/or mephedrone as defined in §60A-1-101(f) of this code; or less than 15 grams of marijuana, shall be disposed of under §60A-4-407 of this code.

(d) It is unlawful for any person knowingly or intentionally:

(1) To create, distribute, deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or

(2) To create, possess, sell, or otherwise transfer any equipment with the intent that the equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or the container or label of a counterfeit substance or an imitation controlled substance.

(3) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and confined. Any person 18 years old or more who violates subdivision (1) of this subsection and distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than that person is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than $10,000, or both fined and imprisoned.

(4) The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo.

(e) It is unlawful for any person knowingly or intentionally:

(1) To adulterate another controlled substance using fentanyl as an adulterant;

(2) To create a counterfeit substance or imitation controlled substance using fentanyl; or

(3) To cause the adulteration or counterfeiting or imitation of another controlled substance using fentanyl.

(4) Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years, or fined not more than $50,000, or both fined and imprisoned.

(5) For purposes of this section:

(i) A controlled substance has been adulterated if fentanyl has been mixed or packed with it; and

(ii) Counterfeit substances and imitation controlled substances are further defined in §60A-1-101 of this code.

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than five years nor more than 20 years, or fined not more than $50,000, or both fined and imprisoned.

(2) Any other controlled substance classified in Schedule I, II or III is guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 10 years, or fined not more than $15,000, or both: *Provided*, That for the substance marijuana, as scheduled in

§60A-2-204(d)(24) of this code, the penalty, upon conviction of a violation of this subsection, is the penalty set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than $10,000, or both fined and imprisoned;

(4) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than $5,000, or both fined and imprisoned: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in that article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving one kilogram or more of heroin, one kilogram or more of cocaine or cocaine base, 100 grams or more of phencyclidine, 10 grams or more of lysergic acid diethylamide, or 50 grams or more of methamphetamine or five or more grams of fentanyl, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than 15 years nor more than 30 years. The sentence provided in this subsection is mandatory. A person convicted of an offense set forth in this subsection is not eligible for probation, home incarceration, or to have his or her sentence suspended for any reason.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving 100 but fewer than 1,000 grams of heroin, not less than 100 but fewer than 1,000 grams of cocaine or cocaine base, not less than 10 but fewer than 100 grams of phencyclidine, not less than one but fewer than 10 grams of lysergic acid diethylamide, or not less than five but fewer than 50 grams of methamphetamine, or one gram or more but less than five

grams of fentanyl is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than seven years nor more than 20 years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than 10 grams nor more than 100 grams of heroin, not less than 10 grams nor more than 100 grams of cocaine or cocaine base, not less than two grams nor more than 10 grams of phencyclidine, not less than 200 micrograms nor more than one gram of lysergic acid diethylamide, or not less than one gram nor more than five grams of methamphetamine, or less than one gram of fentanyl is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than five years nor more than 20 years.

(f) The offenses established by this section are in addition to and a separate and distinct offense from any other offense set forth in this code.

(g) For purposes of determining the weight of any controlled substance under this section, a mixture must contain only a detectable amount of a controlled substance for the entire mixture to be considered that controlled substance. If a mixture or substance contains more than one controlled substance, the weight of the entire mixture or substance is assigned to the controlled substance that results in the greater offense penalty.

(h) Under this section, where the transportation into the state involves two or more controlled substances, the transportation into the state of each controlled substance shall be considered a separate and distinct offense unless the controlled substances are mixed together.

§60A-4-414. Conspiracy.

(a) Any person who willfully conspires with one or more persons to commit a felony violation of §60A-4-401 of this code,

if one or more of such persons does any act to effect the object of the conspiracy, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 10 years: *Provided,* That the provisions of this subsection are inapplicable to felony violations of §60A-4-401 of this code prohibiting the manufacture, delivery or possession with intent to manufacture or deliver marijuana.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who willfully conspires with one or more persons to manufacture, deliver or possess with intent to manufacture or deliver one kilogram or more of heroin, one kilogram or more of cocaine or cocaine base, 100 grams or more of phencyclidine, 10 grams or more of lysergic acid diethylamide, or 50 grams or more of methamphetamine, or five grams or more of fentanyl, if one or more of such persons does any act to effect the object of the conspiracy, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than five years nor more than 30 years. The sentence provided in this subsection is mandatory. A person convicted of an offense set forth in this subsection is not eligible for probation, home incarceration, or to have his or her sentence suspended for any reason.

(c) Notwithstanding the provisions of subsection (a) of this section, any person who willfully conspires with one or more persons to manufacture, deliver, or possess with intent to manufacture or deliver not less than 100 but fewer than 1,000 grams of heroin, not less than 100 but fewer than 1,000 grams of cocaine or cocaine base, not less than 10 but fewer than 100 grams of phencyclidine, not less than one but fewer than 10 grams of lysergic acid diethylamide, or not less than five but fewer than 50 grams of methamphetamine, or one gram or more but less than five grams of fentanyl, if one or more of such persons does any act to effect the object of the conspiracy, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than three years nor more than 20 years.

(d) Notwithstanding the provisions of subsection (a) of this section, any person who willfully conspires with one or more persons to manufacture, deliver, possess with intent to manufacture or deliver not less than 10 grams nor more than 100 grams of heroin, not less than 10 grams nor more than 100 grams of cocaine or cocaine base, not less than two grams nor more than 10 grams of phencyclidine, not less than 200 micrograms nor more than one gram of lysergic acid diethylamide, or not less one gram nor more than five grams of methamphetamine, or less than one gram of fentanyl, if one or more of such persons does any act to effect the object of the conspiracy, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than two years nor more than 15 years.

(e) The trier of fact shall determine the quantity of the controlled substance attributable to the defendant beyond a reasonable doubt based on evidence adduced at trial.

(f) The determination of the trier of fact as to the quantity of controlled substance attributable to the defendant in a charge under this section may include all of the controlled substances manufactured, delivered, or possessed with intent to deliver or manufacture by other participants or members of the conspiracy.

(g) For purposes of determining the weight of any controlled substance under this section, a mixture must contain only a detectable amount of a controlled substance for the entire mixture to be considered that controlled substance. If a mixture or substance contains more than one controlled substance, the weight of the entire mixture or substance is assigned to the controlled substance that results in the greater offense penalty.

(h) Under this section, where the conspiracy involves two or more controlled substances, each controlled substance shall be considered a separate and distinct offense unless the controlled substances are mixed together.

(i) Offenses in this section proscribing conduct involving lesser quantities are lesser included offenses of offenses proscribing conduct involving larger quantities.

(j) A person may be charged under the provisions of §61-10-31 of this code for conduct that is charged under this section.

§60A-4-416. Drug delivery resulting in death; failure to render aid.

(a)(1) Any person who knowingly and willfully delivers a controlled substance or counterfeit controlled substance, without receiving or accepting money or any other thing of value, in violation of the provisions of §60A-4-401 of this code for an illicit purpose and the use, ingestion or consumption of the controlled substance or counterfeit controlled substance alone or in combination with one or more other controlled substances, proximately causes the death of a person using, ingesting or consuming the controlled substance, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than three nor more than 15 years.

(2) Any person who knowingly and willfully delivers a controlled substance or counterfeit controlled substance in exchange for money or any other thing of value in violation of the provisions of §60A-4-401 of this code for an illicit purpose and the use, ingestion or consumption of the controlled substance or counterfeit controlled substance alone or in combination with one or more other controlled substances, proximately causes the death of a person using, ingesting or consuming the controlled substance, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than ten nor more than 40 years. A person imprisoned pursuant to the provisions of this subdivision is not eligible for parole prior to having served a minimum of 10 years of his or her sentence.

(b) Any person who, while engaged in the illegal use of a controlled substance with another, knowingly fails to seek medical

assistance for the other person when the other person suffers an overdose of the controlled substance or suffers a significant adverse physical reaction to the controlled substance and the overdose or adverse physical reaction proximately causes the death of the other person, is guilty of a felony and, upon conviction thereof, shall be imprisoned for a determinate sentence of not less than two years nor more than 10 years. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of two years of his or her sentence.

(c) The sentence provided in subdivision (2), subsection (a) of this section is mandatory. A person convicted of an offense set forth in subdivision (2), subsection (a) of this section is not eligible for probation, home incarceration, or to have his or her sentence suspended for any reason.

(d) As used in this section:

(1) The phrase "engaged in illegal use of a controlled substance with another person" means being in the physical presence of a person engaged in illegal drug use and participating with him or her in illegal drug use, or while in the presence of a person engaged in illegal drug use knowingly facilitating illegal drug use by the other person so engaged.

(2) "Seek medical assistance" means contacting the 9-1-1 emergency system, a poison control facility, any type of first responder, a medical facility or medical professional capable of treating an overdose, and in the case of an opioid overdose, to administer or cause the administration of a commercially produced medically recognized opioid antagonist.

(e) The revisions to subsections (a), (b), (c), and (d) of this section enacted during the 2025 regular legislative session shall be known as Lauren's Law.

§60A-4-419. Drug kingpin.

(a) For purposes of this section, "drug kingpin" means an organizer, supervisor, financier, or manager who acts as a

coconspirator in a conspiracy to manufacture, distribute, dispense, transport in, or bring into the State of West Virginia a controlled dangerous substance.

(b)(1) Notwithstanding the provisions of §60A-4-414 of this code, a drug kingpin who conspires to manufacture, distribute, dispense, transport in, or bring into the State of West Virginia a controlled dangerous substance in an amount listed in §60A-4-414(b) of this code is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence of not less than 10 nor more than 40 years and fined not more than $100,000.

(2) The sentence provided in this section is mandatory. A person convicted of an offense set forth in this section is not eligible for probation, home incarceration, or to have his or her sentence suspended for any reason.

(c) It is not a defense to a prosecution under this section that the controlled substance was brought into or transported in the State of West Virginia solely for ultimate distribution or dispensing in another jurisdiction.

(d) The offenses set forth in this section are in addition to and separate and distinct from any other offenses set forth in this code.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-18. Punishment for second or third offense of felony.

(a) For purposes of this section, "qualifying offense" means any offense or an attempt or conspiracy to commit any of the offenses in the following provisions of this code:

(1) §60A-4-401(a)(i) and §60A-4-401(a)(ii);

(2) §60A-4-406;

(3) §60A-4-409(b)(1), §60A-4-409(b)(2); §60A-4-409(c), §60A-4-409(d), and §60A-4-409(e);

(4) §60A-4-411;

(5) §60A-4-414;

(6) §60A-4-415;

(7) §60A-4-416(a);

(8) §60A-4-419;

(9) §61-2-1;

(10) §61-2-4;

(11) §61-2-7;

(12) §61-2-9(a);

(13) §61-2-9a(d) and §61-2-9a(e);

(14) §61-2-9b;

(15) §61-2-9c;

(16) §61-2-9d;

(17) §61-2-10;

(18) §61-2-10b(b) and §61-2-10b(c);

(19) Felony provisions of §61-2-10b(d);

(20) §61-2-12;

(21) Felony provisions of §61-2-13;

(22) §61-2-14;

(23) §61-2-14a(a) and §61-2-14a(d);

(24) §61-2-14c;

(25) §61-2-14d(a) and §61-2-14d(b);

(26) §61-2-14f;

(27) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);

(28) §61-2-16a(a) and §61-2-16a(b);

(29) Felony provisions of §61-2-16a(c);

(30) §61-2-28(d);

(31) §61-2-29(d) and §61-2-29(e);

(32) §61-2-29a;

(33) §61-3-1;

(34) §61-3-2;

(35) §61-3-3;

(36) §61-3-4;

(37) §61-3-5;

(38) §61-3-6;

(39) §61-3-7;

(40) §61-3-11;

(41) Felony violation of §61-3-12;

(42) §61-3-13(a);

(43) Felony violation of §61-3-18;

(44) Felony violation of §61-3-19;

(45) Felony violation of §61-3-20;

(46) Felony violation of §61-3-20a;

(47) Felony violation of §61-3-21;

(48) §61-3-22;

(49) Felony violation of §61-3-24;

(50) Felony violation of §61-3-24a;

(51) §61-3-27;

(52) §61-3-54;

(53) §61-3C-14b;

(54) §61-3E-5;

(55) Felony violation of §61-5-10;

(56) Felony provisions of §61-5-17;

(57) §61-5-27;

(58) §61-6-24;

(59) Felony provisions of §61-7-7;

(60) §61-7-12;

(61) §61-7-15;

(62) §61-7-15a;

(63) §61-8-12;

(64) §61-8-19(b);

(65) §61-8A-2;

(66) §61-8A-4;

(67) §61-8A-5;

(68) §61-8B-3;

(69) §61-8B-4;

(70) §61-8B-5;

(71) §61-8B-7;

(72) §61-8B-10;

(73) §61-8B-11b;

(74) §61-8C-2;

(75) §61-8C-3;

(76) §61-8C-3a;

(77) §61-8D-2;

(78) §61-8D-2a;

(79) §61-8D-3;

(80) §61-8D-3a;

(81) §61-8D-4;

(82) §61-8D-4a;

(83) §61-8D-5;

(84) §61-8D-6;

(85) §61-10-31;

(86) §61-11-8;

(87) §61-11-8a;

(88) §61-14-2; and

(89) §17C-5-2(b), driving under the influence causing death.

(b) Except as provided by subsection (c) of this section, when any person is convicted of a qualifying offense and is subject to

imprisonment in a state correctional facility for the qualifying offender and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in that case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under the sentence.

(c) Notwithstanding any provision of this code to the contrary, when any person is convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in this state of first degree murder, second degree murder, or a violation of §61-8B-3 of this code, or has been so convicted under any law of the United States or any other state for an offense which has the same or substantially similar elements as any offense described in this subsection, the person shall be punished by imprisonment in a state correctional facility for life and is not eligible for parole.

(d) When it is determined, as provided in §61-11-19 of this code, that the person has been twice previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility which has the same or substantially similar elements as a qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for life: *Provided*, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: *Provided, however*, That the most recent previous qualifying offense which would otherwise constitute a qualifying offense for purposes of this subsection may not be considered if more than 20 years have elapsed between: (1) The release of the person from his or her term of imprisonment or period of supervision resulting from the most recent qualifying offense or the expiration of a period of supervised release resulting

from the offense; and (2) the conduct underlying the current charge.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-2. Eligibility for probation.

(a) All persons who are found guilty of or plead guilty to any felony, the maximum penalty for which is less than life imprisonment, and all persons who are found guilty of or plead guilty to any misdemeanor are eligible for probation, notwithstanding the provisions of §61-11-18 and §61-11-19 of this code: *Provided*, That persons convicted of offenses set forth in §60A-4-409(c), §60A-4-414(b), §60A-4-416(a)(2), and §60A-4-419 are not eligible for probation.

(b) The provisions of subsection (a) of this section to the contrary notwithstanding, any person who commits or attempts to commit a felony with the use, presentment, or brandishing of a firearm is not eligible for probation. Nothing in this section may apply to an accessory before the fact or a principal in the second degree who has been convicted as if he or she were a principal in the first degree if, in the commission of or in the attempted commission of the felony, only the principal in the first degree used, presented, or brandished a firearm.

(c)(1) The existence of any fact which would make any person ineligible for probation under subsection (b) of this section because of the commission or attempted commission of a felony with the use, presentment, or brandishing of a firearm may not be applicable unless the fact is clearly stated and included in the indictment or presentment by which that person is charged and is either:

(A) Found by the court upon a plea of guilty or nolo contendere;

(B) Found by the jury, if the matter is tried before a jury, upon submitting to the jury a special interrogatory for that purpose; or

(C) Found by the court, if the matter is tried by the court, without a jury.

(2) The amendments to this subsection adopted in the year 1981:

(A) Apply to all applicable offenses occurring on or after August 1 of that year;

(B) Apply with respect to the contents of any indictment or presentment returned on or after August 1 of that year irrespective of when the offense occurred;

(C) Apply with respect to the submission of a special interrogatory to the jury and the finding to be made thereon in any case submitted to the jury on or after August 1 of that year or to the requisite findings of the court upon a plea of guilty or in any case tried without a jury: *Provided*, That the state shall give notice in writing of its intent to seek that finding by the jury or court, as the case may be, which notice shall state with particularity the grounds upon which the finding is sought as fully as such grounds are otherwise required to be stated in an indictment, unless the grounds therefor are alleged in the indictment or presentment upon which the matter is being tried; and

(D) May not apply with respect to cases not affected by the amendment and in those cases the prior provisions of this section shall apply and be construed without reference to the amendment.

Insofar as the amendments relate to mandatory sentences without probation, all matters requiring that sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.

(d) For the purpose of this section, the term "firearm" means any instrument which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, gunpowder, or any other similar means.

(e) Any person who has been found guilty of, or pleaded guilty to, a violation of §61-3C-14b, §61-8-12, §61-8A-1 *et seq*., §61-8B-

1 *et seq*., §61-8C-1 *et seq*., or §61-8D-5 of this code may only be eligible for probation after undergoing a physical, mental, and psychiatric or psychological study and diagnosis which shall include an ongoing treatment plan requiring active participation in sexual abuse counseling at a mental health facility or through some other approved program: *Provided*, That nothing disclosed by the person during that study or diagnosis may be made available to any law-enforcement agency or other party without that person's consent, or admissible in any court of this state, unless the information disclosed indicates the intention or plans of the probationer to do harm to any person, animal, institution, or property, in which case the information may be released only to those persons necessary for protection of the person, animal, institution, or property.

Within 90 days of the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, the Secretary of the Department of Human Services shall propose rules and emergency rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, establishing qualifications for sex offender treatment programs and counselors based on accepted treatment protocols among licensed mental health professionals.

(f) Any person who has been convicted of a violation of §61-8B-1 *et seq*., §61-8C-1 *et seq*., §61-8D-5, §61-8D-6, §61-2-14, §61-8-12, and §61-8-13 of this code, or of a felony violation involving a minor of §61-8-6 or §61-8-7 of this code, or of a similar provision in another jurisdiction, shall register upon release on probation. Any person who has been convicted of an attempt to commit any of the offenses set forth in this subsection shall also be registered upon release on probation.

(g) The probation officer shall within three days of release of the offender send written notice to the State Police of the release of the offender. The notice shall include:

(1) The full name of the person;

(2) The address where the person shall reside;

(3) The person's Social Security number;

(4) A recent photograph of the person;

(5) A brief description of the crime for which the person was convicted;

(6) Fingerprints; and

(7) For any person determined to be a sexually violent predator as defined in §15-12-2a of this code, the notice shall also include:

(A) Identifying factors, including physical characteristics;

(B) A history of the offense; and

(C) Documentation of any treatment received for the mental abnormality or personality disorder.

CHAPTER 75

(Com. Sub. for S. B. 240 - By Senators Hamilton, Deeds, and Rucker)

[Passed March 14, 2025; in effect 90 days from passage (June 12, 2025)]
[Approved by the Governor on March 24, 2025.]

AN ACT to amend and reenact §61-2-13 of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §61-8B-6, relating to extortion, attempted extortion, sexual extortion, and aggravated sexual extortion; defining terms; including a threat to any other thing of value for purposes qualifying extortion offense; increasing criminal penalties for extortion or attempted extortion by threats; creating crime of sexual extortion; establishing criminal penalties for sexual extortion; providing circuit courts optional dispositional conditions when minor adjudicated for a sexual extortion offense; creating crime of aggravated sexual extortion; establishing criminal penalties for aggravated sexual extortion; and providing for jurisdiction for prosecution of sexual extortion offenses in multiple counties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-13. Extortion or attempted extortion by threats; penalties.

(a) A person who threatens, by direct threat, indirect threat, or innuendo, injury to the character, person, property, or any other thing of value of another person, or to the character, person, property, or any other thing of value of his or her spouse, child, or family or household member, as defined in §48-27-204 of this code, residing in the household at the time of the offense, or

accuses him or her or them of a criminal offense, and thereby obtains anything of value, or other consideration, or compels the other person, against the other person's will, to perform any act, he or she is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years. A person who makes such threat of injury or accusation of an offense as set forth in this subsection, but fails to obtain anything of value or other consideration, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and fined not less than $1,000 nor more than $5,000, or both fined and imprisoned.

(b) For purposes of this section, "consideration" includes sexual contact, sexual intercourse, and sexual intrusion as defined in §61-8B-1 of this code, and private images as defined in §61-8B-6 of this code.

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-6. Sexual extortion and aggravated sexual extortion.

(a) As used in this section:

"Adult" means a person 18 years of age or older.

"Consideration" includes, but is not limited to, sexual contact, sexual intercourse, and sexual intrusion as those terms are defined in §61-8B-1, and private images as that term is defined in this subsection.

"Disclose" means to exhibit, transfer, publish, distribute, deliver, circulate, or disseminate by any means, including, but not limited to, electronic transmission.

"Image" means a photograph, video, videotape, live transmission, digital or computer-generated visual depiction, or any recording or product of any mechanical or electronic recording process or device that can preserve, for later viewing, an image.

"Minor" means any person under 18 years of age at the time of the alleged offense.

"Private image" means an image depicting sexually explicit nudity or sexual activity including, but not limited to, an image that includes a person's genitalia, pubic area, anus, or female post-pubescent breasts.

"Serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

"Vulnerable adult" means any person over the age of 18, or an emancipated minor who, by reason of physical or mental condition, is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health and protection.

(b) A person commits the offense of sexual extortion if he or she knowingly and intentionally discloses, causes to disclose, or threatens to disclose a private image of another person in order to compel or attempt to compel the victim, any member of the victim's family or household, as defined in §48-27-204 of this code, residing in the household at the time of the offense, or his or her spouse or child, to do any act or refrain from doing any act against his or her will, with the intent to obtain additional private images, anything of value, or other consideration.

(c) Any person who commits a violation of subsection (b) of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility:

(1) Not less than one year nor more than five years for a first offense;

(2) Not less than three years nor more than 10 years for a second offense; or

(3) Not less than 10 years nor more than 20 years for a third or subsequent offense.

(d) Notwithstanding the provisions of subsection (c) of this section, if a minor violates the provisions of subsection (b) of this section, he or she shall be guilty of an act of delinquency and, upon adjudication, disposition may be made by the circuit court pursuant to the provisions of §49-4-701 through §49-4-725 of this code. The circuit court may order as a condition of any community supervision period or disposition, behavioral health counseling from an appropriate agency or provider.

(e) A person commits the offense of aggravated sexual extortion if he or she knowingly and intentionally discloses, causes to be disclosed, or threatens to disclose a private image of another person in order to compel or attempt to compel the victim, any member of the victim's family or household, as defined in §48-27-204 of this code, residing in the household at the time of the offense, or his or her spouse or child, to do any act or refrain from doing any act against his or her will, with the intent to obtain additional private images, anything of value, or other consideration and either:

(1) The victim is a minor or a vulnerable adult and the person convicted of sexual extortion is an adult; or

(2) The victim suffers serious bodily injury or death and the finder of fact finds beyond a reasonable doubt that the sexual extortion of the victim was the proximate cause of the serious bodily injury or death.

(f) Any person violating the provisions of subsection (e) of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than 10 years nor more than 20 years.

(g) A prosecution pursuant to this section may be in the county in which the threat was either made or received.

CHAPTER 76

(Com. Sub. for H. B. 2066 - By Delegates Akers, Hall, D. Smith, T. Howell, Drennan, Leavitt, Kyle, Heckert, Hornby, and Kelly)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated as §61-3-60, relating to damage, destruction, or theft of property or equipment used by emergency responders; creating a felony offense for damaging, destroying, or stealing certain property of an emergency responder; creating elements of the new felony offense; specifying that felony offense is a separate and distinct offense; creating definitions; and creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-60. Damage, destruction, or theft of equipment used by emergency responders; criminal penalties.

(a) Any person who knowingly and willfully damages, destroys, or commits the larceny of any equipment, or personal property, owned or operated by the state, a county or a municipality of this state, a volunteer fire department of this state, or a private entity that has contracted with the state or a county or municipality of the state for the performance of emergency response duties, that is used by emergency responders in the performance of emergency response duties, whether that equipment or personal property is in use or maintained in a garage or other building, structure, or location, and that action thereby creates a substantial risk of bodily

injury or actual bodily injury to another person, results in property loss to any person served by the emergency responder, or results in the interruption of service by emergency responders to the public, is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned in a state correctional facility not less than one nor more than three years, or both fined and imprisoned.

(b) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.

(c) For purposes of this section:

(1) “Emergency responder" has the same meaning as that term is defined in §5H-1-2 of this code and shall additionally include any entity of a political subdivision of the state providing emergency services pursuant to the provisions of §15-5-8 of this code and any county commission, political subdivision, or county 911 public safety answering point.

(2) “Emergency response duties” has the same meaning as that term is defined in §5H-1-2 of this code and shall additionally include disaster response activities and emergency services as those terms are defined in §15-5-2 of this code and activities of a county commission, political subdivision, or county 911 public safety answering point in providing emergency responder services.

CHAPTER 77

(Com. Sub. for H. B. 2123 - By Delegates D. Smith, Akers, Ellington, Rohrbach, Hanshaw (Mr. Speaker), Gearheart, Maynor, Worrell, Hillenbrand, Cooper, Zatezalo)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §61-8D-3 and §61-8D-4 of the Code of West Virginia, 1931, as amended, all relating to modifying the criminal penalties imposed on a parent, guardian, custodian, or person in a position of trust in relation to a child for child abuse resulting in bodily injury, serious bodily injury, child abuse causing substantial risk of death or serious bodily injury; providing that a prior conviction under this section subjects a person to increased penalties; and providing a definition for a prior conviction; and also relating to modifying the criminal penalties imposed on a parent, guardian, custodian, or person in a position of trust in relation to a child for child neglect resulting in bodily injury, serious bodily injury, and child neglect causing substantial risk of death or serious bodily injury; providing that a prior conviction under this section subjects a person to increased penalties; and providing a definition for a prior conviction.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8D. CHILD ABUSE.

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

(a) If a parent, guardian, custodian, or person in a position of trust in relation to a child abuses a child and by the abuse causes the child bodily injury as the term is defined in §61-8B-1 of this

code, then the parent, guardian, custodian, or person in a position of trust in relation to the child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If a parent, guardian, custodian, or person in a position of trust in relation to a child abuses a child and by the abuse causes the child serious bodily injury as the term is defined in §61-8B-1 of this code, then the parent, guardian, custodian, or person in position of trust is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than five nor more than 15 years.

(c) A parent, guardian, custodian, or person in a position of trust in relation to a child who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury to the child, as serious bodily injury is defined in §61-8B-1 of this code, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than 10 years.

(d)(1) If a parent, guardian, custodian, or person in a position of trust in relation to a child abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in §61-8B-1 of this code, to the child, then the parent, guardian, custodian, or person in position of trust is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 or confined in jail not more than six months, or both.

(2) If a parent, guardian, custodian, or person in a position of trust to a child violates this subsection and has previously been convicted of violating this subsection, §61-8D-4(d) of this code, or a law of another state or the federal government with the same essential elements, then the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years.

(e) Any person convicted of a second or subsequent felony offense under this section, who was previously convicted of a felony offense under this section, §61-8D-4, or a law of another state or the federal government with the same essential elements of a felony offense contained within either section, may be imprisoned for a term up to twice the term otherwise authorized.

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

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

(2) May not be required to register pursuant to §15-13-1 *et seq.* of this code; and

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

(g) This section does not preclude a parent, guardian, or custodian from providing reasonable discipline to a child.

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

(a) If a parent, guardian, custodian, or person in a position of trust in relation to a child neglects a child and by such neglect causes the child bodily injury, as bodily injury is defined in §61-8B-1 of this code, then the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two years nor more than 10 years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If a parent, guardian, custodian, or person in a position of trust in relation to a child neglects a child and by such neglect

causes the child serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, then the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than five years nor more than 15 years.

(c) If a parent, guardian, custodian, or person in a position of trust in relation to a child neglects a child and by that neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, of the child then the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than 10 years.

(d)(1) If a parent, guardian, custodian, or person in a position of trust in relation to a child neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in §61-8B-1 of this code, to the child, then the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined not less than $100 nor more than $1,000 or confined in jail not more than six months, or both fined and confined.

(2) If a parent, guardian, custodian, or person in a position of trust to a child violates this subsection and has previously been convicted of violating this subsection, §61-8D-3(d) of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years.

(e) Any person convicted of a felony offense under this section, who was previously convicted of a felony offense under this section, §61-8D-3, or a law of another state or the federal government with the same essential elements of a felony offense contained within either section, may be imprisoned for a term up

to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both fined and imprisoned.

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

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

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

(2) May not be required to register pursuant to the requirements of §15-13-1 *et seq.* of this code; and

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

CHAPTER 78

(Com. Sub. for Com. Sub. - for H. B. 2217 By Delegate Steele)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §61-10-31 of the Code of West Virginia, 1931, as amended, relating to conspiracy; modifying penalties for crimes against the state; establishing the penalty for conspiracy to commit felony crimes of violence against a person or felony crimes where the victim was a minor child; establishing the penalty for conspiracy to commit felony crimes punishable by life imprisonment; establishing the penalty for conspiracy to commit felony crimes of kidnapping, arson in the first degree, and sexual assault in the first degree; creating criminal penalties; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-31. Conspiracy; construction of section; penalties.

(a) It is unlawful for two or more persons to conspire: (1) to commit any offense against the state, or (2) to defraud the state, the state or any county board of education, or any county or municipality of the state, if, in either case, one or more of such persons does any act to effect the object of the conspiracy.

(b) Nothing in this section may be construed to supersede, limit, repeal, or affect the provisions of §3-9-8; §5-1-2; §5A-3-31; §9-7-5; §15-1E-81; §20-7-7; §60-6-16, §60A-4-414; §61-6-7, §61-6-8, §61-6-9, and §61-6-10; §61-10-34; or §62-8-1; all of this code. It is not a defense to any prosecution under this section that the

conduct charged or proven is also a crime under any other provision or provisions of this code or the common law.

(c)(1) Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a felony, or by conspiring to defraud the state, the state or any county board of education, or any county or municipality of the state, is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in a state correctional facility for not less than one nor more than five years or by a fine of not more than $10,000, or both imprisonment and fine.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, any person who violates the provisions of this section by conspiring to commit an offense against the state which is a felony crime of violence against the person or a felony offense where the victim was a minor child, as those terms are defined in §62-12-13 of this code, is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in a state correctional facility for not less than three years nor more than 15 years.

(3) Notwithstanding the provisions of subdivisions (1) or (2) of this subsection, any person who violates the provisions of this section by conspiring to commit an offense in violation of §61-2-14a, §61-3-1, or §61-8B-3 of this code, or an offense against the state which is punishable by life imprisonment is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in a state correctional facility for not less than five years nor more than 25 years.

(d) Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a misdemeanor is guilty of a misdemeanor and, upon conviction thereof, shall be punished by confinement in jail for not more than one year or by a fine of not more than $1,000, or both confinement and fine.

CHAPTER 79

(Com. Sub. for Com. Sub. for H. B. 2871 - By Delegates Funkhouser, Hornby, Holstein, Masters, W. Clark, Kump, Chiarelli, Hillenbrand, Mallow, Horst, and Roop)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §14-2A-3 of the Code of West Virginia, 1931, as amended, related to updating definitions to "criminally injurious conduct"; also to amend and reenact §17B-1A-1 of the Code of West Virginia, 1931, as amended, relating to the driver's license compact and clarifying that any conviction for an offense in another jurisdiction for the crimes contained within §17C-5-1 shall be subject to revocation; also to amend and reenact §17B-3-5 of the Code of West Virginia, 1931, as amended, relating to update that a conviction of any offense contained within 17C-5-1 shall be subject to revocation; also to amend and reenact §17C-5-1 of the Code of West Virginia, 1931, as amended, relating to adding an embryo as a protected person and subject to the protections of this section, establishing the crimes of vehicular homicide, aggravated vehicular homicide, vehicular homicide in a school zone, vehicular homicide in a construction zone, and establishing fines and penalties related thereto, and establishing the nexus between a conviction of any of these offenses and the revocation of a person's driver's license; also to amend and reenact §17C-5-3 of the Code of West Virginia, 1931, as amended, relating to reckless driving and updating and enhancing the fines and penalties relating thereto; also to amend and reenact §17C-14-15 of the Code of West Virginia, 1931, as amended, relating to amending the electronically distracted driving act to clarify that a person convicted of causing the death of another due to a violation shall now be

guilty of vehicular homicide; also to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended, relating to updating the commercial drivers license process to clarify that a conviction of an offense in §17C-5-1 shall disqualify a person from a commercial driver's license; also to amend and reenact §20-7-18a of the Code of West Virginia, 1931, as amended, relating to establishing the crimes of homicide by operation of motorized watercraft, aggravated homicide by operation of motorized watercraft, establishing fines and criminal penalties, and suspension of privileges to operate a motorboat or other motorized vessel upon conviction; also to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to cancellation and nonrenewal of automobile insurance premiums and updating to reflect the newly established crimes contained in §17C-5-1 of this code; also to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to clarifying that a conviction for a crime in the newly created §17C-5-1 of this code shall constitute a basis for failure to renew an outstanding automobile liability or physical damage insurance policy which has been in existence for two consecutive years; also to amend and reenact §49-1-207 of the Code of West Virginia, 1931, as amended, relating to updating that definitions in court actions involving juveniles to clarify that newly created criminal provisions contained in §17C-5-1 are defined as a "Violation of a traffic law of West Virginia"; also to amend and reenact §61-2-30 of the Code of West Virginia, 1931, as amended, relating to recognition of an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person and clarifying that this section shall now apply to the criminal offenses contained in §17C-5-1 of this code".

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF CRIMES.

§14-2A-3. Definitions.

As used in this article, the term:

(a) "Claimant" means any of the following persons, whether residents or nonresidents of this state, who claim an award of compensation under this article:

(1) A victim, except the term "victim" does not include a nonresident of this state where the criminally injurious act did not occur in this state;

(2) A dependent, spouse, or minor child of a deceased victim or, if the deceased victim is a minor, the parents, legal guardians, and siblings of the victim;

(3) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim or a victim's dependent when the obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim;

(4) A person who is authorized to act on behalf of a victim, dependent, or a third person who is not a collateral source including, but not limited to, assignees, persons holding power of attorney or others who hold authority to make or submit claims in place of or on behalf of a victim, a dependent, or third person who is not a collateral source and if the victim, dependent, or third person who is not a collateral source is a minor or other legally incompetent person, their duly qualified fiduciary; and

(5) A person who is a secondary victim in need of mental health counseling due to the person's exposure to the crime committed whose award may not exceed $5,000.

(b) "Collateral source" means a source of benefits or advantages for economic loss otherwise compensable that the victim or claimant has received or that is readily available to him or her from any of the following sources:

(1) The offender, including restitution received from the offender pursuant to an order by a court sentencing the offender or placing him or her on probation following a conviction in a criminal case arising from the criminally injurious act for which a claim for compensation is made;

(2) The government of the United States or its agencies, a state or its political subdivisions, or an instrumentality of two or more states;

(3) Social Security, Medicare, and Medicaid;

(4) State-required, temporary, nonoccupational disability insurance or other disability insurance;

(5) Workers' compensation;

(6) Wage continuation programs of an employer;

(7) Proceeds of a contract of insurance payable to the victim or claimant for loss that was sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services or benefits for disability; and

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim which exceeds $25,000.

(c) "Criminally injurious conduct" means conduct that occurs or is attempted in this state, or in any state not having a victim compensation program, which poses a substantial threat of personal injury or death and is punishable by fine or imprisonment. "Criminally injurious conduct" also includes criminally injurious conduct committed outside of the United States against a resident of this state. "Criminally injurious conduct" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle unless the person engaging in the conduct intended to cause personal injury or death or committed any offense contained within §17C-5-1 of this code, driving under the influence of alcohol, controlled substances or drugs, leaving the scene of the accident, or reckless driving.

(d) "Dependent" means an individual who received over half of his or her support from the victim. For the purpose of making this determination there shall be taken into account the amount of

support received from the victim as compared to the entire amount of support the individual received from all sources including self-support. The term support includes, but is not limited to, food, shelter, clothing, medical and dental care, and education. The term dependent includes a child of the victim born after his or her death.

(e) "Economic loss" means economic detriment consisting only of allowable expense, work loss, and replacement services loss. If criminally injurious conduct causes death, economic loss includes a dependents economic loss and a dependents replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment. For purposes of this article, the term economic loss includes a lost scholarship as defined in this section.

(f) "Allowable expense" includes the following:

(1) Reasonable charges incurred or to be incurred for reasonably needed medical care, including products, services, and accommodations related to medical and psychological care, prosthetic devices, eye glasses, dentures, rehabilitation, and other remedial treatment and care but does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or other institution engaged in providing nursing care and related services which is in excess of a reasonable and customary charge for semiprivate accommodations unless accommodations other than semiprivate accommodations are medically required;

(2) A total charge not in excess of $10,000 for expenses in any way related to funerals, cremations, and burials;

(3) Victim relocation costs not to exceed $4,500;

(4) Reasonable travel expenses not to exceed $5,000 for a claimant to attend court proceedings conducted for the prosecution of the offender;

(5) Reasonable travel expenses for a claimant to return a person who is a minor or incapacitated adult who has been unlawfully removed from this state to another state or country if the removal constitutes a crime under the laws of this state which may not

exceed $2,000 for expenses to another state or $3,000 to another country; and

(6) Reasonable travel expenses for the transportation of a victim to and from a medical facility.

(g) "Work loss" means loss of income from work that the injured person would have performed if he or she had not been injured and expenses reasonably incurred or to be incurred by him or her to obtain services in lieu of those he or she would have performed for income. "Work loss" is reduced by income from substitute work actually performed or to be performed by the injured person or by income he or she would have earned in available appropriate substitute work that he or she was capable of performing but unreasonably failed to undertake. "Work loss" includes loss of income from work by the parent or legal guardian of a minor victim who must miss work to take care of the minor victim. "Work loss" also includes loss of income from work by the claimant, the victim, or the parent or legal guardian of a minor victim who must miss work to attend court proceedings conducted for the prosecution of the offender.

(h) "Replacement services loss" means expenses reasonably incurred or to be incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed for the benefit of himself or herself or his or her family if he or she had not been injured. "Replacement services loss" does not include services an injured person would have performed to generate income.

(i) "Dependents' economic loss" means loss after a victim's death of contributions or things of economic value to his or her dependents but does not include services they would have received from the victim if he or she had not suffered the fatal injury. This amount is reduced by expenses avoided by the dependent due to the victim's death.

(j) "Dependents' replacement service loss" means loss reasonably incurred or to be incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those

the victim would have performed for their benefit if he or she had not suffered the fatal injury. This amount is reduced by expenses avoided due to the victim's death, but which are not already subtracted in calculating a dependent's economic loss.

(k) "Victim" means the following:

A person who suffers personal injury or death as a result of any one of the following:

(A) Criminally injurious conduct;

(B) The good faith effort of the person to prevent criminally injurious conduct; or

(C) The good faith effort of the person to apprehend a person that the injured person has observed engaging in criminally injurious conduct or who the injured person has reasonable cause to believe has engaged in criminally injurious conduct immediately prior to the attempted apprehension.

(l) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim and includes the voluntary intoxication of the claimant, either by the consumption of alcohol or the use of any controlled substance, when the intoxication has a causal connection or relationship to the injury sustained.

(m) "Lost scholarship" means a scholarship, academic award, stipend, student loan, or other monetary scholastic assistance which had been awarded, conferred upon, or obtained by a victim in conjunction with a post-secondary school educational program and which the victim is unable to receive or use, in whole or in part, due to injuries received from criminally injurious conduct.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 1A. DRIVER LICENSE COMPACT.

§17B-1A-1. Authorization.

Pursuant to authority granted by an act of the eighty-fifth Congress of the United States, being public law six hundred eighty-four, approved August 20, 1958, the Governor of this state shall execute a compact on behalf of the State of West Virginia with all other jurisdictions legally joining in the compact in the form substantially as follows:

ARTICLE I. FINDINGS AND DECLARATION OF POLICY.

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degrees of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II. DEFINITIONS.

As used in this compact:

(a) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III. REPORTS OF CONVICTION.

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond, or other security; and shall include any special findings made in connection therewith.

ARTICLE IV. EFFECT OF CONVICTION.

(a) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter, homicide, or any offense contained within §17C-5-1 of this code, resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury to another person.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subsection (a) of this article, such party state shall construe the denominations and descriptions appearing in subsection (a) of this article as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V. APPLICATIONS FOR NEW LICENSES.

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the license has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrender such license.

ARTICLE VI. APPLICABILITY OF OTHER LAWS.

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his or her state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL.

(a) This compact shall enter into force and become effective as to any state when it has enacted the compact into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the compact, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall is held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-5. Grounds for mandatory revocation of license by department.

The division shall immediately revoke the license of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction of any of the following offenses, when such conviction has become final: *Provided,* That if the convicted driver had not reached his or her 19th birthday at the time of the conduct for which the license is revoked under this section, the license shall

be revoked until the driver's 19th birthday, or the applicable statutory period of revocation, whichever is longer:

(1) Manslaughter, homicide, or any offense contained within §17C-5-1 of this code, resulting from the operation of a motor vehicle;

(2) Any felony in the commission of which a motor vehicle is used;

(3) Failure to stop and render aid as required under the laws of this state in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another person;

(4) Perjury or the making of a false affidavit or statement under oath to the division under this chapter or under any other law relating to the ownership or operation of motor vehicles;

(5) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 24 months;

(6) Driving under the influence of alcohol, controlled substances or other drugs outside the State of West Virginia which conviction is under a municipal ordinance or statute of the United States or any other state of an offense which has the same elements as an offense described in §17C-5-2 of this code; and

(7) Nothing herein shall prohibit the division from exercising its authority to revoke or suspend a person's license to drive a motor vehicle in this state, as provided in Chapter 17C of this code.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-1. Vehicular homicide; aggravated vehicular homicide; vehicular homicide in a school zone; vehicular homicide in a construction zone; penalties; revocation of driving privileges upon conviction.

(a) When the death of any person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person operating the motor vehicle, ensues within one year as the proximate result of injury caused by the driving of any motor vehicle anywhere in this state by any person in reckless disregard for the safety of others, the person operating the motor vehicle is guilty of vehicular homicide.

(b) Any person convicted of vehicular homicide is guilty of a misdemeanor and upon conviction, shall be fined not less than $1,000 nor more than $10,000, confined in the jail for not more than one year, or both fined and confined.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, when the death of a person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person operating the motor vehicle, occurs within one year as the proximate result of injury caused by the operation of any motor vehicle in this state in deliberate disregard for the safety of others, the person operating the motor vehicle is guilty of the offense of aggravated vehicular homicide and upon conviction he or she shall be fined not more than $20,000, or imprisoned in a state correctional facility for a definite term of years of not less than one nor more than five years, or both fined and imprisoned.

(d) For the purposes of this section, a person who acts with deliberate disregard for the safety of others if he or she has knowledge of facts or intentionally disregards facts that create high probability of injury to the safety of others and:

(1) deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the safety of others; or

(2) deliberately proceeds to act with indifference to the high probability of injury to or the safety of others.

(e) When the death of any person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person operating the motor vehicle, ensues within one year as the proximate result

of injury caused by the driving of any vehicle in a school zone, as set forth in §17C-6-1 of this code, during school recess or while children are going to or leaving school during opening or closing hours, by any person in reckless disregard for the safety of others, the person operating the vehicle is guilty of vehicular homicide in a school zone.

(f) Any person convicted of vehicular homicide in a school zone is guilty of a felony and upon conviction, shall be fined not less than $2,500 nor more than $5,000, or imprisoned in a state correctional facility for a definite term of years of not less than two nor more than 10 years, or both fined and imprisoned.

(g) When the death of any person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person operating the motor vehicle, ensues within one year as the proximate result of injury caused by the driving of any vehicle where street or highway construction work is being performed consistent with the provisions of §17C-3-4b of this code, by any person in reckless disregard for the safety of others, the person operating the vehicle is guilty of vehicular homicide in a construction zone.

(h) Any person convicted of vehicular homicide in a construction zone shall be guilty of a felony and upon conviction, shall be fined not less than $2,500 nor more than $5,000, or imprisoned in a state correctional facility for a definite term of years of not less than two nor more than 10 years, or both fined and confined.

(i) The commissioner shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of any offense contained within this section.

§17C-5-3. Reckless driving; penalties.

(a) Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private, or upon the ways of any state institution, or upon the property of any county boards of education, or upon any

property within the state park and public recreation system established by the Director of the Division of Natural Resources pursuant to §20-4-3 of this code in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) The provisions of subsection (a) of this section does not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the Director of the Division of Natural Resources within the state park and recreation system for exclusive use by motorcycles or other recreational vehicles.

(c) Every person convicted of reckless driving is guilty of a misdemeanor and, upon a first conviction thereof, shall be confined in jail for a period of not less than five days nor more than 90 days, or fined not less than $25 nor more than $500, or both fined and confined, and upon conviction of a second or subsequent conviction thereof, shall be confined in jail not less than 10 days nor more than six months, or fined not less than $50 nor more than $1,000, or both fined and confined.

(d) Notwithstanding the provisions of subsection (c) of this section, any person convicted of a violation of subsection (a) of this section who in doing so proximately causes another to suffer serious bodily injury shall, upon conviction, be confined in jail not less than 30 days nor more than one year or fined not less than $50 nor more than $1,000, or both fined and confined.

(e) For purposes of subsection (d) of this section, "serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-15. Electronically Distracted Driving Act.

(a) Definitions — As used in this section:

(1) "Smartwatch" means a wearable computer that provides a local touchscreen for daily use, associated with applications, and connected to a cellular or Wi-Fi network;

(2) "Stand-alone electronic device" means a portable device other than a wireless telecommunications device which stores audio or video data files to be retrieved on demand by a user;

(3) "Utility services" means and includes electric, natural gas, water, wastewater, cable, telephone, or telecommunications services, or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights-of-way, or associated infrastructure;

(4) "Wireless telecommunications device" means one of the following portable devices:

(A) A cellular telephone;

(B) A portable telephone;

(C) A text-messaging device;

(D) A personal digital assistant;

(E) A stand-alone computer including, but not limited to, a tablet, laptop, or notebook computer;

(F) A handheld global positioning system receiver;

(G) A device capable of displaying a video, movie, broadcast television image, or visual image; or

(H) Any substantially similar portable wireless device that is used to initiate or receive communication, information, or data;

(I) "Wireless telecommunications device" does not include a smartwatch, any type of radio including but not limited to, radios used by first responders or school bus operators; citizens band radio or radio hybrid; commercial two-way radio communication device or its functional equivalent; subscription-based emergency

communication device; prescribed medical device; amateur or ham radio device, or any built-in vehicle equipment for security, navigation, communications, or remote diagnostics;

(5) "Voice-operated or hands-free feature or function" means a feature or function that allows a person to use a wireless telecommunications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

(b) The driver of a school bus shall not use or operate a wireless telecommunications device or two-way radio while loading or unloading passengers.

(c) The driver of a school bus shall not use or operate a wireless telecommunications device while the bus is in motion or while stationary in traffic or at a traffic control signal, unless that device is being used in a similar manner as a two-way radio to allow live communication between the driver and school officials or public safety officials.

(d) A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions involving any stand-alone electronic device or wireless telecommunications device that distracts such driver from the safe operation of the vehicle.

(e) While operating a motor vehicle on any street, highway, or property open to the public for vehicular traffic in this state, a driver may not:

(1) Physically hold or support, with any part of his or her body, a wireless communication device or stand-alone electronic device: *Provided*, That this prohibition does not apply to the wearing of a smartwatch;

(2) Write, send, or read any text-based communication including, but not limited to, a text message, instant message, e-mail, or social media interaction on a wireless telecommunications device or stand-alone electronic device: *Provided*, That this prohibition does not apply to a voice-operated or hands-free

communication feature which is automatically converted by such device to be sent as a message in a written form;

(3) Make any communication involving a wireless telecommunications device, including a phone call, voice message, or one-way voice communication: *Provided*, That this prohibition does not apply to a voice operated or hands-free communication feature or function;

(4) Engage in any form of electronic data retrieval or electronic data communication on a wireless telecommunications device or stand-alone electronic device;

(5) Manually enter letters, numbers, or symbols into any website, search engine, or application on a wireless telecommunications device or stand-alone electronic device;

(6) Watch a video or movie on a wireless telecommunications device or standalone electronic device other than watching data related to the navigation of the vehicle;

(7) Record, post, send, or broadcast video, including a video conference on a wireless telecommunications device or stand-alone electronic device: *Provided*, That this prohibition does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle; or

(8) Actively play any game on a wireless telecommunications device or stand-alone electronic device.

(f) While operating a commercial motor vehicle on any highway of this state, a driver may:

(1) Use more than a single button on a wireless telecommunications device to initiate or terminate a voice communication; or

(2) Reach for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to:

(A) No longer be in a seated driving position; or

(B) No longer be properly restrained by a safety belt.

(g) Each violation of this section shall constitutes a separate offense.

(h) It is a misdemeanor for any driver to violate any of the provisions of this section. Every driver convicted of a misdemeanor for a violation of any of the provisions of this section shall be punished as follows:

(1) For a first conviction with no prior conviction of and no plea of no contest accepted to a charge of violating this section within the previous 24-month period, as measured from the date of any prior conviction or plea, a fine of not more than $100;

(2) For a second conviction within a 24-month period, as measured from the date of any prior conviction or plea, a fine of not more than $200;

(3) For a third or subsequent conviction within a 24-month period, as measured from the date of any prior conviction or plea:

(A) A fine of not more than $350;

(B) Three points on the driver's record maintained by the Division of Motor Vehicles; and

(C) At the court's discretion, suspension of the driver's license for a period of 90 days;

(4) Any driver who causes physical harm to property as the proximate result of committing a violation of this section is guilty of a misdemeanor punishable up to 30 days in jail or a fine not less than $100 and not more than $500;

(5) Any driver who causes serious physical harm to another person as the proximate result of committing a violation of this section is guilty of a misdemeanor and shall be fined not less than $500 nor more than $1,000, or confined in jail up to 120 days, or both fined and confined, and the driver shall have his or her license

to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year; and

(6) Any driver who causes the death of another as the proximate result of committing a violation of this section is also subject to prosecution under the applicable vehicular homicide provision of §17C-5-1 of this code.

(i) The Department of Transportation shall cause to be erected signs upon any highway entering the state of West Virginia on which a welcome to West Virginia sign is posted, and any other highway where the Division of Highways deems appropriate, posted at a distance of not more than one mile from each border crossing, each sign to bear an inscription clearly communicating to motorists entering the state that texting, or the use of a wireless communication device without hands-free equipment, is illegal within this state.

(j) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law-enforcement agency.

(k) No policy providing liability coverage for personal lines insurance shall contain a provision which may be used to deny coverage or exclude payment of any legal damages recoverable by law for injuries proximately caused by a violation of this section, as long as such amounts are within the coverage limits of the insured.

(l) This section shall not apply to:

(1) Drivers reporting to state, county, or local authorities a traffic accident, medical emergency, fire, an actual or potential criminal or delinquent act, or a road condition that causes an immediate and serious traffic or safety hazard;

(2) An employee or contractor of a utility services provider acting within the scope of his or her employment while responding to a utility emergency;

(3) A driver operating a commercial vehicle while using a mobile data terminal that transmits and receives data;

(4) A law-enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or

(5) A person in a motor vehicle that is lawfully parked.

(m) This section does not supersede the provisions of §17B-2-3a of this code, or any more restrictive provisions for drivers of commercial motor vehicles prescribed either by the provisions of §17E-1-1 *et seq.* of this code or by federal law or rule.

(n) The amendments to this section adopted during the regular session of the Legislature in 2023, shall be known as the Robin W. Ames Memorial Act.

ARTICLE 19. PARTIES, PROCEDURE UPON ARREST AND REPORTS IN CRIMINAL CASES.

§17C-19-3. When person arrested must be taken immediately before a magistrate or court.

(a) Whenever any person is arrested for any violation of this chapter punishable as a misdemeanor, the arrested person shall be immediately taken before a magistrate or court within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made, in any of the following cases:

(1) When a person arrested demands an immediate appearance before a magistrate or court;

(2) When the person is arrested upon a misdemeanor charge of vehicular homicide as contained in §17C-5-1 of this code;

(3) When the person is arrested upon a charge of driving while under the influence of alcohol, or under the influence of any

controlled substance, or under the influence of any other drug, or under the combined influence of alcohol and any controlled substance or any other drug;

(4) When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injury or damage to property;

(5) When the person is arrested upon a charge of violating §17C-17-14 relating to weight violations, except as otherwise provided in that section;

(6) When the person arrested is a resident of a state that has not entered into a nonresident violator compact with this state;

(7) In any other event when the person arrested refuses to accept the written notice to appear in court as his or her promise to appear in court or to comply with the terms of the written notice to appear in court as provided in section four of this article; and

(8) When a person is arrested for driving with a suspended or revoked driver's license for miscellaneous reasons: *Provided*, That when a person is arrested for driving with a suspended or revoked driver's license for miscellaneous reasons, the arresting officer may issue a charge by citation if a magistrate or judge is not on duty or reasonably available.

(b) When the person arrested is a resident of a state that has entered into a nonresident violator compact with this state, the arresting officer shall issue the person a written notice as provided for in section four of this article and may not take the person immediately before a magistrate or court, except under the terms of the compact or under the circumstances set forth in subsection (a) of this section.

CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-13. Disqualification.

(a) A person may not operate a commercial motor vehicle if his or her privilege to operate a commercial motor vehicle is disqualified under the provisions of the Federal Motor Carrier Safety Improvement Act of 1999, 49 C. F. R. Part §383, Subpart D (2004) or in accordance with the provisions of this section.

(1) For the purposes of determining first and subsequent violations of the offenses listed in this section, each conviction resulting from a separate incident includes convictions for offenses committed in a commercial motor vehicle or a noncommercial motor vehicle.

(2) Any person disqualified from operating a commercial motor vehicle for life under the provisions of this chapter for offenses described in subdivisions (1), (2), (3), (4) and (6), subsection (b) of this section is eligible for reinstatement of privileges to operate a commercial motor vehicle after 10 years and after completion of the Safety and Treatment Program or other appropriate program prescribed by the division. Any person whose lifetime disqualification has been amended under the provisions of this subdivision, and who is subsequently convicted of a disqualifying offense described in subdivisions (1) through (7), inclusive, subsection (b) of this section, is not eligible for reinstatement. Any person disqualified from operating a commercial motor vehicle for life under subsection (n) of this section is not eligible for reinstatement.

(3) Any person who committed a disqualifying offense contained in paragraph (B) or (E), subdivision (1), subsection (b) of this section prior to obtaining a commercial driver's license, and who committed the disqualifying offense more than 10 years before he or she applied for a commercial driver's license, and who has completed the Safety and Treatment Program or other appropriate program prescribed by the division, shall be considered to have served the period of disqualification and is eligible to obtain a commercial driver's license so long as all other eligibility requirements contained in §17E-1-9 and §17E-1-10 of this code are satisfied.

(4) Any disqualification imposed by this section is in addition to any action to suspend, revoke, or cancel the driver's license or driving privileges if suspension, revocation, or cancellation is required under another provision of this code.

(5) The provisions of this section apply to any person operating a commercial motor vehicle and to any person holding a commercial driver's license.

(b) Any person is disqualified from driving a commercial motor vehicle for the following offenses and time periods if convicted of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one year.

(C) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or for refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any

combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(2) Driving a commercial motor vehicle while the person's alcohol concentration of the person's blood, breath, or urine is four hundredths of one percent or more, by weight;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(3) Refusing to submit to any designated secondary chemical test required by the provisions of this code or the provisions of 49 C. F. R. §383.72 (2004);

(A) For the first conviction or refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction or refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(4) Leaving the scene of an accident;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(5) Using a motor vehicle in the commission of any felony as defined in §17E-1-3 of this code; except as set forth specifically in subsection (n) of this section;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(6) Operating a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's privilege to operate a motor vehicle has been suspended, revoked, or canceled, or the driver's privilege to operate a commercial motor vehicle has been disqualified.

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(7) Causing a fatality through the negligent operation of a commercial motor vehicle, the operation of a commercial motor vehicle in reckless disregard for the safety of others, or the operation of a commercial motor vehicle in deliberate disregard for the safety of others, including, but not limited to, the crimes of motor vehicle manslaughter, homicide, vehicular homicide, aggravated vehicular homicide, vehicular homicide in a school zone, and vehicular homicide in a construction zone as defined in §17B-3-5, and §17C-5-1 of this code;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(c) Any person is disqualified from driving a commercial motor vehicle if convicted of:

(1) Speeding excessively involving any speed of 15 miles per hour or more above the posted speed limit;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder shall be disqualified from operating a commercial motor vehicle for a period of 120 days.

(2) Reckless driving as defined in §17C-5-3 of this code, or careless or negligent driving, including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(3) Making improper or erratic traffic lane changes;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results

in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(4) Following the vehicle ahead too closely;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is

disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(5) Violating any law relating to traffic control arising in connection with a fatal accident, other than a parking violation;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any

motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(6) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(7) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession except that any person who provides proof of possession of a commercial driver's license to the enforcement agency that issued the citation by the court appearance or fine payment deadline is not guilty of this offense;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(8) Driving a commercial motor vehicle without the proper class of commercial driver's license or the proper endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant to §17E-1-14a of this code or similar law of this or any other jurisdiction or 49 C. F. R. §392.80;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(d) Any person convicted of operating a commercial motor vehicle in violation of any federal, state, or local law or ordinance pertaining to railroad crossing violations described in subdivisions (1) through (6), inclusive, of this subsection is disqualified from operating a commercial motor vehicle for the period of time specified;

(1) Failing to slow down and check that the tracks are clear of an approaching train, if not required to stop in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required to stop in accordance with the provisions of §17C-12-1 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(3) Failing to stop before driving onto the crossing, if required to stop in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, the driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(4) Failing to have sufficient space to drive completely through the crossing without stopping in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(5) Failing to obey a traffic control device or the directions of an enforcement official at the crossing in accordance with the provisions of §17C-12-1 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(6) Failing to negotiate a crossing because of insufficient undercarriage clearance in accordance with the provisions of §17C-12-3 of this code.

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(e) Any person who is convicted of violating an out-of-service order while operating a commercial motor vehicle is disqualified for the following periods of time:

(1) If convicted of violating a driver or vehicle out-of-service order while transporting nonhazardous materials;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

(B) For a second conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for two years.

(C) For a third or subsequent conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(2) If convicted of violating a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004) or while operating a vehicle designed to transport 16 or more passengers including the driver;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a third or subsequent conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(f) After disqualifying, suspending, revoking, or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days.

(g) In accordance with the provisions of 49 U. S. C. §313119(a)(19)(2004), and 49 C. F. R. §384.226 (2004), notwithstanding the provisions of §61-11-25 of this code, no record of conviction, revocation, suspension, or disqualification related to any type of motor vehicle traffic control offense, other than a parking violation, of a commercial driver's license holder or a person operating a commercial motor vehicle may be masked, expunged, deferred, or be subject to any diversion program.

(h) Notwithstanding any provision in this code to the contrary, the division may not issue any temporary driving permit, work-only driving permit, or hardship license or permit that authorizes a person to operate a commercial motor vehicle when his or her privilege to operate any motor vehicle has been revoked, suspended, disqualified, or otherwise canceled for any reason.

(i) In accordance with the provisions of 49 C. F. R. §391.15(b), a driver is disqualified from operating a commercial motor vehicle for the duration of any suspension, revocation, or cancellation of his or her driver's license or privilege to operate a motor vehicle by this state or by any other state or jurisdiction until the driver complies with the terms and conditions for reinstatement set by this state or by another state or jurisdiction.

(j) In accordance with the provisions of 49 C. F. R. §353.52 (2006), the division shall immediately disqualify a driver's

privilege to operate a commercial motor vehicle upon a notice from the assistant administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Any disqualification period imposed under the provisions of this subsection shall be served concurrently with any other period of disqualification if applicable.

(k) In accordance with the provisions of 49 C. F. R. §1572.11(a), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle if the driver fails to surrender his or her driver's license with a hazardous material endorsement to the division upon proper notice by the division to the driver that the division received notice from the Department of Homeland Security Transportation Security Administration of an initial determination of threat assessment and immediate revocation that the driver does not meet the standards for security threat assessment provided in 49 C. F. R. §1572.5. The disqualification remains in effect until the driver either surrenders the driver's license to the division or provides the division with an affidavit attesting to the fact that the driver has lost or is otherwise unable to surrender the license.

(l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a commercial motor vehicle if the driver is not physically qualified to operate a commercial motor vehicle or does not possess a valid medical certification status.

(m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify a driver's privilege to operate a commercial motor vehicle if the division determines that the licensee has falsified any information or certifications required under the provisions of 49 C. F. R. 383 Subpart J or 49 C. F. R. §383.71(a) for 60 days in addition to any other penalty prescribed by this code.

(n) Lifetime Disqualification Without Reinstatement. —

(1) Controlled substance violations — An individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance,

or involving possession with intent to manufacture, distribute, or dispense a controlled substance is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

(2) Human trafficking violations — An individual who uses a commercial motor vehicle in committing a felony involving an act or practice described in paragraph (9) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)) is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-18a. Homicide by operation of motorized watercraft; aggravated homicide by operation of motorized watercraft; penalties; suspension of privileges to operate a motorboat or other motorized vessel upon conviction.

(a) When the death of any person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person operating the motorboat, jet ski, or other motorized vessel occurs within one year as a proximate result of injury caused by operating any motorboat, jet ski, or other motorized vessel anywhere in this state by any person in reckless disregard for the safety of others, the person operating the motorboat, jet ski, or other motorized vessel is guilty of homicide by operation of motorized watercraft.

(b) Any person convicted of homicide by operation of motorized watercraft is guilty of a misdemeanor and upon conviction, shall be fined not less than $1,000 nor more than $10,000, confined in jail for not more than one year, or both fined and confined.

(c) Notwithstanding the provisions of this section, when the death of a person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person operating the motorboat, jet ski, or other motorized vessel occurs within one year as the

proximate result of injury caused by the operation of any motorboat, jet ski or other motorized vessel in this state in deliberate disregard for the safety of others, the person so operating the motorboat, jet ski, or other motorized vessel is guilty of the felony offense of aggravated homicide by use of motorized watercraft and upon conviction he or she shall be fined not more than $20,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(d) For the purposes of this section, a person acts with deliberate disregard for the safety of others if he or she has knowledge of facts or intentionally disregards facts that create high probability of injury to the safety or others and:

(1) deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the safety of others; or

(2) deliberately proceeds to act with indifference to the high probability of injury to or the safety of others;

(e) The director shall suspend the privilege to operate a motorboat or other motorized vessel in this state for a period of five years from the date of conviction.

CHAPTER 33. INSURANCE.

ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMOBILE LIABILITY POLICIES.

§33-6A-1. Cancellation prohibited except for specified reasons; notice.

(a) No insurer once having issued or delivered a policy providing automobile liability insurance for a private passenger automobile may, after the policy has been in effect for 60 days, or in case of renewal effective immediately, issue or cause to issue a notice of cancellation during the term of the policy except for one or more of the reasons specified in this section:

(1) The named insured fails to make payments of premium for the policy or any installment of the premium when due;

(2) The policy is obtained through material misrepresentation;

(3) The insured violates any of the material terms and conditions of the policy;

(4) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy:

(A) Has had his or her operator's license suspended or revoked during the policy period including suspension or revocation for failure to comply with the provisions of Chapter 17C, Article 5A of this code regarding consent for a chemical test for intoxication: *Provided,* That when a license is suspended for 60 days by the Commissioner of the Division of Motor Vehicles because a person drove a motor vehicle while under the age of 21 years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, pursuant to subsection (l), section two of said article, the suspension may not be grounds for cancellation; or

(B) Is or becomes subject to epilepsy or heart attacks and the individual cannot produce a certificate from a physician testifying to his or her ability to operate a motor vehicle; or

(5) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under such policy, is convicted of or forfeits bail during the policy period for any of the following reasons:

(A) Any felony or assault, involving the use of a motor vehicle;

(B) Any offense contained within §17C-5-1 of this code;

(C) Operating a motor vehicle while under the influence of alcohol or of any controlled substance or while having an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;

(D) Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required by law;

(E) Theft of a motor vehicle or the unlawful taking of a motor vehicle;

(F) Making false statements in an application for a motor vehicle operator's license; or

(G) Three or more moving traffic violations committed within a period of twelve months, each of which results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all such violations. Notice of any cancellation made pursuant to this subsection shall be mailed to the named insured either during the current policy period or during the first full policy period following the date that the third moving traffic violation is recorded by the Division of Motor Vehicles.

(b) Except as provided in subsections (c) and (d) of this section, no insurer may cancel a policy of automobile liability insurance without first giving the insured thirty days' notice of its intention to cancel. Notice of cancellation shall either be sent by first class mail to the named insured at the address supplied on the application for insurance, or by email or other electronic means if at the request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall state the effective date of the cancellation and provide a written explanation of the specific reason for the cancellation.

(c) If, pursuant to subsection (a) of this section, an insurer cancels a policy of automobile liability insurance for the failure of the named insured to make payments of premium for the policy or any installment of the premium when due, then the insurer shall first give the insured at least fourteen days’ notice of its intention to cancel. Notice of cancellation shall be sent by first class mail to the named insured at the address supplied on the application for insurance, or by email or other electronic means if at the request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code,

and shall state the effective date of the cancellation and provide a written explanation of the specific reason for the cancellation. The notice period provided herein shall begin to run on the date mailed and payment shall be deemed accomplished by depositing in first class mail valid payment on or before the expiration date of the fourteen day notice period.

(d) If a named insured fails to make the initial payment of premium or any initial installment of the premium after the initial issuance of an automobile liability insurance policy, the insurance policy is voidable from the effective date and time the policy was issued: *Provided*, That the insurer shall send the insured written notice that the policy will be voided absent payment within ten days of any amounts due under the terms of the policy. Such notice shall either be sent by first class mail to the named insured at the address supplied on the application for insurance, or by email or other electronic means if at the request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall explain the specific reason for the voidance.

§33-6A-4. Advance notice of nonrenewal required; assigned risk policies; reasons for

nonrenewal; hearing and review after nonrenewal.

(a) No insurer shall fail to renew an outstanding automobile liability or physical damage insurance policy unless the nonrenewal is preceded by at least forty-five days advance notice to the named insured of the insurer's election not to renew the policy: *Provided,* That subject to this section, nothing contained in this article shall be construed to prevent an insurer from refusing to issue an automobile liability or physical damage insurance policy upon application to the insurer, nor shall any provision of this article be construed to prevent an insurer from refusing to renew a policy upon expiration, except as to the notice requirements of this section, and except further as to those applicants lawfully submitted pursuant to the West Virginia assigned risk plan.

(b) An insurer may not fail to renew an outstanding automobile liability or physical damage insurance policy which has been in existence for two consecutive years or longer except for the following reasons:

(1) The named insured fails to make payments of premium for the policy or any installment of the premium when due;

(2) The policy is obtained through material misrepresentation;

(3) The insured violates any of the material terms and conditions of the policy;

(4) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy:

(A) Has had his or her operator's license suspended or revoked during the policy period; or

(B) Is or becomes subject to a physical or mental condition that prevents the insured from operating a motor vehicle, and the individual cannot produce a certificate from a physician testifying to his or her ability to operate a motor vehicle;

(5) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy, is convicted of or forfeits bail during the policy period for any of the following reasons:

(A) Any felony or assault, involving the use of a motor vehicle;

(B) Any offense contained within §17C-5-1 of this code;

(C) Operating a motor vehicle while under the influence of intoxicating liquor or of any narcotic drug;

(D) Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required by law;

(E) Theft of a motor vehicle or the unlawful taking of a motor vehicle; or

(F) Making false statements in an application for a motor vehicle operator's license;

(6) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy, is convicted of or forfeits bail during the policy period for two or more moving traffic violations committed within a period of twelve months, each of which results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all of the violations: *Provided,* That an insurer that makes an election pursuant to section four-b of this article to issue all nonrenewal notices pursuant to this section, may nonrenew an automobile liability or physical damage insurance policy if the named insured, or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy is convicted of or forfeits bail during the policy period for two or more moving traffic violations committed within a period of twenty-four months, each of which occurs on or after July 1, 2004, and after the date that the insurer makes an election pursuant to section four-b of this article, and results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all of the violations. Notice of any nonrenewal made pursuant to this subdivision shall be mailed to the named insured either during the current policy period or during the first full policy period following the date that the second moving traffic violation is recorded by the Division of Motor Vehicles;

(7) The named insured or any other operator either residing in the same household or who customarily operates an automobile insured under the policy has had a second at-fault motor vehicle accident within a period of twelve months, whether or not the insurer renewed the policy without knowledge of all of the accidents: *Provided,* That an insurer that makes an election pursuant to section four-b of this article to issue all nonrenewal notices pursuant to this section, may nonrenew an automobile liability or physical damage insurance policy under this subsection

if the named insured or any other operator either residing in the same household or who customarily operates an automobile insured under such policy has had two at-fault motor vehicle accidents within a period of thirty-six months, each of which occurs after July 1, 2004, and after the date that the insurer makes an election pursuant to section four-b of this article, and results in a claim paid by the insurer for each accident, whether or not the insurer renewed the policy without knowledge of all of the accidents. Notice of any nonrenewal made pursuant to this subsection shall be mailed to the named insured either during the current policy period or during the first full policy period following the date of the second accident; or

(8) The insurer ceases writing automobile liability or physical damage insurance policies throughout the state after submission to and approval by the commissioner of a withdrawal plan or discontinues operations within the state pursuant to a withdrawal plan approved by the commissioner.

(c) An insurer that makes an election pursuant to section four-b of this article to issue all nonrenewal notices pursuant to this section shall not fail to renew an automobile liability or physical damage insurance policy when an operator other than the named insured has violated the provisions of subdivision (6) or (7), subsection (b) of this section, if the named insured, by restrictive endorsement, specifically excludes the operator who violated the provision. An insurer issuing a nonrenewal notice informing the named insured that the policy will be nonrenewed for the reason that an operator has violated the provisions of subdivision (6) or (7), subsection (b) of this section, shall at that time inform the named insured of his or her option to specifically exclude the operator by restrictive endorsement and shall further inform the named insured that upon obtaining the restrictive endorsement, the insurer will renew the policy or rescind the nonrenewal absent the existence of any other basis for nonrenewal set forth in this section.

(d) A notice provided under this section shall state the specific reason or reasons for nonrenewal and shall advise the named insured that nonrenewal of the policy for any reason is subject to a hearing and review as provided for in section five of this article.

Cost of the hearing shall be assessed against the losing party but shall not exceed $75. The notice must also advise the insured of possible eligibility for insurance through the West Virginia assigned risk plan.

(e) Notwithstanding the provisions of subsection (a) of this section, the insurer shall reinstate any automobile liability or physical damage insurance policy that has not been renewed due to the insured's failure to pay the renewal premium when due if:

(1) None of the other grounds for nonrenewal as set forth in this section exist; and

(2) The insured makes an application for reinstatement within forty-five days of the original expiration date of the policy. If a policy is reinstated as provided for in this paragraph, then the coverage afforded shall not be retroactive to the original expiration date of the policy: *Provided,* That such policy shall be effective on the reinstatement date at the current premium levels offered by the company and shall not be afforded the protections of this section relating to renewal of an outstanding automobile liability or physical damage insurance policy that has been in existence for at least two consecutive years.

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-207. Definitions related to court actions.

When used in this chapter, terms defined in this section have the meanings ascribed to them that relate to, but are not limited to, court actions, except in those instances where a different meaning is provided or the context in which the word is used clearly indicates that a different meaning is intended.

"Court" means the circuit court of the county with jurisdiction of the case or the judge in vacation unless otherwise specifically provided.

"Court appointed special advocate (CASA) program" means a community organization that screens, trains, and supervises CASA volunteers to advocate for the best interests of children who are involved in abuse and neglect proceedings pursuant to §49-3-102 of this code.

"Extrajudicial Statement" means any utterance, written or oral, which was made outside of court.

"Juvenile referee" means a magistrate appointed by the circuit court to perform the functions expressly prescribed for a referee under the provisions of this chapter.

"Multidisciplinary team" means a group of professionals and paraprofessionals representing a variety of disciplines who interact and coordinate their efforts to identify, diagnose and treat specific cases of child abuse and neglect. Multidisciplinary teams may include, but are not limited to, medical, educational, childcare and law-enforcement personnel, social workers, psychologists, and psychiatrists. Their goal is to pool their respective skills in order to formulate accurate diagnoses and to provide comprehensive coordinated treatment with continuity and follow-up for both parents and children.

"Community team" means a multidisciplinary group which addresses the general problem of child abuse and neglect in a given community and may consist of several multidisciplinary teams with different functions.

"Res gestae" means a spontaneous declaration made by a person immediately after an event and before the person has had an opportunity to conjure a falsehood.

"Valid court order" means an order issued by a court of competent jurisdiction relating to a child brought before the court and who is the subject of that order. Prior to the entry of the order the child shall receive the full due process rights guaranteed to that child or juvenile by the Constitutions of the United States and the State of West Virginia.

"Violation of a traffic law of West Virginia" means a violation of chapter 17A, 17B, 17C, or 17D of this code, except a violation of §17C-4-1 or §17C-4-2 of this code relating to hit and run, or §17C-5-1, §17C-5-2, or §17C-5-3 of this code, relating, respectively, to vehicular homicide, aggravated vehicular homicide, vehicular homicide in a school zone, vehicular homicide in a construction zone, driving under the influence of alcohol, controlled substances or drugs and reckless driving.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

(a) This section may be known and cited as the Unborn Victims of Violence Act.

(b) For the purposes of this article, the following definitions shall apply: *Provided*, That these definitions only apply for purposes of prosecution of unlawful acts under this section and may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for purposes of argument in a civil cause of action, unless there has been a criminal conviction under this section.

(1) "Embryo" means the developing human in its early stages. The embryonic period commences at fertilization and continues to the end of the embryonic period and the beginning of the fetal period, which occurs eight weeks after fertilization or 10 weeks after the onset of the last menstrual period.

(2) "Fetus" means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.

(c) For purposes of enforcing the provisions of §20-7-18a, §61-2-1, §61-2-4, §61-2-7, §61-2-9(a), §61-2-9(c), §61-2-10, §61-2-10b, §61-2-28(a), and §17C-5-1, §17C-5-2(b), or §17C-5-2(c) of

this code, a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims.

(d) Exceptions. — The provisions of this section do not apply to:

(1) Acts committed during a legal abortion to which the pregnant woman, or a person authorized by law to act on her behalf, consented or for which the consent is implied by law;

(2) Acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services, including, but not limited to, medical care, abortion, diagnostic testing or fertility treatment;

(3) Acts or omissions by medical or health care personnel or scientific research personnel in performing lawful procedures involving embryos that are not in a stage of gestation in utero;

(4) Acts involving the use of force in lawful defense of self or another, but not an embryo or fetus; and

(5) Acts or omissions of a pregnant woman with respect to the embryo or fetus she is carrying.

(e) For purposes of the enforcement of the provisions of this section, a violation of the provisions of Chapter 16, Article 2I of this code shall not serve as a waiver of the protection afforded by the provisions of subdivision (1), subsection (d) of this section.

(f) Other convictions not barred. — A prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant arising from the same incident.

CHAPTER 80

(Com. Sub. for S. B. 198 - By Senators Grady and Deeds)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §61-8-28a, §61-8C-1, §61-8C-2, §61-8C-3, §61-8C-3a, and §61-8C-3b of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §61-8C-3c, relating to unlawful computer-generated images; creating definitions relating to intimate images; clarifying the offense of nonconsensual disclosure of intimate images includes certain fabricated intimate images; creating criminal offenses for nonconsensual disclosure of fabricated intimate images; clarifying the definitions relating to filming sexually explicit conduct of minors; creating definitions relating to filming sexually explicit conduct of minors; creating definitions relating to computer-generated child pornography; clarifying certain exemptions for the definitions relating to computer-generated child pornography; amending the article for consistent use of defined terms; clarifying facts or circumstances applicable to liability for offenses involving filming sexually explicit conduct of minors; creating criminal offenses for computer-generated child pornography; increasing certain penalties for distribution and exhibiting of material depicting minors engaged in sexually explicit conduct or computer-generated child pornography; reducing the number of images required for prosecution of certain offenses relating to distribution and exhibiting of material depicting minors engaged in sexually explicit conduct or computer-generated child pornography; clarifying the number of images attributable to certain video clips, movies, or similar recordings; clarifying that certain acts involving computer-generated child pornography may be acts

of delinquency for minors; creating confidentiality provisions for restricted materials used for prosecution of offenses; 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; requesting the Supreme Court of Appeals to promulgate certain rules; authorizing mandatory reporting of certain individuals who observe images appearing to be a minor engaged in sexually explicit conduct on electronic devices; creating an affirmative defense for persons complying with the mandatory reporting requirements; creating criminal penalties; and making technical and stylistic corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-28a. Nonconsensual disclosure of private intimate images; definitions; and penalties.

(a) As used in this section:

(1) "Disclose" means to publish, publicly display, distribute, deliver, circulate or disseminate by any means, including, but not limited to, electronic transmission.

(2) "Image" means a photograph, videotape, motion picture film, digital recording or any product of any mechanical or electronic recording process or device that can preserve, for later viewing, a visual image.

(3) "Intimate parts" means a person's genitalia, pubic area, anus, or female post-pubescent breasts.

(4) To "publicly disclose" means to disclose an image to one or more persons other than those persons whom the person depicted understood would view the image at the time it was captured.

(5) "Fabricated intimate image" means an image of an identifiable depicted individual that was created by the use of

artificial intelligence or other computer technology capable of processing and interpreting specific data inputs and depicts computer-generated intimate parts or the intimate parts of another human being as the intimate parts of the depicted individual.

(b) No person may knowingly and intentionally disclose, cause to be disclosed or threaten to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce, a fabricated intimate image of another or an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed.

(c)(1) A person convicted of a violation of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not less than $1,000 nor more than $5,000, or both confined and fined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person convicted of a second or subsequent violation of subsection (b) of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not more than three years, fined not less than $2,500 nor more than $10,000, or both imprisoned and fined.

(d) The provisions of this section do not apply to:

(1) Images disclosed with the prior written consent of the person depicted;

(2) Images depicting the person voluntarily exposing himself or herself in a public or commercial setting; or

(3) Disclosures made through the reporting of illegal conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceeding or medical treatment.

(e) Nothing in this section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U. S. C. §230(f)(2), an information service as defined by 47 U. S. C. §153(24), or telecommunications service as defined by 47 U. S. C. §153(53), for content provided by another person.

ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.

§61-8C-1. Definitions.

(a) For the purposes of this article:

(1) "Minor" means any child under 18 years of age.

(2) "Knowledge" means knowing or having reasonable cause to know which warrants further inspection or inquiry.

(3) "Sexually explicit conduct" includes any of the following, whether actually performed or simulated:

(A) Genital to genital intercourse;

(B) Fellatio;

(C) Cunnilingus;

(D) Anal intercourse;

(E) Oral to anal intercourse;

(F) Bestiality;

(G) Masturbation;

(H) Sadomasochistic abuse, including, but not limited to, flagellation, torture, or bondage;

(I) Excretory functions in a sexual context; or

(J) Exhibition of the genitals, pubic, or rectal areas of any person in a sexual context.

(4) "Person" means an individual, partnership, firm, association, corporation, or other legal entity: *Provided*, That this term does not apply to the provider of an interactive computer service as defined by 47 U. S. C. §230(f)(2), an information service as defined by 47 U. S. C. §153(24), or telecommunications service as defined by 47 U. S. C. §153(53), for content provided by another person.

(5) "Visual portrayal" means:

(A) A photograph;

(B) A motion picture;

(C) A digital image;

(D) A digital video recording;

(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person that includes, but is not limited to, computers, cellphones, personal digital assistance, and other digital storage or transmitting devices; or

(F) Any media listed in this subdivision which was created, generated, or otherwise produced, in whole or in part, by any manner of manipulation, including, but not limited to, artificial intelligence.

(6) "Computer-generated child pornography" means:

(A) Any visual portrayal of an identifiable minor that has been created, adapted, or modified to depict the minor as engaging in sexually explicit conduct; or

(B) Any visual portrayal that appears to depict a minor engaged in sexually explicit conduct if the visual portrayal is:

(i) Created by the use of artificial intelligence or other computer technology capable of processing and interpreting specific data inputs to create a visual portrayal; and

(ii) Indistinguishable from a minor.

(7) "Identifiable minor" means any visual portrayal that depicts a minor who is identifiable from the matter itself or from information displayed with or otherwise connected to the matter, and that was created or altered by the use of artificial intelligence or other computer technology capable of processing and interpreting specific data inputs to depict the minor.

(8) "Indistinguishable" as used with respect to a visual portrayal, means virtually indistinguishable, in that the visual portrayal is such that an ordinary person viewing the visual portrayal would conclude that the visual portrayal is of an actual minor engaged in sexually explicit conduct. This definition does not apply to visual portrayals that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

(b) Nothing in this article shall be construed to include a visual portrayal of an actual and identifiable person who was not a minor at the time the visual portrayal was created.

§61-8C-2. Use of minors in filming sexually explicit conduct prohibited; penalty.

(a) Any person who causes or knowingly permits, uses, persuades, induces, entices, or coerces such minor to engage in or uses such minor to do or assist in any sexually explicit conduct is guilty of a felony when the act is being used to create a visual portrayal. Upon conviction thereof, such person shall be fined not more than $10,000 or imprisoned in the penitentiary not more than 10 years, or both fined and imprisoned.

(b) Any person who creates a visual portrayal of a minor engaging in any sexually explicit conduct is guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned in the penitentiary not more than 10 years, or both fined and imprisoned.

(c) Any parent, legal guardian, or person having custody and control of a minor, who creates a visual portrayal of such minor in any sexually explicit conduct or causes or knowingly permits, uses,

persuades, induces, entices, or coerces such minor child to engage in or assist in any sexually explicit act is guilty of a felony when such act is used to create a visual portrayal. Upon conviction thereof, such person shall be fined not more than $10,000 or imprisoned in the penitentiary not more than 10 years, or both fined and imprisoned.

(d) It is not a defense under this section that the minor depicted has attained the age of at least 18 years old at the time of investigation and/or prosecution, as long as the visual portrayal of the minor used was originally taken or captured when the subject was less than 18 years of age.

(e) It is not a defense under this section that the minor depicted is deceased at the time of investigation and/or prosecution, regardless of whether the minor depicted had attained the age of 18 years of age at the time of his or her death.

§61-8C-3. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct or computer-generated child pornography prohibited; penalty.

(a) Any person who knowingly sends or causes to be sent or distributes, exhibits, possesses, electronically accesses with intent to view or displays or transports any visual portrayal of a minor engaged in any sexually explicit conduct or computer-generated child pornography is guilty of a felony.

(b) It is sufficient for purposes of this section that the material visually portrays a minor, regardless of whether the subject's age is represented to be less than age 18 years old or whether the minor subject's actual identity can be ascertained.

(c) A visual portrayal created in whole or in part by digital manipulation, artificial intelligence, or any other means may satisfy the requirements of this section.

(d) It is not a defense under this section that the minor depicted has attained the age of at least 18 years old at the time of investigation and/or prosecution, as long as the visual portrayal of

the minor was originally taken or captured when the subject was under the age of 18 years of age.

(e) It is not a defense under this section that the minor depicted is deceased at the time of investigation and/or prosecution, regardless of whether the minor depicted had attained the age of at least 18 years of age at the time of his or her death.

(f) Any person who violates the provisions of subsection (a) of this section when the conduct involves 50 or fewer images shall, upon conviction, be imprisoned in a state correctional facility for not less than two years nor more than five years or fined not more than $5,000 or both.

(g) Any person who violates the provisions of subsection (a) of this section when the conduct involves more than 50 but fewer than 300 images shall, upon conviction, be imprisoned in a state correctional facility for not less than three nor more than 15 years or fined not more than $10,000, or both.

(h) 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 300 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 20 years or fined not more than $25,000, or both.

(i) For purposes of this section each video clip, movie, or similar recording of five minutes or less shall constitute 100 images. A video clip, movie or similar recording of a duration longer than five minutes constitutes 100 images for every two minutes in length it exceeds five minutes.

§61-8C-3a. Prohibiting child erotica; penalties.

(a) Any person age 18 or over who knowingly and intentionally produces, possesses, displays or distributes, in any form, any visual portrayals of minors who are partially clothed, where the visual portrayals are: (1) Unrelated to the sale of a commercially available legal product; and (2) used for purely prurient purposes, is guilty

of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year or fined not more than $1,000, or both confined and fined.

(b) As used in this section only:

(1) "Purely prurient purposes" means for the specific purpose of sexual gratification or sexual arousal from viewing the visual portrayals prohibited by this section; and

(2) "Commercially available" means for sale to the general public.

§61-8C-3b. Prohibiting juveniles from manufacturing, possessing, and distributing nude or partially nude images of minors; creating exemptions; declaring a violation to be an act of juvenile delinquency; and providing for the punishment thereof.

(a) Any minor who intentionally possesses, creates, produces, distributes, presents, transmits, posts, exchanges, or otherwise disseminates any computer-generated child pornography or a visual portrayal of another minor posing in an inappropriate sexual manner or who distributes, presents, transmits, posts, exchanges, or otherwise disseminates a visual portrayal of himself or herself posing in an inappropriate sexual manner is guilty of an act of delinquency and, upon adjudication, disposition may be made by the circuit court pursuant to the provisions of §49-4-701 through §49-4-725 of this code.

(b) As used in this section, “posing in an inappropriate sexual manner” means exhibition of a bare female breast, female or male genitalia, pubic, or rectal areas of a minor for purposes of sexual gratification.

(c) It shall be an affirmative defense to an alleged violation of this section that a minor charged with possession of the prohibited visual portrayal did neither solicit its receipt nor distribute, transmit, or present it to another person by any means.

(d) Notwithstanding the provisions of §15-12-1 *et seq.* of this code, an adjudication of delinquency under the provisions of this section shall not subject the minor to the requirements of that article and chapter.

§61-8C-3c. Confidentiality; exemption from prosecution.

(a) Nothing in this article shall be construed to prevent the lawful investigation and/or prosecution of the criminal offenses described in this article: *Provided*, That prohibited media or visual portrayal described in this article shall not be published to the public at any time.

(b) It does not constitute an offense of the crimes set forth in this article when the following persons possess or distribute prohibited media or material, or visual portrayal while acting in the performance of their official duties:

(1) Law enforcement officials, including those entities with specialized investigatory experience with whom law enforcement agencies regularly contract for the purpose of providing investigatory services and assistance;

(2) Prosecuting attorneys;

(3) Attorneys acting as officers of the court and while acting in the performance of their official duties;

(4) Judges and magistrates;

(5) Jurors hearing a case involving an alleged violation of offenses in this article;

(6) Support personnel for the persons listed in this section; and

(7) Any person acting in accordance and in compliance with a valid order issued by a circuit court of this state or the Supreme Court of Appeals.

(c) The Supreme Court of Appeals is hereby requested to promulgate such rules, protocols, and forms which are necessary to regulate access to, use, and handling of prohibited media and visual

portrayals described in this article, giving due consideration to the privacy rights of victims and the due process rights of defendants in criminal proceedings.

(d)(1) Any person not listed in subsection (b) of this section who, in the course and scope of employment or business, views an image or images on a computer or electronic device that is or appears to be material visually portraying a minor engaged in any sexually explicit conduct shall immediately report the discovery of the image or images to a local or state law-enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer or electronic device, if known, and as permitted by federal law. For purposes of this subdivision, such reporting may include furnishing the law enforcement officer with any image, information, or data that the person reasonably believes to be evidence of material visually portraying a minor engaged in any sexually explicit conduct, transmission of material visually portraying a minor engaged in any sexually explicit conduct, or an image, information, or data that is harmful to minors.

(2) Except in a case of willful or wanton misconduct, compliance with subdivision (1) of this subsection is an affirmative defense to an alleged violation of this section.

CHAPTER 81

(Com. Sub. for H. B. 3164 - By Delegates Flanigan, Funkhouser, Pritt, Dillon, Eldridge, and Campbell)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §15-2C-2 and §15-12-2 of the Code of West Virginia, 1931, as amended, relating to establishing an annual fee for by a person required to be placed on the Central Abuse Registry; relating to providing that the funds from said annual fee shall be credited to the account of the State Police; relating to nonpayment of the annual fee having the effect of a judgment; relating to the State Police providing notice of nonpayment; relating to the creation of a lien, and the release thereof; also relating to the establishment of an annual fee by a person required to be placed on the the Sex Offender Registration Act; relating to providing that the funds from said annual fee shall be credited to the account of the State Police; relating to nonpayment of the annual fee having the effect of a judgment; relating to the State Police providing notice of nonpayment; relating to the creation of a lien, and the release thereof.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2C. CENTRAL ABUSE REGISTRY.

§15-2C-2. Central Abuse Registry; required information; procedures; fees and use thereof.

(a) The Criminal Identification Bureau of the West Virginia State Police shall establish a Central Abuse Registry, to contain information relating to criminal convictions involving child abuse or neglect, abuse or neglect of an incapacitated adult or an adult

receiving behavioral health services and misappropriation of property by individuals specified in subsection (b) of this section and information relating to individuals required to be registered as a sex offender.

(b) The Central Abuse Registry shall contain, at a minimum, information relating to: Convictions of a misdemeanor or a felony involving abuse, neglect or misappropriation of property, by an individual performing services for compensation, within the scope of the individual's employment or contract to provide services, in a residential care facility, in a licensed day care center in connection with providing behavioral health services, or in connection with the provision of home care services; information relating to individuals convicted of specific offenses enumerated in §15-2C-3 (a) of this code with respect to a child or an incapacitated adult or an adult receiving behavioral health services; information relating to all individuals required to register with the Child Abuse and Neglect Registry established pursuant to §15-13-1 *et seq.* of this code; and information relating to all individuals required to register with the West Virginia State Police as sex offenders pursuant to the provisions of §15-12-1 *et seq.* of this code. The Central Abuse Registry shall contain the following information:

(1) The individual's full name;

(2) Sufficient information to identify the individual, including date of birth, social security number and fingerprints if available;

(3) Identification of the criminal offense constituting abuse, neglect or misappropriation of property of a child or an incapacitated adult or an adult receiving behavioral health services;

(4) For cases involving abuse, neglect or misappropriation of property of a child or an incapacitated adult or an adult receiving behavioral health services in a residential care facility or a day care center, or of a child or an incapacitated adult or an adult receiving behavioral health services receiving home care services, sufficient information to identify the location where the documentation of any investigation by the Department of Human Services is on file and the location of pertinent court files; and

(5) Any statement by the individual disputing the conviction, if he or she chooses to make and file one.

(c) Upon conviction in the criminal courts of this state of a misdemeanor or a felony offense constituting child abuse or neglect or abuse or neglect of an incapacitated adult or an adult receiving behavioral health services, the individual so convicted shall be placed on the Central Abuse Registry.

(d) A person required to be placed on the Central Abuse Registry pursuant to this section shall pay an annual fee of $125, to be paid between January 1 and January 30 of each year. The annual fee shall be paid to the circuit clerk of the circuit court where the registrant currently resides, and the registrant will provide written proof of payment of the annual fee within ten days of the payment to a State Police detachment located in the county where the registrant currently resides. The circuit clerk shall compile and maintain a record of any payment made by a registrant to which the State Police shall have access. The circuit clerk shall remit the entirety of a payment made pursuant to this subsection to the state treasurer who shall deposit these funds into the State Treasury and credit said funds to the account of the State Police. The State Police is hereby authorized to utilize the funds collected from these annual fees, first to enhance mental health services for current and former employees of the West Virginia State Police, including but not limited to hiring, or contracting, mental health professionals, conducting periodic educational seminars, meetings, trainings or conferences addressing mental health issues that affect persons that are, or have been, employed as law enforcement, and then for any other use essential to the general operations of the State Police: *Provided,* That failure to pay the annual fee, or provide proof of payment of the annual fee, pursuant to this subsection may not be considered a violation of the person's supervised release: *Provided, however,* That written notice by the State Police served upon the registrant, by certified mail at the last address provided by the registrant, stating that that the annual fee has not been paid, may be recorded 30 days after the notice was received by the registrant in the office of the county clerk where the person required to register resides. This notice shall have the effect of a judgment and shall be

recorded and indexed by the county clerk in the judgment lien docket. This judgment lien will be released by the State Police within 30 days upon full and complete payment by the registrant. Written verification of the release of the lien shall be provided to the registrant at the address last provided by the registrant.

ARTICLE 12. SEX OFFENDER REGISTRATION ACT.

§15-12-2. Registration; fees and use thereof.

(a) The provisions of this article apply both retroactively and prospectively.

(b) Any person who has been convicted of an offense or an attempted offense or has been found not guilty by reason of mental illness, mental retardation, or addiction of an offense under any of the following provisions of this code or under a statutory provision of another state, the United States Code or the Uniform Code of Military Justice which requires proof of the same essential elements shall register as set forth in §15-12-2(d) of this code and according to the internal management rules promulgated by the superintendent under authority of §15-2-25 of this code:

(1) §61-8A-1 *et seq.* of this code;

(2) §61-8B-1 *et seq.* of this code;

(3) The provisions of former §61-8B-6 of this code, relating to the offense of sexual assault of a spouse, which was repealed by an act of the Legislature during the 2000 legislative session;

(4) §61-8C-1 *et seq.* of this code;

(5) §61-8D-5 and §61-8D-6 of this code;

(6) §61-2-14(a) of this code;

(7) §61-8-6, §61-8-7, §61-8-12, and §61-8-13 of this code;

(8) §61-3C-14b of this code, as it relates to violations of those provisions of chapter 61 listed in this subsection; or

(9) §61-14-2, §61-14-5, and §61-14-6 of this code: *Provided*, That as to §61-14-2 of this code only those violations involving human trafficking for purposes of sexual servitude require registration pursuant to this subdivision.

(c) Any person who has been convicted of a criminal offense where the sentencing judge made a written finding that the offense was sexually motivated shall also register as set forth in this article.

(d) A person required to register under the provisions of this article shall register in person at the West Virginia State Police detachment responsible for covering the county of his or her residence, and in doing so, provide or cooperate in providing, at a minimum, the following when registering:

(1) The full name of the registrant, including any aliases, nicknames, or other names used by the registrant;

(2) The address where the registrant intends to reside or resides at the time of registration, the address of any habitable real property owned or leased by the registrant that he or she regularly visits: *Provided*, That a post office box may not be provided in lieu of a physical residential address, the name and address of the registrant's employer or place of occupation at the time of registration, the names and addresses of any anticipated future employers or places of occupation, the name and address of any school or training facility the registrant is attending at the time of registration and the names and addresses of any schools or training facilities the registrant expects to attend;

(3) The registrant's Social Security number;

(4) A full-face photograph of the registrant at the time of registration;

(5) A brief description of the crime or crimes for which the registrant was convicted;

(6) The registrant's fingerprints and palm prints;

(7) Information related to any motor vehicle, trailer, or motor home owned or regularly operated by a registrant, including vehicle make, model, color, and license plate number: *Provided*, That for the purposes of this article, the term "trailer" means travel trailer, fold-down camping trailer, and house trailer as those terms are defined in §17A-1-1 of this code;

(8) Information relating to any Internet accounts the registrant has and the screen names, user names, or aliases the registrant uses on the Internet;

(9) Information related to any telephone or electronic paging device numbers that the registrant has or uses, including, but not limited to, residential, work, and mobile telephone numbers;

(10) A photocopy of a valid driver's license or government-issued identification card, including a tribal identification card;

(11) A photocopy of any passport and immigration documents;

(12) A photocopy of any professional licensing information that authorizes the registrant to engage in an occupation or carry out a trade or business; and

(13) Any identifying information, including make, model, serial number, and photograph, regarding any unmanned aerial vehicle owned or operated by a registrant.

(e) (1) On the date that any person convicted or found not guilty by reason of mental illness, mental retardation, or addiction of any of the crimes listed in §15-12-2(b) of this code, hereinafter referred to as a "qualifying offense", including those persons who are continuing under some post-conviction supervisory status, are released, granted probation or a suspended sentence, released on parole, probation, home detention, work release, conditional release or any other release from confinement, the Commissioner of Corrections, regional jail administrator, city official, or sheriff operating a jail or Secretary of the Department of Health Facilities who releases the person and any parole or probation officer who releases the person or supervises the person following the release shall obtain all information required by §15-12-2(d) of this code

prior to the release of the person, inform the person of his or her duty to register, and send written notice of the release of the person to the State Police within three business days of receiving the information. The notice must include the information required by §15-12-2(d) of this code. Any person having a duty to register for a qualifying offense shall register upon conviction, unless that person is confined or incarcerated, in which case he or she shall register within three business days of release, transfer, or other change in disposition status. Any person currently registered who is incarcerated for any offense shall re-register within three business days of his or her release.

(2) Notwithstanding any provision of this article to the contrary, a court of this state shall, upon presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of mental illness, mental retardation, or addiction of a qualifying offense, cause, within 72 hours of entry of the commitment or sentencing order, the transmittal to the sex offender registry for inclusion in the registry all information required for registration by a registrant as well as the following nonidentifying information regarding the victim or victims:

(A) His or her sex;

(B) His or her age at the time of the offense; and

(C) The relationship between the victim and the perpetrator.

The provisions of this subdivision do not relieve a person required to register pursuant to this section from complying with any provision of this article.

(f) For any person determined to be a sexually violent predator, the notice required by §15-12-2(d) of this code must also include:

(1) Identifying factors, including physical characteristics;

(2) History of the offense; and

(3) Documentation of any treatment received for the mental abnormality or personality disorder.

(g) At the time the person is convicted or found not guilty by reason of mental illness, mental retardation, or addiction in a court of this state of the crimes set forth in §15-12-2(b) of this code, the person shall sign in open court a statement acknowledging that he or she understands the requirements imposed by this article. The court shall inform the person so convicted of the requirements to register imposed by this article and shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant has received notice of the provisions of this article and that the defendant understands the provisions. The statement, when signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

(h) The State Police shall maintain a central registry of all persons who register under this article and shall release information only as provided in this article. The information required to be made public by the State Police by §15-12-5(b)(2) of this code is to be accessible through the Internet. Information relating to telephone or electronic paging device numbers a registrant has or uses may not be released through the Internet.

(i) For the purpose of this article, "sexually violent offense" means:

(1) Sexual assault in the first degree as set forth in §61-8B-3 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(2) Sexual assault in the second degree as set forth §61-8B-4 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(3) Sexual assault of a spouse as set forth in the former provisions of §61-8B-6 of this code, which was repealed by an act

of the Legislature during the 2000 legislative session, or of a similar provision in another state, federal, or military jurisdiction;

(4) Sexual abuse in the first degree as set forth in §61-8B-7 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(j) For purposes of this article, the term "sexually motivated" means that one of the purposes for which a person committed the crime was for any person's sexual gratification.

(k) For purposes of this article, the term "sexually violent predator" means a person who has been convicted or found not guilty by reason of mental illness, mental retardation, or addiction of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(l) For purposes of this article, the term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(m) For purposes of this article, the term "predatory act" means an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(n) For the purposes of this article, the term "business days" means days exclusive of Saturdays, Sundays, and legal holidays as defined in §2-2-1 of this code.

(o) A person required to register pursuant to this article shall pay an annual fee of $125, to be paid between January 1 and June 30 of each year. The annual fee shall be paid to the circuit clerk of the circuit court where the registrant currently resides, and the registrant will provide written proof of payment of the annual fee within ten days of the payment to the State Police detachment monitoring the registrant. The circuit clerk shall compile and

maintain a record of any payment made by a registrant to which the State Police shall have access. The circuit clerk shall remit the entirety of a payment made pursuant to this subsection to the state treasurer who shall deposit these funds into the State Treasury and credit said funds to the account of the State Police. The State Police is hereby authorized to utilize the funds collected from these annual fees, first to enhance mental health services for current and former employees of the West Virginia State Police, including but not limited to hiring, or contracting, mental health professionals, conducting periodic educational seminars, meetings, training or conferences addressing mental health issues that affect persons that are, or have been, employed as law enforcement, and then for any other use essential to the general operations of the State Police: *Provided,* That failure to pay the annual fee, or provide proof of payment of the annual fee, pursuant to this subsection may not be considered a violation of the person's supervised release: *Provided, however,* That written notice by the State Police served upon the registrant, by certified mail at the last address provided by the registrant, stating that that the annual fee has not been paid, may be recorded 30 days after the notice was received by the registrant in the office of the county clerk where the person required to register resides. This notice shall have the effect of a judgment and shall be recorded and indexed by the county clerk in the judgment lien docket. This judgment lien will be released by the State Police within 30 days upon full and complete payment by the registrant. Written verification of the release of the lien shall be provided to the registrant at the address last provided by the registrant.

CHAPTER 82

(S. B. 907 - By Senator Jeffries)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §31-15-23a of the Code of West Virginia, 1931, as amended, relating to the definition of "high-impact development projects" reviewed and approved by the West Virginia Economic Development Authority board; allowing for consideration of regional and local economic factors when making a determination that the loan per job ratio criteria has been met in assessing a project and the economic development assistance package proposed by the Governor; providing for up to $20 million annually to be exempted from the requirements of the high-impact development project definition and be allowable to be spent out of the Economic Development Project Fund; removing the $300 million cap on moneys available to fund high-impact development projects; and providing that the board of directors shall consider the overall availability of funds in the Economic Development Project Fund and the Industrial Development Loan Fund in making determinations related to economic development financial assistance packages for high-impact development projects.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-23a. Economic Development Project Fund.

(a) For the purposes of this section:

"Eligible broadband provider" has the meaning provided in §31-15-8a of this code.

"Federally funded broadband expansion program" has the meaning provided in §31-15-8a of this code.

"High-impact development project" means a project meeting the following criteria, according to a resolution adopted by the authority:

(A) The Governor has requested, in writing, that the project be approved for certain economic development financial assistance by the authority in an amount of $50 million or greater;

(B) The industrial development agency or enterprise undertaking the project will privately invest an amount of $50 million or greater in the project; and

(C) The project meets or exceeds the loan per job ratio criteria for high-impact development projects that may be established, in consultation with the Secretary of the Department of Commerce and the Executive Director of the Division of Economic Development, by the board of directors. In assessing a project and the economic development financial assistance package proposed by the Governor, the board of directors shall take regional and local economic factors into account when making a determination that the loan per job ratio criteria has been met.

(b) There is hereby created a special revenue fund in the State Treasury known as the Economic Development Project Fund. The fund shall consist of all moneys appropriated to the authority during the regular session of the Legislature, 2022, from available revenue surplus funds; transfers from the Industrial Development Loans Fund; gifts, grants, and contributions to the fund; any earnings or interest accruing to said fund; and any other moneys appropriated to said fund by the Legislature. The authority may invest and reinvest moneys in the fund with the West Virginia Investment Management Board or the Board of Treasury Investments.

(c) The authority may transfer funds in the Industrial Development Loans Fund to the Economic Development Project Fund created by this section and any loan repayments or other amounts that would otherwise have been paid into the Industrial Development Loans Fund may be paid into the Economic Development Project Fund created by this section.

(d) The authority may use moneys in the Economic Development Project Fund to offer incentives for business formation or expansion and provide assistance with site development or other concerns to industrial development agencies or enterprises according to the requirements of this article as set forth in this subsection: *Provided,* That annually up to $20 million may be exempted from the requirements of the high-impact development project definition and be allowable to be spent out of the Economic Development Project Fund.

(1) *High-impact development projects*. — In addition to any powers granted to the authority under any other section of this code, the authority may finance any high-impact development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans, grants, or other offers of financial assistance or aid upon such terms as the Governor may request and the authority shall deem appropriate: *Provided*, That the board of directors shall consider the overall availability of funds in the Economic Development Project Fund and the Industrial Development Loan Fund in making determinations related to economic development financial assistance packages for high-impact development projects. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for high-impact projects as set forth in this subsection and shall not revert to the General Revenue Fund.

(2) *Traditional loans*. — The authority may finance any economic development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of

loans, which shall be repaid to provide financing for subsequent borrowers: *Provided*, That moneys available to fund such traditional loans may not exceed $250 million dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments received pursuant to this subsection. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for traditional loans as set forth in this subsection and shall not revert to the General Revenue Fund.

(3) *Business retention projects*. — The authority may finance any economic development project under this section by offering incentives for business development and expansion to industrial development agencies or enterprises already existing and operating in the state of West Virginia in the form of loans, which shall be repaid to provide financing for subsequent borrowers: *Provided*, That moneys available to fund such business retention loans may not exceed $50 million dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments received pursuant to this subsection. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for business retention projects as set forth in this subsection and shall not revert to the General Revenue Fund.

(4) *Federal broadband expansion projects*. — The authority may use moneys in the fund to provide incentives for eligible broadband providers to participate in federally funded broadband expansion programs: *Provided*, That the moneys available for such incentives may not exceed $25 million annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments or investment earnings on said moneys.

(5) *Broadband loan insurance*. — The authority may transfer moneys from the fund to the Insurance Fund, created in §31-15-8 of this code, in amounts necessary to issue loan insurance to eligible broadband providers: *Provided*, That the moneys available for transfer pursuant to this subdivision may not exceed $125

million annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments or investment earnings on said moneys. With regard to any loan insurance issued using the moneys transferred pursuant to this subdivision, the authority shall follow the requirements of §31-15-8a of this code.

(e) The authority shall keep itemized records of all fund transactions and agreements entered into in furtherance of the Economic Development Project Fund expenditures. In administering the fund, the authority shall adopt appropriate accounting practices and internal controls, including, but not limited to, strict compliance with the requirements of §5A-8-9 of this code. Fund transactions shall be subject to an annual audit by an independent firm of certified public accountants.

(f) The authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor an annual report addressing the status of each project with outstanding financing issued pursuant to this section. The report shall, at a minimum, provide project-specific data addressing:

(1) The outstanding amount of authority financing for each project;

(2) The total amount of private investment in each project;

(3) The number of jobs created by each project since the project's inception; and

(4) The number of jobs maintained by each project.

(g) Except for the records and audit required under subsection (e) of this section, and the annual reports required under subsection (f) of this section, any documentary material, data, or other writing made or received by the authority relating to high-impact development projects under this section, shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement or resolution entered into or signed by the authority which obligates public funds for any high-impact development project shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement or resolution is entered into, signed, or otherwise made public.

CHAPTER 83

(Com. Sub. for Com. Sub. for S. B. 154 - By Senators Grady, Tarr, Thorne, Helton, Rucker, Willis, Roberts, Deeds, Hart, and Woodrum)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18-5-29, relating to prohibiting instruction related to sexual orientation and gender identity; setting forth definitions; creating exceptions to prohibition against instruction; prohibiting a public school and the county board employees assigned to the school from knowingly giving false or misleading information to the parent, custodian, or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the student's biological sex; requiring a public school employee to report a student's request for an accommodation that is intended to affirm the student's gender identity from a person employed by the public school to an administrator employed by the county board and assigned to the school; requiring the administrator to report the student's request to the student's parent, custodian, or guardian; providing that a complaint may be filed in pursuant to state board rule for violations of these provisions, providing that school personnel found in violation of this section may be subjected to discipline or dismissal pursuant statute; providing that the state board, in consultation with the Higher Education Policy Commission, shall promulgate rules to implement section; allowing the Attorney General to enforce compliance; and providing that the provisions of this act are severable.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

†§18-5-29. Prohibiting instruction related to sexual orientation and gender identity and providing false information regarding student's gender identity or intention to transition; requiring certain student requests to be reported to parent.

(a) For the purposes of this section:

(1) "Biological sex" means the sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate was issued at or near the time of the student's birth;

(2) "Custodian" means a person who has some allocation of physical custody of the child or who has provided to the school written permission of a parent to have access to the notices and information contemplated by this section;

(3) "Gender identity" means a category of social identity and refers to an individual's identification as male, female, or occasionally, some category other than male or female;

(4) "Guardian" means a person other than a parent or custodian who, pursuant to a court order, acts in loco parentis for the child;

(5) "Parent" means a parent who has some allocation of physical custody of the child or who has some share of joint decision-making authority for the child;

(6) "Sexual orientation" means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual; and

(7) "Transition to a gender" means the process in which a person goes from identifying with and living as a gender that corresponds to the person's biological sex to identifying with and living as a gender different from the person's biological sex and may involve social, legal, or physical changes.

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†**NOTE:** H. B. 154 (Chapter 83) which passed prior to this Act, also created a new a Section 29. Therefore, has been redesignated as Section 29 for the code.

(b) A public school may not provide instruction related to sexual orientation or gender identity: *Provided*, That the provisions of this subsection do not prohibit:

(1) A teacher responding to student questions during class regarding sexual orientation or gender identity as it relates to any topic of instruction;

(2) Referring to the sexual orientation or gender identity of any historic person, group, or public figure when such information provides necessary context in relation to any topic of instruction;

(3) Referring to sexual orientation and gender identity if necessary to address a disciplinary matter, such as an instance of bullying; or

(4) Referring to sexual orientation and gender identity as part of curriculum established in a dual enrollment or advanced placement course.

(c) A public school and the county board employees assigned to the school may not knowingly give false or misleading information to the parent, custodian, or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the student's biological sex.

(d) If a student enrolled in a public school requests from a person employed by the public school an accommodation that is intended to affirm a change in the student's gender identity that is different from a student's biological sex, including a request that the student be addressed using a name or pronoun that is different than the name or pronoun assigned to the student in the public school's registration forms or records for the purpose of affirming a change in the student's gender identity that is different than the student's biological sex, the public school employee shall report the student's request to an administrator employed by the county board and assigned to the school, and the administrator shall report the student's request to the student's parent, custodian, or guardian.

(e) A parent, custodian, or guardian who is impacted, or whose child is impacted, by a violation of this section may file a complaint

pursuant to West Virginia Board of Education Policy 7211 (§126-188-1).

(f) School personnel found in violation of this section may be subject to discipline or dismissal pursuant to §18A-2-8 of this code.

(g) The West Virginia Board of Education, in consultation with the Higher Education Policy Commission, shall promulgate rules pursuant to §29A-3B-1 *et seq.* of this code to implement this section.

(h) The Attorney General may bring an action to enforce compliance with this section.

(i) If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 84

(S. B. 280 - By Senators Azinger, Taylor, Thorne, Rose, Hart, Bartlett, Deeds, and Martin)

[Passed April 12, 2025; in effect 90 days from passage, July 11, 2025]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §18-9H-1; and to amend the code by adding a new article, designated §18B-14-12, relating to requiring public elementary and secondary schools and state institutions of higher education to display in a conspicuous location within a common area of the main building or similar location in another building a durable poster or framed copy of the United States motto, "In God We Trust"; imposing requirements for the durable poster or framed copy; making the requirements subject to donation; and applying requirement to public charter schools.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 9H. DISPLAY OF NATIONAL MOTTO.

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

(a) A public elementary or secondary school shall display in a conspicuous location within a common area of the main building of the school that is accessible to the public, and may also display in a similar location in common areas of in other buildings of the school, a durable poster or framed copy of the United States national motto, "In God We Trust": *Provided*, That the poster or framed copy of the national motto described in this section is a minimum of 8.5 by 11 inches, and shall contain a representation of

the United States flag centered under the national motto and may not depict any other words, images, or other information.

(b) A public elementary or secondary school may accept and use private donations for the purposes of meeting the provisions of subsection (a) of this section. No public funds may be used for this purpose.

(c) Notwithstanding any other provision of code to the contrary, this section applies to public charter schools authorized pursuant to §18-5G-1 *et seq.*

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 14. MISCELLANEOUS.

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

(a) A state institution of higher education, as defined by §18B-1-2 of this code, shall display in a conspicuous location within a common area of the main building of the institution of higher education that is accessible to the public, and may also display in a similar location in common areas of other buildings of the institution of higher education, a durable poster or framed copy of the United States national motto, "In God We Trust": *Provided*, That the poster or framed copy of the national motto described in this section is a minimum of 8.5 by 11 inches, and shall contain a representation of the United States flag centered under the national motto and may not depict any other words, images, or other information.

(b) An institution of higher education may accept and use private donations for the purposes of meeting the provisions of subsection (a) of this section. No public funds may be used for this purpose.

CHAPTER 85

(Com. Sub. for S. B. 449 - By Senators Tarr, Grady, Bartlett, Hamilton, Phillips, Woodrum, Rose, Hart, Taylor, Morris, and Willis)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §18-2-46, relating to permitting air rifles and rimfire rifles on school buses solely during transportation to or from a school-sponsored shooting team event, on the grounds of any primary or secondary educational facility of any type for shooting team purposes, and at a school-sponsored shooting team function that is taking place in a specific area that is owned, rented, or leased by West Virginia Department of Education, the West Virginia Secondary School Activities Commission, a county school board, or local public school; requiring that during the school day or at any time other than school-sponsored team events or practices, the air rifles and rimfire rifles and ammunition be locked up in a location where students do not have access; and requiring air rifles and rimfire rifles and ammunition stored on school buses to be placed in a locked case and located in a specific location that is determined by the state transportation director or the county transportation director.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

†§18-2-46. Air rifles and rimfire rifles permitted for school teams.

(a) *Legislative intent*. — The popularity of air rifle and rimfire rifle teams are expanding in the state and across the country. Current code is unclear as to the legality of these rifles to be permitted on school grounds. For that reason, definitions are needed, and enactment should be carried out to ensure the support and continuation of such clubs.

(b) *Definitions*. — The following definitions apply to this section:

(1) "Air rifle" or "compressed air rifle" means a rifle, gun, or other firearm that uses compressed air or gas to propel projectiles, such as pellets, rather than relying on the explosive force of gunpowder like traditional firearms.

(2) "Rimfire rifle" means a firearm that uses rimfire ammunition, which is a type of metallic cartridge with a primer in the rim of the casing, wherein the firing pin strikes the rim, igniting the primer and propelling the bullet down the barrel.

(c) *Enactment*. — Air rifles and rimfire rifles are permitted on school buses solely during transportation to or from a school-sponsored shooting team event; on the grounds of any primary or secondary educational facility of any type for shooting team purposes; and at a school-sponsored shooting team function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary School Activities Commission, a county school board, or local public school: *Provided,* That during the school day or at any time other than school-sponsored team events or practices, the air rifles and rimfire rifles and ammunition shall be locked in a location where students do not have access: *Provided further*, That air rifles and rimfire rifles and ammunition stored on school buses shall be placed in a locked case and located in a specific location that is determined by state transportation director or the county transportation director.

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†**NOTE:** H. B. 2897 (Chapter 3) which passed prior to this Act, also created a new a Section 46. Therefore, has been redesignated as Section 46 for the code H. B. 2003 (Chapter 93) which passed prior to this Act, also created a new a Section 47.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

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

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

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

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

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

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

(2) This subsection does not apply to:

***NOTE:** This section was also amended by S. B. 449 (Chapter 85), which passed prior to this Act.

(A) A law-enforcement officer employed by a federal, state, county, or municipal law- enforcement agency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to

suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

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

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

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's

20th birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

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

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

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

(2) This subsection does not apply to:

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

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

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

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

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

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

CHAPTER 86

(Com. Sub. for S. B. 581 - By Senators Oliverio, Garcia, Grady, Martin, Woodrum, Morris, Clements, Thorne, Deeds, Hamilton, and Hart)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to expanding the definition of an excused absence; including up to five college visits in the definition of excused absence; including a student in any West Virginia Department of Education-recognized and -sanctioned student organization to enhance student enrichment and success, including but not limited to SkillsUSA, Future Business Leaders of America, Health Occupations Students of America, the Common Ground Partnership, or 4-H or FFA-sanctioned activity or program in the definition of excused absence; providing that the student be credited as present in the same manner as a student participating in an educational field trip; providing that the student not be counted as absent; addressing makeup of missed schoolwork and the student's class grades; addressing student sanctioned program participation during any period of time the student has been suspended, expelled, or assigned to an alternative school or program; providing that an agent of a sanctioned organization shall provide documentation as proof of a student's participation in a sanctioned activity or program; providing that the total amount of certain excused absences may not exceed more than 10 per school year; and providing that nothing in this section shall interfere with the Every Student Succeeds Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

(a) For the purposes of this article, the following definitions apply:

(1) "Excused absence" means:

(A) A medical or dental appointment with written excuse from physician or dentist;

(B) Personal illness or injury of the student accompanied by a timely written excuse from the student's parent, guardian, or custodian: *Provided*, That the total absences under this section combined with absences permitted under paragraph (C) of this subdivision do not exceed more than 10 per school year unless supported by a physician's note: *Provided, however*, That a medically documented chronic health condition or disability that adversely impacts in-person attendance approved by a county school board or the principal is not subject to this limitation, and that absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith;

(C) Personal illness or injury of the student's parent, guardian, custodian, or family member: *Provided*, That the excuse must provide a reasonable explanation for why the student's absence was necessary and caused by the illness or injury in the family, and the total absences under this section in combination with paragraph (B) of this subdivision may not exceed more than 10 excuses per school year;

(D) Death in the family;

(E) School-approved or county-approved curricular or extra-curricular activities;

(F) A judicial obligation or court appearance involving the student;

(G) A military requirement for students enlisted or enlisting in the military;

(H) Up to five college visits; and

(I) A student in any West Virginia Department of Education recognized and sanctioned student organization to enhance student enrichment and success, including, but not limited to, SkillsUSA, Future Business Leaders of America (FBLA), Health Occupations Students of America (HOSA), the Common Ground Partnership, or 4-H or FFA-sanctioned activity or program, subject to the following:

(i) A student who participates in an activity or program sanctioned in paragraph (I) of this subdivision shall be credited as present by the school in which the student is enrolled in the same manner as a student participating in an educational field trip. A school principal, or the principal's designee, shall not count a student absent for participating in an activity or program sanctioned in paragraph (I) of this subdivision.

(ii) An agent of a sanctioned organization set forth in paragraph (I) of this subdivision shall provide documentation as proof of a student's participation in an activity or program sanctioned in paragraph (I) of this subdivision.

(iii) A student shall make up any schoolwork missed while the student was participating in an activity or program sanctioned by paragraph (I) of this subdivision and shall not have the student's class grades adversely affected for lack of attendance or participation due to the student's participation in an activity or program sanctioned in paragraph (I) of this subdivision.

(iv) A school principal, or the principal's designee, shall not credit a student who participates in an activity or program sanctioned in paragraph (I) of this subdivision as present if the student's participation in the activity or program sanctioned in paragraph (I) of this subdivision occurs during any period of time

for which the student has been suspended, expelled, or assigned to an alternative school or alternative program under this chapter and the student's suspension, expulsion, or assignment to an alternative school or alternative program would preclude the student from participating in an educational field trip.

(J) The total amount of excused absences under paragraphs (E), (H), and (I) of this subdivision may not exceed more than 10 per school year.

(K) Nothing in this section shall interfere with the Every Student Succeeds Act (2015), which does not differentiate between excused and unexcused absences.

(2) "Meaningful contact" means two-way communication by the school administrator or other school designee and the student's parent, guardian, or custodian to discuss the student's attendance record in an effort to prevent subsequent truancy or other legal proceedings relating to compulsory school attendance, and to minimize additional absences. Methods of meaningful contact include, but are not limited to, phone calls, video conferencing, home visits, and the use of digital platforms.

(3) "System of Support Plan" ("SOS Plan") refers to a plan to be developed by the State Board of Education designed to encourage students to attend school. It shall, at a minimum, require county attendance directors, principals, or other school designees to make periodic contact with the parent, guardian, or custodian of a student subject to compulsory school attendance to ascertain the reason or reasons for the student's absence or absences and what measures the school may employ to assist the student in attending school and not incurring additional absences. It shall also impart upon the student's parents, guardians, and custodians the importance of the student's attendance and the seriousness of failing to do so.

(4) "Unexcused absence" means any absence not specifically included in the definition of "excused absence".

(b) The county attendance director and his or her assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain the reasons for unexcused absences from school of students of compulsory school age; and students who remain enrolled beyond the compulsory school age;

(2) Ensure the implementation of the SOS Plan as developed by the state board, including encouraging the attendance of students and imparting upon the parents, guardians, and custodians the important of attendance and the seriousness of failing to do so.

(c) All documentation relating to absences shall be provided to the school no later than three instructional days after the first day the student returns to school. In the event documentation is not provided to the school within three instructional days after the first day the student returns to school, the absences are unexcused.

(d) In the case of three total unexcused absences of a student during a school year, the attendance director, his or her assistant, or the principal shall make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(e) In the case of five total unexcused absences, the attendance director, his or her assistant or the principal shall again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(f) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian, or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and

that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian, or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within 10 calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(g) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time, and place of the hearing.

(h) When any doubt exists as to the age of a student absent from school, the attendance director and his or her assistants may require a properly attested birth certificate or an affidavit from the parent, guardian, or custodian of the student stating the age of the student. In the performance of his or her duties, the county attendance director and his or her assistants have authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(i) The county attendance director and his or her assistants shall devote as much time as is required to the duties of attendance director in accordance with this section during the instructional term and at any other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(j) In addition to those duties directly relating to the administration of attendance, the county attendance director and his or her assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of the school census and enrollment for the detection of possible non-enrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in any manner directed by the county superintendent;

(5) Participate in school teachers' conferences with parents and students;

(6) Assist in any other ways directed by the county superintendent for improving school attendance;

(7) Make home visits of students who have excessive unexcused absences, as provided in subsection (a) of this section, or if requested by the chief administrator, principal, or assistant principal; and

(8) Serve as the liaison for homeless children and youth.

CHAPTER 87

(S. B. 650 - By Senators Grady and Woelfel)

[Passed April 9, 2025; in effect from passage]
[Approved by the Governor on April 24, 2025.]

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

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18a. Maximum teacher-pupil ratio.

(a) County boards of education shall provide sufficient personnel, equipment, and facilities as will ensure that each classroom, or classrooms having two or more grades that include one or more of the kindergarten through sixth grades shall not have more pupils for each teacher as follows, unless the state superintendent has excepted a specific classroom upon application therefor by a county board as provided in this section:

(1) For kindergarten, not more than 20 pupils for each teacher and one early childhood classroom assistant teacher or aide in classrooms with more than 10 pupils;

(2) For first, second, and third grades, not more than 25 pupils for each teacher and one early childhood classroom assistant teacher, aide or paraprofessional in classrooms with more than 12 pupils: *Provided*, That the early childhood classroom assistant teacher/aide/paraprofessional requirement for classrooms with more than 12 pupils shall be effective beginning the 2023-2024 school year, for first grade classrooms; shall be effective beginning the 2024-2025 school year, for second grade classrooms; and shall be effective beginning the 2025-2026 school year, for third grade classrooms: *Provided, however*, That if all grade level classrooms are already being served by an early childhood classroom assistant teacher/aide/paraprofessional by the school year required, the county board has the discretion to add the assistant teachers/aides/paraprofessionals in first, second, and third grade classrooms of the greatest need beginning July 1, 2023, and completing full implementation by July 1, 2026; and

(3) For grades four, five, and six, not more than 25 pupils for each teacher.

(b) County boards may satisfy the requirements of subsection (a) of this section by employing a full-time interventionist instead of an early childhood assistant teacher, aide, or paraprofessional, subject to the following:

(1) A full-time interventionist hired pursuant to this subsection and assigned to up to two classrooms satisfies the requirements of subsection (a) of this section for both classrooms: *Provided*, That this subdivision does not apply to kindergarten and first grade classrooms and notwithstanding subdivision (2) of this subsection or any other provision of code to the contrary, any early childhood assistant teacher, aide, paraprofessional, or interventionist assigned to a kindergarten or first grade classroom only satisfies the requirements of subsection (a) of this section if the assignment to that classroom is full-time;

(2) If no full-time interventionist is available, a county board may satisfy the requirements of subsection (a) of this section by employing a part-time interventionist. The part-time interventionist may only be assigned to one classroom for the purposes of satisfying the requirements of subsection (a) of this section; and

(3) County boards are not required to employ an interventionist even if there are an insufficient number of early childhood assistant teachers, aides, and paraprofessionals available to fill all the positions required by subsection (a) of this section.

(c) County school boards may not maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983.

(d) The state superintendent is authorized, consistent with sound educational policy, to:

(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; and

(2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25 pupils per teacher in a specific classroom in grades four through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education.

(e) The state board shall establish guidelines for the exceptions authorized in this section, but in no event shall the superintendent except classrooms having more than three pupils above the pupil-teacher ratio as set forth in this section.

(f) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades four through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades four through six: *Provided*, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and

any classroom teacher of grades four through six who has more than 25 pupils, shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by 20 for kindergarten teachers, or 25 for teachers of grades four through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

Notwithstanding any other provision of this section to the contrary, commencing with the school year beginning on July 1, 1996, a teacher in grades one, two, or three, or classrooms having two or more such grade levels, shall not have any pupils above the teacher/pupil ratio as set forth in this section.

(g) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band, or orchestra music.

(h) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

(i) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

CHAPTER 88

(Com. Sub. for Com. Sub. for S. B. 652 - By Senators Grady, Woelfel, and Deeds)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §18-5-22e of the Code of West Virginia, 1931, as amended, relating to expanding provisions pertaining to cardiac arrest to be applicable to elementary schools; requiring cardiac response plans to be venue specific and practiced annually; requiring schools to develop a cardiac emergency response plan that addresses the appropriate use of school personnel to respond to incidents involving an individual experiencing sudden cardiac arrest or similar life-threatening emergency while on school grounds outside of athletic events; and imposing certain cardiac arrest-related requirements on coaches and any other personnel supervising a youth sports league team that plays or practices on school grounds.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22e. Cardiac response plans.

(a) For the purposes of this section, the following terms are defined:

"Automated external defibrillator" means a lightweight, portable device that delivers an electric shock through the chest to the heart.

"Cardiac emergency response plan" or "the plan" means a written document that establishes the specific steps to reduce death from cardiac arrest.

"School" means any elementary or secondary school under the jurisdiction of a county board of education.

"Sudden cardiac arrest" means when the heart malfunctions and stops beating unexpectedly.

"Youth sports league team" means any team that is a member of an entity that organizes and establishes rules for competitive youth sports activities other than the West Virginia Secondary School Activities Commission or any other entity that organizes and establishes rules for competitive youth sports activities exclusively for teams that are created by and represent schools.

(b) A school shall develop a cardiac emergency response plan that provides for the following:

(1) A school with an athletic department or organized athletic program shall develop a cardiac emergency response plan that addresses the appropriate use of school personnel to respond to incidents involving an individual experiencing sudden cardiac arrest or a similar life-threatening emergency while attending or participating in an athletic practice or event while on school grounds and that is venue specific and practiced annually;

(2) A school shall develop a cardiac emergency response plan that addresses the appropriate use of school personnel to respond to incidents involving an individual experiencing sudden cardiac arrest or a similar life-threatening emergency while on school grounds outside of athletic events; and

(3) School staff trained in first-aid, CPR, and automated external defibrillator use that follow evidence-based guidelines including, but not limited to, licensed coaches, school nurses, and athletic trainers.

(c) Prior to the start of each athletic season, a school subject to this section shall hold an informational meeting for students, parents, guardians, or other persons having care or charge of a

student, regarding the warning signs of sudden cardiac arrest for children of all ages.

(d) No student may participate in an athletic activity until the student has submitted to a designated school official, a form signed by the student and the parent, guardian, or other person having care or charge of the student, stating that the student and the parent, guardian, or other person having care or charge of the student have received and reviewed a copy of the cardiac emergency response plan developed by the school and posted on its webpage. A completed form shall be submitted each school year in which the student participates in an athletic activity.

(e) No individual may coach an athletic activity unless the individual has completed, on an annual basis, the sudden cardiac arrest training course approved by the Department of Education.

(f) A student shall not be allowed to participate in an athletic activity if either of the following is the case:

(1) The student is known to have exhibited syncope or fainting at any time prior to or following an athletic activity and has not been evaluated and cleared for return after exhibiting syncope or fainting; or

(2) The student experiences syncope or fainting while participating in, or immediately following, an athletic activity.

(g) If a student is not allowed to participate in or is removed from participation in an athletic activity under subsection (f) of this section, the student shall not be allowed to return to participation until the student is evaluated and cleared for return in writing by any of the following: (1) A physician authorized under §30-3-1 *et seq.* and §30-14-1 *et seq.* of this code;

(2) A certified nurse practitioner, or certified nurse specialist; or

(3) A physician assistant licensed under §30-3E-1 *et seq.* and §30-14A-1 *et seq.* of this code.

(h) School officials shall work directly with local emergency service providers to integrate the plan into the community's EMS

responder protocols, which shall include, at a minimum, the following:

(1) Establishing a cardiac emergency response team;

(2) Activating the team in response to a sudden cardiac arrest;

(3) Implementing automated external defibrillator placement and routine maintenance within the school;

(4) Disseminating the plan throughout the school campus;

(5) Maintaining ongoing staff training in CPR/AED use;

(6) Plan for practicing skills learned;

(7) Integrating local EMS with the plan;

(8) Ongoing and annual review and evaluation of the plan; and

(9) Appropriate automated external defibrillator placement.

(i) The State Board of Education may promulgate a legislative rule pursuant §29A-3B-1 *et seq.* of this code to ensure compliance with this section by county school boards.

(j) A county board of education may accept gifts, grants, and donations, including in-kind donations designated for the purchase of an automatic external defibrillator that meets the standards established by the United States Food and Drug Administration and for the costs incurred to inspect and maintain such device and train staff in the use of such device.

(k) Coaches and any other personnel supervising a youth sports league team that plays or practices on school grounds shall:

(1) Receive a copy of the cardiac emergency response plan;

(2) Locate and be aware of the automated external defibrillator placement on the school grounds;

(3) Maintain ongoing staff training in CPR/AED use; and

(4) Practice the skills learned.

CHAPTER 89

(Com. Sub. for S. B. 746 - By Senator Rucker)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on May 1, 2025.]

AN ACT to amend and reenact §18-2-5b of the Code of West Virginia, 1931, as amended, relating to allowing the State Board of Education to delegate its Medicaid provider status to public charter schools; updating obsolete references to regional education service agencies; requiring that the State Board of Education include public charter school information in its annual Medicaid-related report to the Legislature; and requiring the Health Services Advisory Committee to advise the Secretary of the Department of Human Services and the State Superintendent of Schools on ways to improve the ability of public charter schools to provide Medicaid-eligible children with all the school-based Medicaid services for which they are eligible and to ensure that the public charter schools bill for and receive all the Medicaid reimbursement to which they are entitled.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5b. Medicaid-eligible children; school health services advisory committee.

(a) The state board shall:

(1) Become a Medicaid provider and seek out Medicaid-eligible students for the purpose of providing Medicaid and related services to students eligible under the Medicaid program; and

(2) Maximize federal reimbursement for all services available under the Omnibus Budget Reconciliation Act of 1989 as it relates to Medicaid expansion and any future expansions in the Medicaid program for Medicaid and related services for which state dollars are or will be expended.

(b) The state board may delegate this provider status and subsequent reimbursement to educational services cooperatives, county boards, public charter schools, or any combination of these entities. A county board or public charter school is not required to seek reimbursement if it determines there is not a net benefit after consideration of costs and time involved with seeking the reimbursement for eligible services and that the billing process detracts from the educational program.

(c) Annually, no later than January 1, the state board shall report the following on a county-by-county basis and on each public charter school to the Legislature:

(1) The number and age of children eligible for Medicaid;

(2) The number and age of children with Medicaid coverage;

(3) The types of Medicaid-eligible services provided;

(4) The frequency of services provided;

(5) The Medicaid dollars reimbursed; and

(6) Any problems encountered in the implementation of this system.

(d) The state board shall appoint and convene a School Health Services Advisory Committee to advise the Secretary of Human Services and the state superintendent on ways to improve the ability of educational services cooperatives, county boards, public charter schools, and Department of Human Services' employees to provide Medicaid-eligible children with all the school-based Medicaid services for which they are eligible and to ensure that the school-based Medicaid service providers bill for and receive all the Medicaid reimbursement to which they are entitled.

(e) The committee shall consist of at least the following individuals:

(1) The person within the Department of Education responsible for coordinating the provision of and billing for school-based Medicaid services in schools throughout the state, who shall provide secretarial, administrative, and technical support to the advisory committee;

(2) The person within the Department of Human Services responsible for coordinating the enrollment of Medicaid-eligible school children throughout the state;

(3) Two representatives of educational services cooperatives who are experienced with the process of billing Medicaid for school-based health services;

(4) Two Department of Human Services' employees responsible for supervising employees;

(5) Two persons jointly appointed by the Secretary of Human Services and the State Superintendent; and

(6) One representative of the Governor's Task Force on School Health.

(f) The School Health Services Advisory Committee shall meet in the first instance at the direction of the state superintendent, select a chairperson from among its members, and meet thereafter at the direction of the chairperson. The committee shall report its findings and recommendations to the state board and Department of Human Services, which findings shall then be included in the report to the Legislature by the state board and Department of Human Services provided in subsection (c) of this section.

(g) All actual and necessary travel expenses of the members of the committee shall be reimbursed by each member's employing agency. For those members not employed by a state agency, the member's actual and necessary travel expenses shall be paid by the state board. All such expenses shall be reimbursed in the same manner as the expenses of state employees are reimbursed.

CHAPTER 90

(Com. Sub. for Com. Sub. for S. B. 765 - By Senators Willis, Thorne, Weld, Fuller, Grady, and Deeds)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §18A-3-1 and §18A-3-2a of the Code of West Virginia, 1931, as amended, relating to establishing the Troops-to-Teachers Program; providing for establishment and purpose of program; and setting out conditions for issuance of professional teaching certificate.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-1. Teacher preparation programs; program approval and standards; authority to issue teaching certificates.

(a) The education of professional educators in the state is under the general direction and control of the state board.

The education of professional educators in the state includes all programs leading to certification to teach or serve in the public schools. The programs include the following:

(1) Programs in all institutions of higher education, including student teaching, resident teacher clinical experience, and the clinical teacher of record programs, as provided in this section;

(2) Beginning teacher and leader induction programs;

(3) Granting West Virginia certification to persons who received their preparation to teach outside the boundaries of this state, except as provided in subsection (b) of this section;

(4) Alternative preparation programs in this state leading to certification, including programs established pursuant to the provisions of §18A-3-1a, §18A-3-1b, §18A-3-1c, §18A-3-1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h, and §18A-3-1i of this code and programs which are in effect on the effective date of this section;

(5) A Troops-to-Teachers Program, to be established by the state superintendent pursuant to §18A-3-2a of this code, to attract and recruit veterans of the armed forces to be public school teachers. Veterans will be given a veterans' preference in hiring in accordance with §6-13-1 of this code; and

(6) Continuing professional education, professional development, and in-service training programs for professional educators employed in the public schools in the state. Beginning with school year 2024-2025, and every five years after, the State Board of Education shall perform periodic reviews of professional development for teachers and education staff to ensure the following:

(A) That requirements and current training regimens are necessary and truly essential; and

(B) That a distinction is made between those professional education opportunities which are required and those just encouraged.

(i) The purpose of these reviews shall be to establish a training regimen that has the minimum amount of required training so that teachers can be better focused on the classroom.

(ii) School personnel may recommend legislative changes to this section and any other requirements mandated in this code.

(b) The state board shall adopt standards for the education of professional educators in the state and for awarding certificates

valid in the public schools of this state. The standards include, but are not limited to, the following:

(1) A provision for the study of the history and philosophical foundations of western civilization and the writings of the founders of the United States of America;

(2) A provision for the study of multicultural education. As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions, and social roles;

(3) A provision for the study of classroom management techniques, including methods of effective management of disruptive behavior including addressing societal factors and their impact on student behavior; and

(4) A teacher from another state shall be awarded a teaching certificate for a comparable grade level and subject area valid in the public schools of this state, subject to §18A-3-10 of this code if he or she has met the following requirements:

(A) Holds a valid teaching certificate or a certificate of eligibility issued by another state;

(B) Has graduated from an educator preparation program at a regionally accredited institution of higher education or from another educator preparation program;

(C) Possesses the minimum of a bachelor's degree; and

(D) Meets all of the requirements of the state for full certification except employment.

(c) The state board may enter into an agreement with county boards for the use of the public schools in order to give prospective teachers the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(d) An agreement established pursuant to subsection (c) of this section shall recognize student teaching or teacher residency as a joint responsibility of the educator preparation institution and the cooperating public schools. The agreement shall include the following items:

(1) The minimum qualifications for the employment of public school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising;

(2) The remuneration to be paid to public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers or residents;

(3) Minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student teaching or teacher residency;

(4) Assurance that the student teacher or resident teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher;

(5) A provision requiring any higher education institution with an educator preparation program to document that the student or resident teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk, and exceptional children at each programmatic level for which the student teacher seeks certification; and

(6) A provision authorizing a school or school district that has implemented a comprehensive beginning teacher induction program to enter into an agreement that provides for the training and supervision of student teachers or resident teachers consistent with the educational objectives of this subsection by using an alternate structure implemented for the support, supervision, and mentoring of beginning teachers. The agreement is in lieu of any specific provisions of this subsection and is subject to the approval of the state board.

(e) *Clinical teacher of record programs*. —

(1) In lieu of the provisions of subsections (c) and (d) of this section and subject to approval of the state board, an institution of higher education with a program for the education of professional educators approved by the state board may enter into an agreement with county boards for the use of clinical teacher of record programs in the public schools.

(2) A "clinical teacher of record program" means an intensively supervised and mentored program for prospective teachers during their senior year that refines their professional practice skills and helps them gain the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(3) The authorization for the higher education institution and the county board to implement a clinical teacher of record program is subject to state board approval. The provisions of the agreement include, but are not limited to, the following items:

(A) A requirement that the prospective teacher in a clinical teacher of record program has completed all other preparation courses and has passed the appropriate basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which licensure is sought;

(B) A requirement that the clinical teacher of record serve only in a teaching position in the county which has been posted and for which no other teacher fully certified for the position has been employed;

(C) Specifics regarding the program of instruction for the clinical teacher of record setting forth the responsibilities for supervision and mentoring by the higher education institution's educator preparation program, the school principal, and peer teachers and mentors, and the responsibilities for the formal instruction or professional development necessary for the clinical teacher of record to perfect his or her professional practice skills.

The program also may include other instructional items as considered appropriate;

(D) A requirement that the clinical teacher of record hold a clinical teacher of record permit qualifying the individual to teach in his or her assigned position as the teacher of record;

(E) A requirement that the salary and benefit costs for the position to which the clinical teacher of record is assigned shall be used only for program support and to pay a stipend to the clinical teacher of record as specified in the agreement, subject to the following:

(i) The clinical teacher of record is a student enrolled in the teacher preparation program of the institution of higher education and is not a regularly employed employee of the county board;

(ii) The clinical teacher of record is included on the certified list of employees of the county eligible for state aid funding the same as an employee of the county at the appropriate level based on their permit and level of experience;

(iii) All state aid funding due to the county board for the clinical teacher of record shall be used only in accordance with the agreement with the institution of higher education for support of the program as provided in the agreement, including costs associated with instruction and supervision as set forth in paragraph (C) of this subdivision;

(iv) The clinical teacher of record is provided the same liability insurance coverage as other employees; and

(v) All state aid funding due to the county for the clinical teacher of record and not required for support of the program shall be paid as a stipend to the clinical teacher of record: *Provided*, That the stipend paid to the clinical teacher of record shall be no less than 65 percent of all state aid funding due the county for the clinical teacher of record;

(F) Other provisions that may be required by the state board.

(f) In lieu of the student teaching experience in a public school setting required by this section, an institution of higher education may provide an alternate student teaching or residency experience in a nonpublic school setting if the institution of higher education meets the following criteria:

(1) Complies with the provisions of this section;

(2) Has a state board-approved educator preparation program; and

(3) Enters into an agreement pursuant to subsections (g) and (h) of this section.

(g) At the discretion of the higher education institution, an agreement for an alternate student teaching or residency experience between an institution of higher education and a nonpublic school shall require one of the following:

(1) The prospective teacher shall complete at least one half of the clinical experience in a public school; or

(2) The educator preparation program shall include a requirement that any student performing student teaching or residency in a nonpublic school shall complete the following:

(A) At least 200 clock hours of field-based training in a public school; and

(B) A course, which is a component of the institution's state board-approved educator preparation program, that provides information to prospective teachers equivalent to the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the public schools in West Virginia. The course also shall include instruction on at least the following elements:

(i) State board policy and provisions of this code governing public education;

(ii) Requirements for federal and state accountability, including the mandatory reporting of child abuse;

(iii) Federal- and state-mandated curriculum and assessment requirements, including multicultural education, safe schools, and student code of conduct;

(iv) Federal and state regulations for the instruction of exceptional students as defined by the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq*.; and

(v) Varied approaches for effective instruction for students who are at-risk.

(h) In addition to the requirements set forth in subsection (g) of this section, an agreement for an alternate student teaching or residency experience between an institution of higher education and a nonpublic school shall include the following:

(1) A requirement that the higher education institution with an educator preparation program shall document that the student or resident teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk, and exceptional children at each programmatic level for which the student teacher seeks certification; and

(2) The minimum qualifications for the employment of school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising.

(i) The state superintendent may issue certificates as provided in §18A-3-2a of this code to graduates of educator preparation programs and alternative educator preparation programs approved by the state board. The certificates are issued in accordance with this section and rules adopted by the state board.

(1) A certificate to teach may be granted only to a person who meets the following criteria:

(A) Is a citizen of the United States, except as provided in subdivision (2) or (3) of this subsection;

(B) Is of good moral character;

(C) Is physically, mentally, and emotionally qualified to perform the duties of a teacher; and

(D) Is at least 18 years of age on or before October 1 of the year in which his or her certificate is issued.

(2) A permit to teach in the public schools of this state may be granted to a person who is an exchange teacher from a foreign country or an alien person who meets the requirements to teach.

(3) A certificate to teach may be granted to a noncitizen of the United States who holds a valid Permanent Resident Card, Employment Authorization Document, or work permit issued by the United States Citizenship and Immigration Services.

(j) Institutions of higher education approved for educator preparation may cooperate with each other and with one or more county boards to organize and operate centers to provide selected phases of the educator preparation program. The phases include, but are not limited to, the following:

(1) Student teaching and resident teacher clinical experience programs;

(2) Clinical teacher of record programs;

(3) Beginning teacher and leader induction programs;

(4) Instruction in methodology; and

(5) Seminar programs for college students, teachers with provisional certification, professional support team members, and supervising teachers.

By mutual agreement, the institutions of higher education and county boards may budget and expend funds to operate the centers

through payments to the appropriate fiscal office of the participating institutions and the county boards.

(k) The provisions of this section do not require discontinuation of an existing student teacher training center or school which meets the standards of the state board.

(l) All institutions of higher education approved for educator preparation in the 1962-1963 school year continue to hold that distinction so long as they meet the minimum standards for educator preparation. Nothing in this section infringes upon the rights granted to any institution by charter given according to law previous to the adoption of this code.

(m) *Definitions*. — For the purposes of this section, the following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) "Nonpublic school" means a private school, parochial school, church school, school operated by a religious order, or other nonpublic school that elects to meet the following conditions:

(A) Comply with the provisions of §18-28-1 *et seq.* of this code;

(B) Participate on a voluntary basis in a state-operated or state-sponsored program provided to this type of school pursuant to this section; and

(C) Comply with the provisions of this section;

(2) "At-risk" means a student who has the potential for academic failure including, but not limited to, the risk of dropping out of school, involvement in delinquent activity, or poverty as indicated by free or reduced lunch status; and

(3) "Exceptional child" or "exceptional children" has the meaning ascribed to these terms pursuant to §18-20-1 of this code but, as used in this section, the terms do not include gifted students.

***§18A-3-2a. Certificates valid in the public schools that may be issued by the state superintendent.**

In accordance with state board rules for the education of professional educators adopted pursuant to §18A-3-1 of this code, and subject to the limitations and conditions of that section, the state superintendent may issue the following certificates valid in the public schools of the state:

(a) *Professional teaching certificates.* —

(1) A professional teaching certificate for teaching in the public schools may be issued to a person who meets the following conditions:

(A) Holds at least a bachelor's degree from a regionally accredited institution of higher education, and:

(i) Has passed appropriate state board-approved basic skills and subject matter tests in the area for which licensure is being sought; and

(ii) Has completed a program for the education of teachers which meets the requirements approved by the state board; or

(iii) Has met equivalent standards at institutions in other states; or

(iv) Has completed three years of successful teaching experience within the last seven years under a license issued by another state in the area for which licensure is being sought; or

(v) Has completed an alternative program approved by another state; or

(B) Holds at least a bachelor's degree from an accredited institution of higher education, and:

(i) Has passed appropriate state board-approved basic skills and subject matter tests; and

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***NOTE:** This section was also amended by S. B. 765 (Chapter 90), which passed prior to this Act.

(ii) Has completed an alternative program for teacher education as provided in this article; and

(iii) Is recommended for a certificate in accordance with the provisions of §18A-3-1i of this code relating to the program; and

(iv) Is recommended by the state superintendent based on documentation submitted; or

(C) Holds a bachelor's degree from an accredited institution of higher education, and:

(i) Submits to a criminal history check pursuant to §18A-3-10 of this code: *Provided*, That information discovered during the criminal history check may form the basis for the denial of a certificate for just cause; and

(ii) Successfully completes pedagogical training or a pedagogical course or courses in substantive alignment with nationally recognized pedagogical standards, or approved or established by the state board; and

(iii) Passes the same subject matter and competency test or tests required by the state board for traditional program applicants for licensure; or

(D) Is an honorably discharged member of the armed forces who:

(i) Holds at least a bachelor's degree from an accredited institution of higher education that is related to the available position which the veteran has applied to; and

(ii) Has passed the basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which the licensure is sought; and

(iii) Is exempt from any additional teacher certification requirements except the criminal history check required by §18A-3-10 of this code.

(2) The certificate shall be endorsed to indicate the grade level or levels or areas of specialization in which the person is certified to teach or to serve in the public schools.

(3) The initial professional certificate is issued provisionally for a period of three years from the date of issuance:

(A) The certificate may be converted to a professional certificate valid for five years subject to successful completion of a beginning teacher induction program, if applicable; or

(B) The certificate may be renewed subject to rules adopted by the state board.

(4) Teaching certificates granted pursuant to §18A-3-2a(a)(1)(C) of this code shall be equivalent to certificates granted to graduates of teacher preparation programs at public higher education institutions.

(b) *Alternative program teacher certificate*. — An alternative program teacher certificate may be issued to a candidate who is enrolled in an alternative program for teacher education approved by the state board.

(1) The certificate is valid only for the alternative program position in which the candidate is employed and is subject to enrollment in the program.

(2) The certificate is valid while the candidate is enrolled in the alternative program, up to a maximum of three years, and may not be renewed.

(c) *Professional administrative certificate*. —

(1) A professional administrative certificate, endorsed for serving in the public schools, with specific endorsement as a principal, vocational administrator, supervisor of instructions, or superintendent, may be issued to a person who has completed requirements all to be approved by the state board as follows:

(A) Holds at least a master's degree from an institution of higher education accredited to offer a master's degree, and:

(i) Has successfully completed an approved program for administrative certification developed by the state board in cooperation with the chancellor for higher education; and

(ii) Has successfully completed education and training in evaluation skills through the Center for Professional Development, or equivalent education and training in evaluation skills approved by the state board; and

(iii) Possesses three years of management level experience.

(2) Any person serving in the position of dean of students on June 4, 1992, is not required to hold a professional administrative certificate.

(3) The initial professional administrative certificate is issued provisionally for a period of five years. This certificate may be converted to a professional administrative certificate valid for five years or renewed, subject to the regulations of the state board.

(d) *Paraprofessional certificate*. — A paraprofessional certificate may be issued to a person who meets the following conditions:

(1) Has completed 36 semester hours of post-secondary education or its equivalent in subjects directly related to performance of the job, all approved by the state board; and

(2) Demonstrates the proficiencies to perform duties as required of a paraprofessional as defined in §18A-4-8 of this code.

(e) *Other certificates; permits*. —

(1) Other certificates and permits may be issued, subject to the approval of the state board, to persons who do not qualify for the professional or paraprofessional certificate.

(2) A certificate or permit may not be given permanent status and a person holding one of these credentials shall meet renewal

requirements provided by law and by regulation unless the state board declares certain of these certificates to be the equivalent of the professional certificate.

(3) Within the category of other certificates and permits, the state superintendent may issue certificates for persons to serve in the public schools as athletic coaches or coaches of other extracurricular activities, whose duties may include the supervision of students, subject to the following limitations:

(A) The person is employed under a contract with the county board of education.

(i) The contract specifies the duties to be performed, specifies a rate of pay that is equivalent to the rate of pay for professional educators in the district who accept similar duties as extra duty assignments, and provides for liability insurance associated with the activity; and

(ii) The person holding this certificate is not considered an employee of the board for salary and benefit purposes other than as specified in the contract.

(B) The person completes an orientation program designed and approved in accordance with state board rules.

(f) *Clinical teacher of record permit*. —

(1) A clinical teacher of record permit may be issued to a candidate who is enrolled in a clinical teacher of record program in accordance with an agreement between an institution of higher education and a county board. The agreement is developed pursuant to §18A-3-1(e) of this code and requires approval by the state board.

(2) The permit is valid only for the clinical teacher of record program position in which the candidate is enrolled and is subject to enrollment in the program. The permit is valid for no more than one school year and may not be renewed.

(g) *Temporary teaching certificates for armed forces spouses*. —

(1) A temporary teaching certificate for an armed forces spouse may be issued to an individual who meets the following criteria:

(A) He or she is married to a member of the armed forces of the United States who is on active duty;

(B) He or she holds a current unencumbered teaching certificate or license issued by an equivalent credentialing department, board, or authority, as determined by the state superintendent, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States or a foreign country; and

(C) He or she provides proof acceptable to the state superintendent that his or her spouse is assigned to a duty station in this state or at a military installation within 50 air miles of the West Virginia border and that he or she is also assigned to a duty station in this state or at a military installation within 50 air miles of the West Virginia border under his or her spouse's official active-duty military orders.

(2) The state superintendent shall deny a temporary teaching certificate to an individual described in paragraph (1) of this subdivision for fraud, material misrepresentation or concealment in the person's application for a temporary teaching certificate or for a conviction for which an individual's teaching certificate may be revoked under §18A-3-6 of this code.

(3) A temporary teaching certificate issued under paragraph (1) of this subdivision is valid for one year and may be renewed for additional one-year terms if the state superintendent determines the individual holding the temporary teaching certificate continues to meet the requirements of paragraph (1) of this subdivision. The state superintendent may revoke a temporary teaching certificate for a conviction for which an individual's teaching certificate may be revoked under §18A-3-6 of this code.

CHAPTER 91

(Com. Sub. for S. B. 912 - By Senators Grady and Deeds)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating generally to the statewide student growth assessment program; requiring the program to be composed of benchmark assessments to be given in the first 30 days of the school year, mid-year, and a summative assessment at the end of the school year to determine student progression in reading and mathematics in grades three through eight; and removing obsolete language.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. Process for improving education; education standards; statewide assessment program; accountability measures; Office of Education Performance Audits; school accreditation and school system approval; intervention to correct low performance.

(a) *Legislative findings, purpose, and intent*. — The Legislature makes the following findings with respect to the process for improving education and its purpose and intent in the enactment of this section:

(1) The process for improving education includes four primary elements, these being:

(A) Standards which set forth the knowledge and skills that students should know and be able to perform as the result of a thorough and efficient education that prepares them for the twenty-first century, including measurable criteria to evaluate student performance and progress;

(B) Assessments of student performance and progress toward meeting the standards;

(C) A system of accountability for continuous improvement articulated by a rule promulgated by the state board that will build capacity in and ensure the efficiency of schools and districts to meet rigorous outcomes that assure student performance and progress toward obtaining the knowledge and skills intrinsic to a high-quality education, rather than monitoring for compliance with specific laws and regulations; and

(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress;

(2) As the constitutional body charged with the general supervision of schools as provided by general law, the state board has the authority following constructive engagement of the Legislature as provided in §18-2H-1 of this code and as delegated by the Legislature by general law to establish the standards and assess the performance and progress of students against the standards, and to exercise its supervisory responsibility to hold schools and school systems accountable and assist schools and school systems to build capacity and improve efficiency so that the standards are met, including, when necessary, seeking additional resources in consultation with the Legislature and the Governor;

(3) As the constitutional body charged with providing for a thorough and efficient system of schools, the Legislature has the authority and the responsibility to establish and be engaged constructively in the determination of the knowledge and skills that students should know and be able to do as the result of a thorough and efficient education. This determination is made by using the process for improving education to determine when school

improvement is needed by evaluating the results and the efficiency of the system of schools, by ensuring accountability and by providing for the necessary capacity and its efficient use;

(4) In consideration of these findings, the purpose of this section is to establish a process for improving education that includes the four primary elements as set forth in subdivision (1) of this subsection to provide assurances that the high-quality standards are, at a minimum, being met and that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis; and

(5) The intent of the Legislature in enacting this section is to establish a process through which the Legislature, the Governor, and the state board will constructively consult on any measures affecting standards, assessments, and accountability prior to their adoption, examine the performance and progress of students, schools, and school systems and, when necessary, consider alternative measures to ensure that all students continue to receive the thorough and efficient education to which they are entitled. However, nothing in this section requires any specific level of funding by the Legislature.

(b) *Electronic county and school strategic improvement plans*. — The state board shall promulgate a rule consistent with this section and in accordance with §29A-3B-1 *et seq.* of this code establishing an electronic county strategic improvement plan for each county board and an electronic school strategic improvement plan for each public school in this state. Each respective plan shall be for a period of no more than five years and shall include the mission and goals of the school or school system to improve student, school, or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the

assistance to be provided by the department and other education agencies to improve student, school or school system performance and progress to meet the annual performance measure.

The department shall make available to all public schools through its website or the West Virginia Education Information System an electronic school strategic improvement plan boilerplate designed for use by all schools to develop an electronic school strategic improvement plan which incorporates all required aspects and satisfies all improvement plan requirements of the Every Student Succeeds Act or subsequent federal law.

(c) *High-quality education standards and efficiency standards*. —

In accordance with §29A-3B-1 *et seq.* of this code, the state board shall adopt and periodically review and update high-quality education standards for student, school and school system performance and processes in the following areas:

(1) Academic standards;

(2) Workplace readiness skills;

(3) Finance;

(4) Transportation;

(5) Special education;

(6) Facilities;

(7) Administrative practices;

(8) Training of county board members and administrators;

(9) Personnel qualifications;

(10) Professional development and evaluation;

(11) Student performance, progress, and attendance;

(12) Professional personnel, including principals and central office administrators, and service personnel attendance;

(13) School and school system performance and progress;

(14) A code of conduct for students and employees;

(15) Indicators of efficiency;

(16) Digital literacy skills; and

(17) Any other areas determined by the state board.

(d) *Comprehensive statewide student growth assessment program*. —

The state board shall establish a comprehensive statewide student growth assessment program to assess student performance and progress in grades three through 12. The assessment program is subject to the following:

(1) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code establishing the comprehensive statewide student growth assessment program which shall be composed of benchmark assessments that are given in the first 30 days of the school year and repeated at mid-year and a summative assessment at the end of the school year to determine student progression in reading and mathematics in grades three through eight;

(2) The state board shall align the comprehensive statewide student assessment for all grade levels in which the test is given with the academic standards adopted pursuant to subsection (c) of this section or develop other aligned tests to be required in grades three through eight and administered once during the grade span of nine through 12 to assess progress toward college and career readiness in English/language arts and math. The assessment in science shall be administered once in grade spans three through five, once in grade spans six through eight, and once in grade spans nine through 12;

(3) In accordance with §18-2-1 *et seq.* and §18-2E-1 *et seq.* of this code, the state board shall review or develop, and adopt a college and career readiness assessment to be administered in grade 11: *Provided*, That the adopted college and career readiness assessment administered in grade 11 counts toward the statewide

student assessment and must be used by a significant number of regionally accredited higher education institutions for determining college admissions.

(4) The comprehensive statewide student growth assessment shall be administered to students in accordance with the requirements of the Every Student Succeeds Act or subsequent federal law;

(5) The state board may provide, through the statewide assessment program, other optional testing or assessment instruments applicable to grade levels kindergarten through grade 12 which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments. For any online assessment, the state board shall provide online assessment preparation to ensure that students have the requisite digital literacy skills to be successful on the assessment;

(6) The state board may adopt a career readiness assessment that measures and documents foundational workplace skills and leads to a nationally recognized work readiness certificate for students that meet minimum proficiency requirements; and

(7) The comprehensive statewide student growth assessment adopted prior to the testing window of the 2025-2026 school year shall continue to be used for at least a total of four consecutive years;

(8) No summative assessment approved by the state board may take more than two percent of a student's instructional time;

(9) No student may be required to complete a greater number of summative assessments than is required by the Every Student Succeeds Act except as otherwise required by this subsection; and

(10) Collection of personal data as part of the assessment process except for what is necessary for the student's instruction, academic and college and career search needs is prohibited.

(e) *State annual performance measures for school and school system accreditation*. —

The state board shall promulgate a rule in accordance with article §29A-3B-1 *et seq.* of this code that establishes a system that is based in multiple measures and meets the requirements of any federal law to assess and weigh annual performance measures to assure that schools and school systems are providing a thorough and efficient education to their students. State accreditation shall be reviewed and approved in a balanced manner that gives fair credit to all measures affecting students and subgroups of students in the schools and school systems. The state board also may establish performance incentives for schools and school systems as part of the state accreditation system. On or before December 1, 2018, the state board shall report to the Governor and to the Legislative Oversight Commission on Education Accountability the proposed rule for establishing the measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and to the Legislative Oversight Commission on Education Accountability on the impact and effectiveness of the accreditation system. The rule for school and school system accreditation proposed by the board may include, but is not limited to, the following measures:

(1) Student proficiency and growth in English and language arts, math, science, and other subjects determined by the board;

(2) Graduation and attendance rate;

(3) Students taking and passing AP tests;

(4) Students completing a career and technical education class;

(5) Closing achievement gaps within subgroups of a school's student population; and

(6) Students scoring at or above average attainment on SAT or ACT tests.

(f) *Indicators of efficiency*. — In accordance with §29A-3B-1 *et seq*. of this code, the state board shall adopt by rule and periodically review and update indicators of efficiency for use by the appropriate divisions within the department to ensure efficient management and use of resources in the public schools in the following areas:

(1) Curriculum delivery including, but not limited to, the use of distance learning;

(2) Transportation;

(3) Facilities;

(4) Administrative practices;

(5) Personnel; and

(6) Any other indicators as determined by the state board.

Each county board of education shall use the statewide electronic information system established by the state board for data collection and reporting to the state Department of Education.

(g) *Assessment and accountability of school and school system performance and processes*. — In accordance with §29A-3B-1 *et seq.* of this code, the state board shall establish by rule a system of education performance measures to evaluate the quality of education and the preparation of students based on the annual measures of student, school, and school system performance and progress. The system of education performance measures shall provide information to the state board, the Legislature, and the Governor, upon which they may determine whether a thorough and efficient system of schools is being provided. The system of education performance measures shall include:

(1) The assessment of student, school, and school system performance and progress based on the annual measures established pursuant to subsection (e) of this section;

(2) The evaluation of records, reports, and other documents that provide information on the quality of education and compliance with statutes, policies, and standards; and

(3) The review of school and school system electronic strategic improvement plans.

(h) *Uses of school and school system assessment information*. —

The state board shall use information from the system of education performance measures to assist it in ensuring that a thorough and efficient system of schools is being efficiently provided and to improve student, school and school system performance and progress. Information from the system of education performance measures further shall be used by the state board for these purposes, including, but not limited to, the following:

(1) Determining accountability and accreditation for schools and school system approval status as required by state board rule and any federal law or regulations; and

(2) Holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and

(3) Targeting additional resources when necessary to improve performance and progress.

The state board shall make the performance measures information available to the Legislature, the Governor, the general public, and to any individual who requests the information, subject to the provisions of any act or rule restricting the release of information.

(i) *Early detection and intervention programs*. — Based on the assessment of student, school and school system performance, and progress, the state board shall establish early detection and intervention programs using the available resources of the Department of Education, or other resources as appropriate, to assist underachieving schools and school systems to improve performance before conditions become so grave as to warrant more

substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff development, and providing monetary, staffing, and other resources where appropriate.

(j) The state board may employ experienced education professionals, who serve at the will and pleasure of the state board, to coordinate on site and school system improvement efforts with staff at the state Department of Education to support schools and school systems in improving education performance measures.

(k) *School accreditation*. —

(1) The state board shall establish levels of accreditation to be assigned to schools. The establishment of levels of accreditation shall be subject to the following:

(A) The levels will be designed to demonstrate school performance on multiple measures as established by the state board by legislative rule in accordance with §29A-3B-1 *et seq.* of this code and consistent with the applicable state laws, policies and standards, which include standards for performance-based accountability, high-quality education, and continuous improvement; and

(B) Will ensure compliance with federal law and applicable state laws, policies and standards at a minimum.

(2) The state board annually shall review the information from the system of education performance measures submitted for each school and shall accredit each school as designated in the rule, and consistent with the applicable state laws, policies, and standards; and

(3) Exercise other powers and actions the state board determines necessary to fulfill its duties of general supervision of the schools and school systems of West Virginia.

(l) *School system approval*. —

The state board annually shall review the information submitted for each school system from the system of education performance measures and issue to each county board an approval

status in compliance with federal law and established by state board rule.

(m) Non-approval for extraordinary circumstances.

(1) The state board shall establish and adopt additional standards to identify school systems in which the program may be non-approved and the state board may issue non-approval status whenever extraordinary circumstances exist as defined by the state board.

(2) When extraordinary circumstances exist, but do not rise to the level of immediate intervention as described in subsection (n) of this section, the state board may declare a state of emergency in the school system and shall direct designees to provide recommendations within 60 days of appointment for correcting the extraordinary circumstances. When the state board approves the recommendations, they shall be communicated to the county board. If progress in correcting the extraordinary circumstances, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following:

(A) Limiting the authority of the county board in areas that compromise the delivery of a thorough and efficient education to its students as designated by the state board by rule, which may include delegating decision-making authority regarding these matters to the state superintendent who may:

(B) Declare that the office of the county superintendent is vacant;

(C) Declare that the positions of personnel who serve at the will and pleasure of the county superintendent as provided in §18A-2-1 of this code, are vacant, subject to application and reemployment;

(D) Fill the declared vacancies during the period of intervention; and

(E) Take any direct action necessary to correct the extraordinary circumstance.

(n) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school system with all the powers, duties, and responsibilities contained in subsection (m) of this section, if the state board finds any of the following:

(1) A county board fails to act on a statutory obligation which would interrupt the day-to- day operations of the school system;

(2) That the conditions precedent to intervention exist as provided in this section; and that delaying intervention for any period of time would not be in the best interests of the students of the county school system; or

(3) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

(o) *Capacity*. — The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of electronic school and school system strategic improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school, and school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system electronic strategic improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall take one or more of the following actions:

(1) Work with the county board to develop or secure the resources necessary to increase the capacity of schools and school

systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor;

(2) Recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the state board shall include, but is not limited to, the following methods:

The state board, or its designee, the West Virginia Department of Education, and county school systems, shall work collaboratively in:

(1) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools, and school systems relative to the standards and identifying the areas in which improvement is needed;

(2) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system;

(3) Determining the areas of strength that appear to have contributed to exceptional student, school, and school system performance and progress and promoting their emulation throughout the system;

(4) Requesting technical assistance from the School Building Authority in assessing or designing comprehensive educational facilities plans;

(5) Recommending priority funding from the School Building Authority based on identified needs;

(6) Recommending special staff development programs from county boards based on identified needs;

(7) Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;

(8) Directing educational expertise and support services strategically toward alleviating deficiencies;

(9) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

(10) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

(11) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

(p) *Building leadership capacity.* — To help build the governance and leadership capacity of a county board during an intervention in the operation of its school system, and to help assure sustained success following return of control to the county board, the county board shall establish goals and action plans, subject to approval of the state superintendent, to improve performance sufficiently to end the intervention within a period of not more than five years. The state superintendent shall maintain oversight and provide assistance and feedback to the county board on development and implementation of the goals and action plans. At a minimum, the goals and action plans shall include:

(1) An analysis of the training and development activities needed by the county board and leadership of the school system for effective governance and school improvement;

(2) Support for the training and development activities identified which may include those made available through the state superintendent, West Virginia School Board Association, and other sources identified in the goals and action plans; and

(3) Active involvement by the county board in the improvement process, working in tandem with the county superintendent to gather, analyze and interpret data, write time-

specific goals to correct deficiencies, prepare and implement action plans and allocate or request from the Department of Education the resources, including board development training and coaching, necessary to achieve approved goals and action plans and sustain system and school improvement.

At least once each year during the period of intervention, the state board shall appoint a designee to assess the readiness of the county board to accept the return of control of the system or school from the state board and sustain the improvements, and shall make a report and recommendations to the state board supported by documented evidence of the progress made on the goals and action plans. The state board may return any portion of control of the operations of the school system or end the intervention in its entirety by a majority vote. If the state board determines at the fifth annual assessment that the county board is still not ready to accept return of control by the state board and sustain the improvements, the state board shall hold a public hearing in the affected county at which the attendance by all members of the county board is requested so that the reasons for continued intervention and the concerns of the citizens of the county may be heard. The state board may continue the intervention only after it holds the public hearing and may require revision of the goals and action plans. The state board must thereafter hold a public hearing after each annual assessment beyond the fifth year. If a school system is in intervention status on the effective date of this provision, the total years of intervention shall be calculated from the date of initial intervention.

Following the termination of an intervention in the operation of a school system and return of full control by the state board, the support for governance education and development shall continue as needed for up to three years. If at any time within this three years, the state board determines that intervention in the operation of the school system is again necessary, the state board shall again hold a public hearing in the affected county so that the reasons for the intervention and the concerns of the citizens of the county may be heard prior to intervening.

CHAPTER 92

(Com. Sub. for S. B. 914 - By Senators Roberts, Rucker, Taylor, and Willis)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend and reenact §18-28-2 and §18-28-3 of the Code of West Virginia, 1931, as amended, relating to certain non-public schools; replacing the minimum 180-day instructional term and average of five hours of instruction per day requirements with a minimum instructional term requirement of 900 hours per school year; adding requirement that upon request, the school composite results be made available to the parents or legal guardians of a prospective enrollee in the school; preserving the requirement that, upon request of the West Virginia Department of Education, the school's composite results be furnished to the State Superintendent of Schools; and removing ramifications of a school's composite test results falling below the 40th percentile.

Be it enacted by the Legislature of West Virginia:

ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS, OR SCHOOLS OF A RELIGIOUS ORDER.

§18-28-2. Attendance; health and safety regulations.

The following is applicable to private, parochial, or church schools or schools of a religious order:

(a) Each school shall observe a minimum instructional term of 900 hours per school year;

(b) Each school shall make and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. The attendance records shall be made available to the parents or legal guardians;

(c) Upon the request of the county superintendent, a school (or a parents' organization composed of the parents or guardians of children enrolled in the school) shall furnish to the county board a list of the names and addresses of all children enrolled in the school between the ages of seven and 16 years;

(d) Attendance by a child at any school which complies with this article satisfies the requirements of compulsory school attendance;

(e) Each school is subject to reasonable fire, health, and safety inspections by state, county, and municipal authorities as required by law, and is required to comply with the West Virginia school bus safety regulations; and

(f) Each school shall establish, file, and update a school specific crisis response plan which complies with the requirements established for it by the state board and the Division of Homeland Security and Emergency Management pursuant to §18-9F-9 of this code.

§18-28-3. Standardized testing requirements.

(a) Each private, parochial, or church school or school of a religious order or other non-public school electing to operate under this statute in lieu of the approval requirements set forth as part of §18-8-1(b) of this code shall administer during each school year a nationally normed standardized achievement test which test shall be selected by the chief administrative officer of each school. The test shall be administered to students at the same grade levels and in the same subject areas as required in the public schools of the state for administration of the statewide summative assessment. The selected test shall be published or normed within the last 10 years and shall be administered under standardized conditions as set forth by the published instructions of the selected test. The student participation rate on the standardized achievement test

must be the same as that required in the public schools for a school's composite score to be considered valid.

(b) Notwithstanding subsection (a) of this section, any private, parochial, church school, school of a religious order, or other non-public school that exclusively teaches special education students or children with learning disabilities shall academically assess students by one or more of the following methods: (1) A standardized group achievement test; (2) a standardized individual achievement test; (3) a written narrative of an evaluation of a portfolio of samples of a child's work; (4) an alternative academic assessment of the child's proficiency as mutually agreed by the county superintendent, parent(s) or legal guardian(s) and the school. The assessment shall be made of students at the same grade levels and in the same subject areas as required in the public schools of the state for administration of the statewide summative assessment.

(c) Nothing in this section prohibits a private parochial, church school, school of a religious order, or other non-public school from administering standardized achievement tests in additional subject areas or at additional grade levels as they may choose at their sole discretion.

(d) Each child's testing or assessment results and the school composite results shall be made available to the child's parents or legal guardians. Upon request, the school composite results also shall be made available to the parents or legal guardians of a prospective enrollee in the school. Upon request of a duly authorized representative of the West Virginia Department of Education, the school's composite results shall be furnished to the State Superintendent of Schools.

(e) Each school to which this article applies shall:

(1) Establish curriculum objectives, the attainment of which will enable students to develop the potential for becoming literate citizens.

(2) Provide an instructional program that will make possible the acquisition of competencies necessary to become a literate citizen.

CHAPTER 93

(Com. Sub. for Com. Sub. for H. B. 2003 - By Delegate Hanshaw (Mr. Speaker))

(By Request of the Executive)

Passed April 10, 2025; in effect 90 days from passage July 9, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18-2-46, relating to the limitation of cell phones in classrooms; providing for a purpose and application; creating definitions; creating a prohibition of personal electronic devices during instructional time; setting forth minimum requirements for county board of education policies; and providing for severability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

†§18-2-46. Limitation on cell phones in classrooms; rule-making.

(a) *Purpose*. – Personal electronic devices contribute to a negative classroom environment with increased concerns relating to distractions, academic misconduct, bullying and/or harassment and other inappropriate behaviors. Concerns regarding the mental health of students with unfettered access to personal electronic devices are well-documented and are believed to prohibit the age-appropriate development of relationships, study skills, and other necessary skills to be successful.

(b) *Application*. – County boards of education shall develop a policy that includes, but is not limited to, the requirements

†**NOTE:** H. B. 2003 (Chapter 93) which passed subsequent to this Act, also created a new a Section 47. Therefore, has been redesignated as Section 47 for the code and S. B. 449, also created a new a Section 48. Therefore, has been redesignated as Section 48 for the code.

established in this policy for implementation at the beginning of the 2025-2026 school year.

(c) *Definitions*. –

(1) "Personal Electronic Device" means any portable device capable of wireless communication or computing including, but not limited to, cellular phones, tablets, laptops, smartwatches, and portable gaming systems not provided by a county board of education.

(2) "Instructional Day" means the period of time from the start of the first instructional period to the end of the last instructional period, including transition times between classes.

(3) "Classroom Setting" means an environment where instruction or activities related to the school curriculum are occurring including, but not limited to, general classrooms, gymnasiums, common areas, or any other area where instruction may occur.

(d) *Prohibition of Personal Electronic Devices During Instructional Time*. – As personal electronic devices are a privilege and are not contributable to the appropriate development and growth of students, all personal electronic devices shall not be accessible to students for use in a classroom setting during instructional time, with the exception of exemptions set forth in this policy.

(e) *Minimum Requirements for County Board of Education Policies*. – County boards of education are required to adopt a policy that includes, but is not limited to, the following:

(1) Whether personal electronic devices will or will not be permitted on school property.

(2) If a county board decides that personal electronic devices will be permitted on school property, its policy must include a procedure for storing the devices that specifies where and how the devices will be stored during the instructional day.

(3) If a county board decides that personal electronic devices will be permitted on school property, students may be required to store the devices in containers or pouches provided by the county board.

(4) County boards of education policies shall include the following exemptions:

(A) Students with an approved documented need, as required by a medical doctor or licensed healthcare professional or as a requirement of an Individualized Education Plan (IEP) or 504 plan, the student's health care provider's medical orders, or other written accommodation plan, may have access to personal electronic devices if the device relates to the student's specific need. An exemption related to a student's IEP, 504 plan, medical order, or other written accommodation shall include a timeline of the required exemption and specify what electronic device(s) shall be included in the exemption.

(B) County boards of education may include permission of specific personal electronic devices as related to the requirements of a county board of education approved work-based learning program. The approval shall include the specific course and purpose for which an electronic device may be used.

(5) County boards of education policies shall include consequences for students determined to have violated the policy including, but not limited to, the following:

(A) Penalties for a first offense, a second offense, and subsequent offenses;

(B) Confiscation of a student's personal electronic device(s) for violation of the policy and/or require the student's parent/guardian to retrieve the device(s); and,

(C) Prohibiting an individual student from possessing any device if previous misuse has been documented. However, if a student is prohibited from possessing electronic devices on school property, a conference shall be offered to the parent/guardian to discuss the reasoning for the prohibition.

(6) County board of education policies shall require schools to document all violations of the policy in the West Virginia Education Information System (WVEIS).

(7) County boards of education shall make reasonable efforts to ensure that information related to acceptable use of personal electronic devices is disseminated to students and their parents/guardians including posting signs on school property and publishing the information in student handbooks, newsletters, social media, and county or school websites.

(8) The Local School Improvement Council (LSIC) of each school shall annually discuss the progress of implementing the county board's personal electronic device policy. The LSIC shall, at a minimum, review the relevant discipline data and make recommendations designed to promote student compliance with the policy.

(9) County boards shall require each school to develop and publish protocols regarding how parents/guardians may communicate with their children in a manner that does not distract the student in the learning environment. This may include, but is not limited to, establishing specific times when personal electronic devices are permissible, utilizing office staff to disseminate information from the parent/guardian, or any other applicable strategy designed to minimize disruption during instructional time.

(f) *Severability*. – If any provision of this policy or the application thereof to any person or circumstance is held invalid, such federal legislation or invalidity shall not affect other provisions or applications of this policy.

CHAPTER 94

(Com. Sub. for Com. Sub. for H. B. 2164 - By Delegates Statler, Ellington, Pinson, Hornby, Pritt, D. Cannon, Heckert, Holstein, and Funkhouser)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend and reenact §15-2D-3 and §61-7-11a of the Code of West Virginia, 1931, as amended; and by adding thereto three new sections, designated §18-5-52, §18-5-53, and §18-5-54, relating to creating school safety officers; requiring the director of the Division of Protective Services to establish standards for school safety officers and issue a certificate; providing definitions; authorizing local school boards, public charter schools, and private or religious schools to employ school safety officers; providing standards for a school safety officer to carry a firearm on school grounds; requiring a background check; specifying the detention powers of a school safety officer and limitations on detention powers; requiring data sharing with the Division of Protective Services; specifying payment for equipment; requiring insurance for schools employing a school safety officer; clarifying that the prohibitions on carry a firearm in a school zone do not apply to certified school safety officers; providing that all school safety officers are subject to the Law Enforcement Officers Safety Act ("LEOSA"); clarifying the liability and responsibility of school safety officers; providing for annual training in conjunction with the local county sheriffs' department; allowing county boards of education to contract with an independent contractor, known as a West Virginia guardian, who is a former state trooper, former deputy sheriff, former state fire marshal, former Department of Natural Resources police officer, former municipal police officer, or former federal law-enforcement

officer to provide public safety and/or security on school grounds to protect life and property; specifying the authority of independent contractors participating in the program and an apparel requirement; requiring the West Virginia guardian to apply for a permit from the county sheriff of the county in which the guardian will provide services; mandating the county sheriff to require an applicant to provide proof of meeting certain requirements; allowing county board to impose additional requirements; requiring permit application fee to be deposited into a guardian program fund; stating that meeting all of certain requirements does not guarantee a contract will be extended to the applicant; specifying instances in which an independent contractor is precluded from participation as a West Virginia guardian; providing certain liability insurance requirements; exempting West Virginia guardian contract from certain purchasing requirements; clarifying that county board participation is voluntary and subject to the availability of county funds; providing for exclusions from state benefit programs; and clarifying that an off duty law-enforcement officer is not prohibited from carrying a firearm on certain school grounds; allowing county boards, public charter schools, or private or religious schools to contract with a private security guard firm to provide school safety officer services; specifying the authority of the private security guard firm or its employees participating a a school safety officer; mandating the county board, public charter school, or private or religious school to require an applicant to provide proof of meeting certain requirements; allowing county board, public charter school, or private or religious school impose additional requirements; specifying instances in which a private security guard or it employees is precluded from participation as a school safety officer; providing certain liability insurance requirements; exempting contract from certain purchasing requirements; providing for exclusions from state benefit programs; clarifying that an employee of a private security guard firm acting as a school safety officer is not prohibited from carrying a firearm on certain school grounds; and permitting air rifles and rimfire rifles on certain school grounds for the purposes of shooting teams to the extent permitted by law.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

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

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

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

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

(A) Relevant state and federal laws;

(B) School and personal liability issues;

(C) Security awareness in the school environment;

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

(E) Disaster and emergency response;

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

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

(3) For purposes of this section, "school safety officer" means an individual who is employed by a local school board, public charter school, or private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board, public charter school, or private or religious school, and reasonably detaining any individual committing an offense that constitutes a breach of the peace, as defined in §18-5-52, on school property,

school buses, or at school-sponsored events, and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

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

(d) The director may:

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

(2) Contract for security and other services;

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

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

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

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

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

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

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

(e) The director shall:

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-52. School safety officers.

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

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

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

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

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

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

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

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

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

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

(c) School safety officers may not arrest another person but may notify the appropriate law-enforcement agency and detain another person committing an act which constitutes a breach of the peace in a reasonable manner and for a reasonable period. The detention shall not constitute an arrest nor shall it render the local school board, public charter school, private or religious school, or school safety officer liable to the person detained: *Provided*, That the detention may be no longer than the time required for the earliest of either (1) The determination that no offense constituting a breach of the peace has been committed; or (2) the surrender of the person detained to a certified law-enforcement officer. School safety officers may not interrogate or question a detained minor without the knowledge and consent of the minor's parent, except

in the instance of a perceived immediate danger to the health, safety, and welfare of others within the facility, when the parents are not present and/or when the minor attempts self-harm, the questioning is limited to the immediate danger, and the questioning will likely lead to the alleviation or elimination of the immediate danger, and if the person detained is a student and is under the age of 21, their parent or guardian is notified of the detention.

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

(e) For purposes of this section:

(1) "Breach of the peace" means:

(A) A felony;

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

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

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

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

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

(g) Nothing in this section shall be construed as limiting or superseding the provisions of §61-7-11a authorizing a private

school to allow possession of a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds of the facility.

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

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

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

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

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

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

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

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

(a) *Purpose.* — County boards of education, public charter schools, and private or religious schools may contract with a private security guard firm licensed pursuant to the provisions of

§30-18-1 *et seq.* of this code to provide the services of a school safety officer as set forth in §18-5-52 of this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Any other requirements imposed by the county board, public charter school, or private or religious school which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county board, public charter school, or private or religious school may also require a private security guard firm to carry appropriate liability insurance at his or her expense.

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

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

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

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

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

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

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

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

(f) *Insurance coverage.* —

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

(g) *Miscellaneous.* —

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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***NOTE:** This section was also amended by H. B. 2164 (Chapter 94), which passed subsequent to this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

The permit application fee received by the sheriff shall be deposited by the sheriff into a guardian program fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this fund are to be expended by the sheriff to pay the costs associated with issuing Guardian permits. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

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

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

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

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

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

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

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

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

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

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

(f) *Insurance coverage. —*

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

(g) *Miscellaneous. —*

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

(2) Nothing in this section requires a county board to enter into a contract for guardian services. Participation by a county board is

voluntary and subject to the availability of county funds. Any county board that opts to participate shall do so at its own expense and any additional funds provided by county entities or private donations. The provisions of this section place no obligation for the state to appropriate money for the purposes set forth in this section.

(3) As an independent contractor, a West Virginia Guardian is not eligible for participation in the public employee insurance plan, workers' compensation, additional state retirement credited to employment as a West Virginia Guardian, or any other state-sponsored or -offered state benefit plan.

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

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

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

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

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

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

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

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

(2) This subsection does not apply to:

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

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

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

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

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

(F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the

county or principal of the school where the property is located to conduct programs with valid educational purposes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

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

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

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

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

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

(2) This subsection does not apply to:

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

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

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

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

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor

more than 10 years, or fined not more than $5,000, or both fined and imprisoned.

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

CHAPTER 95

(Com. Sub. for Com. Sub. for H. B. 2167 - By Delegates Ellington, Statler, Willis, and W. Clark)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §18- 5G-3, §18-5G-4, and §18-5G-7 of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §18-5G-14a, relating to providing that public charter schools may not charge full-time tuition and may only charge such tuition or fees as may be imposed by noncharter public schools in this state, such as for part-time Hope Scholarship enrollment or for participation in student activities; allowing public charter schools to employ personnel to perform services relating to managing its employees' participation in the retirement system or insurance plan; assigning responsibility for tracking the student when a parent or guardian withdraws the student from a public charter school and imposing notification of withdraw requirement on public charter school in certain instances; providing that public charter school teachers who are not certified or licensed are permitted to proctor state assessment under certain conditions; providing for a different application deadline in the case of a conversion public charter school or a program conversion public charter school; allowing a public charter school governing board member to be removed by a vote of the governing board; allowing alternative high-risk population public charter schools to be authorized and funded under public charter school article; providing eligibility requirements to be an alternative high-risk population public charter school; providing for which students qualify to be high-risk; and requiring state board rule setting forth requirements for funding.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5G. PUBLIC CHARTER SCHOOLS.

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

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

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

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

(3) Are not home school-based;

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

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

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

(7) Do not charge full-time tuition and may only charge such tuition or fees as may be imposed by noncharter public schools in

this state, such as for part-time Hope Scholarship enrollment or for participation in student activities.

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

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

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

(2) Has no power to levy taxes;

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

(4) Provides a program of public education that:

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

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

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

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

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

(7) Employs its own personnel as employees of the public charter school and is ultimately responsible for processing employee paychecks, managing its employees' participation in the applicable retirement system, and managing its employees' participation in insurance plans: *Provided,* That nothing in this subdivision prohibits the public charter school from contracting with another person or entity to employ personnel or to perform services relating to managing its employees' participation in the retirement system or insurance plan. A county board may not require any employee of its school system to be employed in a public charter school. A county board may not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system employee involved directly or indirectly with an application to establish a public charter school as authorized under this section. All personnel in a public charter school who were previously employed by the county board shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools; and

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

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

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

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

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

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

(A) When a parent or guardian withdraws a student from a public charter school and enrolls the child in a public school district of that county, the school district of the student's county of residence becomes responsible to track the student for all purposes.

(B) When a parent or guardian withdraws a student from a public charter school and enrolls the child in another public charter school, home school, private school, learning pod, microschool, or out-of-state school, the receiving school or district becomes responsible to track the student for all purposes: *Provided*, That the public charter school from which the student is withdrawing provides the attendance director of the student's county of residence notification of withdrawal from the charter school by phone, electronically, or in writing. The written notification shall include, but is not limited to, the student's name, WVEIS identification number, parent/guardian contact information, and the anticipated or actual withdrawal date.

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

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements. Public charter school teachers who are not certified or licensed in the State shall be permitted to proctor state assessments: *Provided*, That the teacher has successfully completed the annual training to serve as proctor and the charter school maintains a list of all staff who have successfully completed that annual training.

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

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

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

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

(11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that would be required if the person was employed in a noncharter public school, unless a criminal history

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

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

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

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

§18-5G-4. West Virginia Board of Education; powers and duties for implementation, general supervision and support of public charter schools.

(a) The state board along with the West Virginia Public Charter School Board established in §18-5G-15 of this code shall consult with nationally recognized charter school organizations and establish and maintain a catalogue of best practices for public charter schools applicable for all applicants, authorizers, governing board members, and administrators that are consistent with this article and nationally recognized principles and professional standards for quality public charter school authorizing and governance in all major areas of authorizing and governance responsibility in the following areas:

(1) Organizational capacity and infrastructure;

(2) Solicitation and evaluation of charter applications;

(3) A framework to guide the development of charter contracts;

(4) Performance contracting including a performance framework;

(5) Providing transparency and avoiding all conflicts of interest;

(6) Ongoing public charter school oversight and evaluation; and

(7) Charter approval and renewal decision-making;

(b) The state board is responsible for exercising, in accordance with this article, the following powers and duties with respect to the oversight and authorization of public charter schools:

(1) Provide forms to promote the quality and ease of use for authorizers to solicit applications for public charter schools, for applicants to complete applications, and for establishing quality charter contracts that include a framework for performance standards. The forms shall be available for use and solicitations made not later than the beginning of February, 2020. The forms shall include an application deadline of August 31st of the year prior to the beginning of operations for the proposed school year, or April 30th of the proposed school year in the case of a conversion public charter school or a program conversion public charter school. No public charter school may begin operation prior to the beginning of the proposed school year;

(2) Provide training programs for public charter school applicants, administrators and governing board members, as applicable, that include, but are not limited to:

(i) Pre-application training programs and forms to assist in the development of high quality public charter school applications;

(ii) The required components and the necessary information of the public charter school application and the charter contract as set forth in this article;

(iii) The public charter school board's statutory role and responsibilities;

(iv) Public charter school employment policies and practices; and

(v) Authorizer responsibilities for public charter school contract oversight and performance evaluation;

(3) Receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given;

(4) Apply for any federal funds that may be available for the implementation of public charter school programs;

(5) Establish reporting requirements that enable the state board to monitor the performance and legal compliance of authorizers and public charter schools;

(6) Establish a framework and procedures for interactions between public charter schools, public noncharter schools and county boards of education to facilitate cooperation for shared services, training and information and to ensure the prompt transfer of student records, including IEP's, so as to minimize the interruption of a student's education when transferring between noncharter public schools and public charter schools; and

(7) Submit to the Governor and the Legislature an annual report within 60 days of the end of each school year summarizing:

(A) The student performance of all operating public charter schools; and

(B) The authorization status of all public charter schools within the last school year, identifying all public charter schools as:

(i) Application pending;

(ii) Application denied and reasons for denial;

(iii) Application approved, but not yet operating;

(iv) Operating and years of operation;

(v) Renewed and years of operation;

(vi) Terminated;

(vii) Closed;

(viii) Never opened; and

(ix) Any successful innovations applied in authorized public charter schools which may be replicated in other schools. The report shall provide information about how noncharter public schools may implement these innovations.

(c) The state board shall be the authorizer of a public charter school when a county board or boards approve the application for a public charter school and requests the state board to perform the authorizer duties and responsibilities or when an application to form a public charter school or to renew a charter contract is submitted from an applicant within a county in which the state board has intervened and limited the power of the county board to act pursuant to §18-2E-5 of this code.

§18-5G-7. Public Charter school governing board.

(a) To ensure compliance with this article, a public charter school shall be administered by a governing board accountable to the authorizer as set forth in the charter contract. A public charter school governing board shall consist of no fewer than five members elected or selected in a manner specified in the charter application, including at least the following:

(1) Two parents of students attending the public charter school operating under the governing board; and

Two members who reside in the community served by the public charter school.

(b) Members of the governing board shall:

(1) Not be an employee of the public charter school administered by the governing board;

(2) Not be an employee of an education service provider that provides services to the public charter school;

(3) File a full disclosure report to the authorizer identifying potential conflicts of interest, relationships with management organizations, and relationships with family members who are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school;

(4) Collectively possess expertise in leadership, curriculum and instruction, law, and finance; and

(5) Be considered an officer of a school district under the provisions of §6-6-7 of this code and removal from office shall be in accordance with the provisions of that section or by a vote of the governing board.

(c) The public charter school governing board shall:

(1) Operate under the oversight of its authorizer in accordance with its charter contract;

(2) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:

(A) Receive and disburse funds for school purposes;

(B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(3) Enroll students in the public charter school pursuant to §18-5G-11 of this code;

(4) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board; and

(5) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(d) A public charter school authorized under this article may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools; and

(5) Participate in extracurricular activities to the same extent as noncharter public schools.

(e) The public charter school governing board is responsible for the operation of its public charter school, including, but not limited to, ensuring compliance with the public charter school criteria, governance and statutory compliance set forth §18-5G-3 of this code, the preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(f) The public charter school governing board shall comply with the provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings.

(g) Notwithstanding anything else in this Code, when a state institution of higher education is an applicant and after its application is approved by an authorizer, the governing board of the public charter school may be an administrative unit of the state institution of higher education, and the governing board may enter into the charter contract on behalf of the state institution of higher education.

§18-5G-14a. Alternative high-risk population public charter schools.

(a) Alternative high-risk population public charter schools may be authorized and funded pursuant to this article. To be eligible for an alternative high-risk population public charter school, the school must have an unduplicated count of at least 70 percent of their total enrollment, upon first entry to the school, comprised of high-risk students and obtain approval from the Charter School Board certifying the school meets the criteria. "High risk" students include the following:

(1) Students who have been expelled;

(2) Students who have been suspended more than 10 days in a school year;

(3) Wards of the court or dependents of the court;

(4) Recovered dropouts;

(5) Students who are habitually truant;

(6) Students who have been retained more than once in kindergarten through grade eight;

(7) Students who are credit deficient;

(8) Students who have a high-level transiency such as being enrolled in more than two schools during the past academic year or have changed secondary schools more than two times since entering high school;

(9) Foster youth;

(10) Homeless youth; and

(11) Students who need greater flexibility in scheduling or have circumstances which would benefit from this type of schooling.

(b) The state board shall promulgate a rule pursuant to the provisions of §29A-3B-1 *et seq.* of this code setting forth requirements for alternative high-risk population charter school funding.

CHAPTER 96

(Com. Sub. for H. B. 2411 - By Delegates Hornby, Ellington, Horst, D. Smith, Chiarelli, Willis, Kyle, Crouse, Holstein, Maynor, and Statler)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to requiring all West Virginia high school students to pass a minimum of one credit of computer science; defining computer science; allowing computer science credit to be earned in grades eight through twelve; establishing requirements for the classes; allowing computer science credit to substitute for one math credit or one personalized education plan credit; requiring the computer science credit to be approved for one credit in career technical education if the credit is relevant to the program of study; requiring computer science course if used to fulfil a math credit to be denoted as the equivalent of a high school math course on the student's transcript for certain purpose; requiring West Virginia Board of Education rules detailing how certain credit fulfillment is to be granted; requiring West Virginia Board of Education to make available to all public schools a list of course options that can meet the requirements for this computer science credit; and allowing the West Virginia Board of Education to adopt rules to administer the computer science credit provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. REQUIRED COURSES OF INSTRUCTION.

§18-2-9. Required courses of instruction.

(a) (1) In all public, private, parochial, and denominational schools located within this state there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. The schools shall require regular courses of instruction by the completion of the 12th grade in the history of the United States, in civics, in the Constitution of the United States, and in the government of the State of West Virginia for the purpose of teaching, fostering, and perpetuating the ideals, principles, and spirit of political and economic democracy in America, and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The required courses shall include instruction on the institutions and structure of American government, such as the separation of powers, the Electoral College, and federalism. The required courses shall include instruction that provides students an understanding of American political philosophy and history, utilizing writings from prominent figures in Western civilization, such as Aristotle, Thomas Hobbes, John Locke, and Thomas Jefferson. The courses of instruction shall offer an objective and critical analysis of ideologies throughout history including, but not limited to, capitalism, republicanism, democracy, socialism, communism, and fascism. The required courses shall emphasize the use of primary sources and interactive learning techniques, such as mock scenarios, debates, and open and impartial discussions.

(2) The state board shall, with the advice of the state superintendent, and after consultation with other entities, prescribe the courses of study, including the basic course requirements for middle school and high school, and the academic standards listed in subdivision (1) of this subsection for these courses of study covering these subjects for the public schools, and publish an approved list of instructional resources pursuant to §18-2A-1 *et seq.* of this code. The curriculum used in the delivery of instruction shall cover the standards adopted for such courses. The other entities for consultation may include such organizations as the Florida Joint Center for Citizenship, the College Board, the Bill of Rights Institute, Hillsdale College, the Gilder Lehrman Institute of American History, the Constitutional Sources Project, educators, school administrators, postsecondary education representatives,

elected officials, business and industry leaders, parents, and the public. Officials or boards having authority over the respective private, parochial, and denominational schools shall prescribe courses of study for the schools under their control and supervision similar to those required for the public schools.

(3) The state board shall provide testing or assessment instruments for the history and civics courses of instruction required by this section. These testing instruments shall:

(A) Be aligned with the academic standards required by this section;

(B) Be mandatory for students enrolled in those courses of instruction;

(C) Be cumulative by including questions about knowledge learned in prior history and civics courses; and

(D) Measure students' factual and conceptual knowledge including how the facts interrelate and the reasons behind historical documents and events.

(4) To further this study, every high school student eligible by age for voter registration shall be afforded the opportunity to register to vote pursuant to §3-2-22 of this code.

(b) The state board shall cause to be taught in all public schools of this state the subject of health education, including instruction in any of the grades six through 12 as considered appropriate by the county board, on: (1) The prevention, transmission, and spread of acquired immune deficiency syndrome and other sexually transmitted diseases; (2) substance abuse, including the nature of alcoholic drinks and narcotics, tobacco products, and other potentially harmful drugs, with special instruction as to their effect upon the human system and upon society in general; (3) the importance of healthy eating and physical activity in maintaining healthy weight; and (4) education concerning cardiopulmonary resuscitation and first aid, including instruction in the care for conscious choking, and recognition of symptoms of drug or alcohol overdose. The course curriculum requirements and materials for

the instruction shall be adopted by the state board by rule in consultation with the Department of Health. The state board shall prescribe a standardized health education assessment to be administered within health education classes to measure student health knowledge and program effectiveness.

(c) An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission, and spread of acquired immune deficiency syndrome and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in the instruction. The parent or guardian may exempt the child from participation in the instruction by giving notice to that effect in writing to the school principal.

(d) After July 1, 2015, the required instruction in cardiopulmonary resuscitation in subsection (b) of this section shall include at least 30 minutes of instruction for each student prior to graduation on the proper administration of cardiopulmonary resuscitation (CPR) and the psychomotor skills necessary to perform cardiopulmonary resuscitation. The term "psychomotor skills" means the use of hands-on practicing to support cognitive learning. Cognitive-only training does not qualify as "psychomotor skills". The CPR instruction shall be based on an instructional program established by the American Heart Association or the American Red Cross, or another program which is nationally recognized and uses the most current national evidence-based emergency cardiovascular care guidelines and incorporates psychomotor skills development into the instruction. A licensed teacher is not required to be a certified trainer of cardiopulmonary resuscitation to facilitate, provide, or oversee such instruction. The instruction may be given by community members, such as emergency medical technicians, paramedics, police officers, firefighters, licensed nurses, and representatives of the American Heart Association or the American Red Cross. These community members are encouraged to provide necessary training and instructional resources such as cardiopulmonary resuscitation kits and other material at no cost to the schools. The requirements of this subsection are minimum requirements. A local school

district may offer CPR instruction for longer periods of time and may enhance the curriculum and training components, including, but not limited to, incorporating into the instruction the use of an automated external defibrillator (AED): *Provided*, That any instruction that results in a certification being earned shall be taught by an authorized CPR/AED instructor.

(e) A full week of classes during the week selected by the county board of education shall be recognized as Celebrate Freedom Week. The purpose of Celebrate Freedom Week is to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded.

Celebrate Freedom Week shall include appropriate instruction in each social studies class which:

(1) Includes an in-depth study of the intent, meaning, and importance of the Declaration of Independence, the Emancipation Proclamation, and the Constitution of the United States with an emphasis on the amendments that are crucial to the survival of democracy and freedom, such as the Bill of Rights and the thirteenth, fourteenth, fifteenth, and nineteenth amendments;

(2) Uses the historical, political, and social environments surrounding each document at the time of its initial passage or ratification; and

(3) Includes the study of historical documents to firmly establish the historical background leading to the establishment of the provisions of the constitution and Bill of Rights by the founding fathers for the purposes of safeguarding our constitutional republic.

The requirements of this subsection are applicable to all public, private, parochial, and denominational schools located within this state. Nothing in this subsection creates a standard or requirement subject to state accountability measures.

(f) Beginning the 2018-2019 school year, students in public schools shall be administered a test the same as or substantially similar to the civics portion of the naturalization test used by the

United States Citizenship and Immigration Services between their ninth and 12th grade years as an indicator of student achievement in the area of civics education. The test results may be reported in the aggregate to the county board for evaluation by the board's curriculum director and reported to the board members. Nothing in this subsection creates a standard or requirement subject to state accountability measures.

(g) Beginning with the entering ninth grade class in the 2027-2028 school year, a public high school student shall be required to earn one unit of credit in a high school computer science course before the student graduates. "Computer science" means the study of computers, programming, and algorithms, including their principles, their hardware and software designs, their implementation, and their impact on society. Computer science does not include the study of everyday uses of computers and computer applications, such as keyboarding, word processing, digital literacy, or accessing the internet.

(1) The one credit required in this subsection may be earned in grades eight through twelve.

(2) A computer science course offered by a public high school shall:

(A) Be of high quality;

(B) Meet or exceed the curriculum standards established by the State Board of Education; and

(C) Be made available in a traditional classroom setting. Only if a traditional classroom setting is not feasible shall a school offer the course in a blended learning environment or an online-based or other technology-based format that is tailored to meet the needs of each participating student: *Provided,* That the intent of (C) shall not interfere with the schedule of homeschool students or virtual students.

(3) The one credit required in this subsection shall be allowed to substitute for one math credit or one personalized education plan credit.

(4) The one credit shall be approved for one credit in Career Technical Education (CTE): *Provided,* That the credit shall be relevant to the program of study.

(5) If a student uses a computer science course to fulfill a math, the school district shall denote that computer science course as equivalent to a high school math course, on the student's transcript for the purpose of admission to a higher education institution in this state.

(6) The state board shall adopt rules detailing how credit fulfillment under paragraph (3) of this subsection shall be granted. The rules shall ensure maximum flexibility for students.

(7) Beginning in August of 2026, the State Board of Education shall make available to all public schools a list of course options that can meet the requirements for this credit. The state board shall update the list as often as necessary: *Provided*, That the state board shall create an approved list of courses that may be substituted.

(8) The state board may adopt rules to administer this subsection, including rules for flexible options to license computer science teachers, which may include without limitation, approval codes, technical permits, ancillary licenses, and standard licenses. In adopting such rules, the board shall consider policy that ensures teacher subject area certification does not restrict the ability of students to earn a math or other substitution credit for a computer science course taken under this section.

CHAPTER 97

(Com. Sub. for H. B. 2528 - By Delegates Brooks and Pritt)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to authorizing elementary and middle school students enrolled in any private, parochial, or church school or school of a religious order or other nonpublic school to participate in county athletic tournaments under certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students and participants in the Hope Scholarship Program or in a Microschool or Learning Pod.

(a) The county boards of education shall exercise the control, supervision, and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of those schools of their respective counties. The county board of education may delegate control, supervision, and regulation of interscholastic athletic events and band activities to the West Virginia Secondary School Activities Commission.

(b) The West Virginia Secondary School Activities Commission is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to the commission. The West Virginia Secondary School Activities Commission may exercise the control, supervision, and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this code. County boards of education may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the commission, as well as moneys derived from any contest or other event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the commission are subject to an annual audit by the State Tax Commissioner.

(c) The West Virginia Secondary School Activities Commission shall promulgate reasonable rules providing for the control, supervision, and regulation of the interscholastic athletic events and other extracurricular activities of private and parochial secondary schools as elect to delegate to the commission control, supervision, and regulation, upon the same terms and conditions, subject to the same rules and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

(d) Notwithstanding any other provision of this section, or the commission's rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is receiving home instruction pursuant to §18-8-1(c) of this code, is a participant in the Hope Scholarship Program, pursuant to §18-8-1(m) of this code and as provided for in §18-31-1, *et seq.* of this code, or participates in a microschool or learning pod, pursuant to §18-8-1(n) of this code, and who:

(1) Has demonstrated satisfactory evidence of academic progress for each year in compliance with the provisions of that subsection: *Provided*, That the student's average test results are within or above the fourth stanine in all subject areas;

(2) Has not reached the age of 19 by August 1 of the current school year;

(3) Is an amateur who receives no compensation but participates solely for the educational, physical, mental, and social benefits of the activity;

(4) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the student lives; and

(5) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic athletic events and other extracurricular activities at the public secondary school serving the attendance zone in which the student lives: *Provided*, That students who leave a school during the school year are subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

(e) Students enrolled in a private school shall be eligible to participate in extracurricular activities at the public secondary school serving the attendance zone in which the student lives if the extracurricular activity is not offered at the student's private school: *Provided*, The student meets the requirements of subsection (d)(4) and (d)(5) of this section: *Provided, however,* That elementary and middle school students enrolled in any private, parochial or church school or school of a religious order or other nonpublic school who have played against at least two public schools during the previous regular athletic season shall be eligible to participate in county athletic tournaments held at the end of the athletic season, except for invitational tournaments.

(f) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to subsection (b) of this section, if necessary, to carry out the intent of this subsection.

CHAPTER 98

(Com. Sub. for H. B. 2576 - By Delegates Statler, Chiarelli, Worrell, Amos, Lucas, Linville, Riley, Ellington, J. Maynor, Cannon, and McCormick)

[Passed April 10, 2025; in effect from passage]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §18B-22-1, §18B-22-2, §18B-22-3, §18B-22-4, and §18B-22-5, relating to name, image, or likeness in intercollegiate athletics; defining terms; authorizing institutions of higher education to facilitate and enter into agreements relating to a student-athlete's name, image, or likeness; limiting the ability of athletic associations, athletic conferences, or other similarly situated oversight or regulatory organizations to regulate an institution or a student-athlete with respect to activities for compensation involving a student-athlete name, image, or likeness; limiting the purposes for which student-athletes may earn compensation for the use of name, image, or likeness; and providing provisions for causes of action.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. NAME, IMAGE, OR LIKENESS IN INTERCOLLEGIATE ATHLETICS.

§18B-22-1. Definitions.

For purposes of this article:

"Athlete agent" means an individual who holds a valid certificate of registration as an athlete agent issued pursuant to §30-39-5 of this code.

"Attorney" means an attorney licensed to practice law in the State of West Virginia.

"Compensation" means any type of remuneration or anything of value: *Provided*, That compensation does not include any (i) scholarship provided to a student-athlete that covers some or all of the cost of attendance at an institution at which the student-athlete is enrolled or (ii) benefit a student-athlete may receive in accordance with the rules of the relevant athletic association or conference.

"Institution" means a state institution of higher education as defined in §18B-1-2 of this code.

"Institutional marks" means the name, logo, trademarks, mascot, unique colors, copyrights, and other defining insignia of an institution.

"Intercollegiate athletics" means programs at an institution for sports played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of college athletics.

"Name, image, or likeness" means a student-athlete's name, image, or likeness, including but not limited to caricature, nicknames, pseudonyms, voice, live or recorded performances, photographs, videos, audio recordings, signatures, quotations, biographical data or information and any other personal characteristics or physical or vocal likenesses of student-athlete; any and all intellectual property rights owned by or on behalf of student-athlete relating to, based on or derived from any of the foregoing; and any and all other materials originating or relating to the student-athlete or any of the foregoing, including services and activities of the student-athlete related to the use of the foregoing.

"Official team activities" means all games, practices, exhibitions, scrimmages, team appearances, team photograph sessions, sports campus sponsored by the institution, and other team-organized activities, including, but not limited to, individual

photograph sessions, news media interviews, and other related activities as specified by the institution.

"Student-athlete" means an individual enrolled at an institution who participates in intercollegiate athletics.

§18B-22-2. Authority of institutions relating to name, image, and likeness.

(a) Under the provisions of this article, institutions may

(1) Enter into agreements providing for the compensation of student-athletes for the use of the student-athlete's name, image, or likeness;

(2) Share a portion of the revenues generated by an intercollegiate athletic department with the student-athlete;

(3) Condition such compensation based on terms and conditions established by the institution, including provisions limiting the ability of the student-athlete to earn compensation from other persons or entities, including, but not limited to, prohibited endorsements, conflicting endorsements, and activities during official team activities and a requirement that the student-athlete disclose any similar agreements with other persons or entities; and

(4) Identify, create, negotiate, facilitate, support, engage with, or otherwise assist a student-athlete with respect to a name, image, or likeness opportunity:

(b) Subject to the authority in subsection (a) of this section, student-athletes may earn compensation for the student athlete's name, image, or likeness; endorsement; or related activity, including directly from the institution where the student-athlete is enrolled, and the student-athlete may retain an athlete agent or attorney in connection with issues related to name, image, or likeness; endorsement; and related activity: *Provided,* That nothing in this article may be construed to qualify a student-athlete as an employee of an institution because the student-athlete engages in name, image, or likeness; endorsement, or revenue sharing

opportunities; *Provided, however,* That institutions may not use any moneys appropriated by the Legislature to compensate a student-athlete for the student-athlete's name, image, or likeness; endorsement, or revenue sharing activities.

§18B-22-3. Limitations on the authority of athletics associations, athletic conferences, or other organizations over intercollegiate athletics.

(a) As a result of a student-athlete engaging in activities authorized by this article, no institution, athletic association, athletic conference, or other organization with authority over intercollegiate athletics may:

(1) Open an investigation, penalize, suspend, take other adverse action, or declare a student-athlete ineligible from intercollegiate athletic competition; or

(2) Reduce, cancel, revoke, or not renew an athletic scholarship for a student-athlete;

(b) As a result of a student-athlete or an institution, an employee of an institution, an authorized agent of an institution, or an entity controlled by an institution engaging in activities authorized by this article, no athletic association, athletic conference, or other organization with authority over intercollegiate athletics may open an investigation, penalize, suspend, or take other adverse action against any such person, institution, or entities for engaging in such activities.

§18B-22-4. Limitations on the ability to earn compensation for the use of name, image, and likeness.

No student-athlete may earn compensation for the use of the student-athlete's name, image, or likeness in connection with any of the following:

(1) Alcohol and alcoholic beverages;

(2) Adult entertainment;

(3) Cannabis, cannabinoids, cannabidiol, or other derivatives, not including hemp or hemp products;

(4) Controlled substances, as defined in §60A-1-101 of this code;

(5) Performance enhancing drugs or substances such as steroids or human growth hormone;

(6) Drug paraphernalia, as defined in §47-19-3 of this code;

(7) Tobacco, tobacco products, alternative nicotine products, nicotine vapor products, and similar products and devices; or

(8) Casinos or gambling, including sports betting.

§18B-22-5. Causes of action.

(a) Any student-athlete who is aggrieved by any action of an institution or agent thereof, athletic association, athletic conference, or other organization with authority over intercollegiate athletics in violation of any provision of this article may bring an action for injunctive relief.

(b) No institution, employee or authorized agent of an institution, or an entity controlled by an institution, shall be liable for any damages to a student-athlete's ability to earn compensation for the use of the student-athlete's name, image, or likeness resulting from decisions and actions routinely taken in the course of intercollegiate athletics.

(c) Any institution, employee or authorized agent of an institution, or entity controlled by an institution that is subjected to any actual or threatened complaint, investigation, penalty, or other adverse action of an athletic association, athletic conference, or other organization with authority over intercollegiate athletics for engaging in activities permitted under this article may bring an action to recover actual damages and reasonable attorney fees and may seek injunctive relief and any other remedy available at law or in equity.

CHAPTER 99

(Com. Sub. for H. B. 2595 - By Delegates, Riley, Ellington, Maynor, J. Cannon, Fehrenbacher, McCormick, Rohrbach, Chiarelli, Statler, Browning, and Lucas)

[Passed April 10, 2025; in effect from passage]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §18B-12-2, §18B-12-3, and §18B-12-4 of the Code of West Virginia, 1931, as amended, and to repeal §18B-12-10 of said code, all relating to agreements for institutions of higher education with private corporations established to benefit institutions of higher education; providing legislative findings and purposes; authorizing institutions of higher education to contract with one or more private corporations authorized to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics; limiting the voting corporate directors of private corporations who have entered into agreements to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics on behalf of an institution of higher education; authorizing institutions of higher education to transfer real and personal property to qualifying private corporations; clarifying that the activities of private corporations who have entered into agreements to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics are exempt from state requirements and procedures; authorizing private corporations who have entered into agreements to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics to undertake activities authorized by the West Virginia Nonprofit Corporation Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. RESEARCH AND DEVELOPMENT AND ATHLETICS AGREEMENTS FOR STATE INSTITUTIONS OF HIGHER EDUCATION.

§18B-12-2. Legislative findings and purpose.

(a) The Legislature finds and determines that the future economic development in the state will depend in part upon research developed at the state institutions of higher education, and enhanced research opportunities for state institutions of higher education will promote the general economic welfare of the citizens of the state. In order to enhance the competitive position of state institutions of higher education in the current environment for research and development, expenditures for equipment and material for research projects must be handled in an expeditious fashion, and the acquisition and utilization of research grants can be simplified and expedited through the utilization of private corporations.

(b) The interest of the citizens of the state will be best met by agreements entered into and carried out by the governing boards and corporations to provide research assistance for state institutions of higher education. Therefore, in order to facilitate research and development grants and opportunities for state institutions of higher education, it is appropriate to authorize the governing boards to contract with private corporations organized for the purpose of providing such services to state institutions of higher education.

(c) The Legislature further finds and determines that in order to foster and enhance the operational success and competitive nature of intercollegiate athletics in the current environment, the state institutions of higher education will benefit from utilization of private corporations to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs.

§18B-12-3. Boards authorized to contract with corporations; characteristics of corporations.

Each governing board for a state institution of higher education may enter into agreements and any other contractual relationships with one or more corporations formed with respect to such state institution of higher education, but only if each such corporation meets the following descriptions:

(1) The president and the president's appointees from the institution shall constitute a majority of the voting corporate directors: *Provided,* That the voting corporate directors of any entity established to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics shall consist solely of employees of the institution of higher education or an employee of an affiliate of the institution of higher education.

(2) The corporation shall be organized as a nonprofit, nonstock corporation under the general corporation laws of the state exclusively for charitable, educational or scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to engage in one or more of the following: (a) to foster and support research and economic development efforts at the respective state institution of higher education; (b) to provide evaluation, development, patenting, management and marketing services for inventions of the faculty, staff and students of such state institution of higher education; and (c) to conduct operational economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs at state institutions of higher education.

(3) The meetings of the corporate directors shall be subject to §6-9A-3 of this code: *Provided, however,* that matters relating to the conduct of operational, economic, fiscal and educational development activities and services related to intercollegiate athletics' programs are exempt from §6-9A-3 and §29B-1-1, *et seq.* of this code.

(4) Notwithstanding any other provision of this code to the contrary, institutional boards of governors may assign rights and delegate obligations and provide and transfer funding and property, both real and personal, to corporations as defined in section one of this article, and with which the institution under its jurisdiction has contracted pursuant to the provisions of this article, and any such transfers shall be exempt from the provisions of §18B-19-1 *et seq.* of this code.

(5) Upon dissolution of the corporation, the assets of the corporation shall be transferred to such entity as the appropriate governing board shall designate for the benefit of the state institution of higher education: *Provided*, That such recipient shall be an organization operated exclusively for charitable, educational, or scientific purposes as shall at such time qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

§18B-12-4. Agreement; required provisions.

(a) With respect to entities engaged in activities contemplated by the provisions of §18B-12-3(2)(a) and (b) of this code and notwithstanding §12-3-10 of this code or any other provision of law to the contrary, each governing board is hereby authorized to enter into an agreement with one or more private corporations, which agreement shall be for the benefit of the state institution of higher education and contain the following provisions, subject to further specification as is mutually agreed upon by the governing board and the corporation:

(1) On the effective date of the agreement, the corporation is charged with the responsibility of serving as fiscal agent for sponsored projects conducted by the faculty, staff and students of the state institution of higher education, and grants shall be accepted by the corporation on behalf of the institution and assigned to the corporation for fiscal management.

(2) The corporation shall provide evaluation, development, patenting, licensing, management, and marketing services for inventions, processes, trademarks, except institutional trademarks

an institution's governing board elects to retain, copyrights or any other intellectual property developed by faculty, staff, and students of any state institution of higher education.

(3) The corporation may determine the application of the proceeds from any invention, process, trademark, except institutional trademarks an institution's governing board elects to retain, copyright or any other intellectual property developed by the faculty, staff, or students of an institution among the corporation, the inventor or developer, and the institution.

(4) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and personal property of all classes subject to the provisions of section ten of this article.

(5) The corporation has such additional responsibilities related to the administration of research and development at the institution or the fostering of economic development as are necessary or desirable.

(b) With respect to entities engaged in activities contemplated by the provisions of §18B-12-3(2)(c) of this code: Notwithstanding §12-3-10 of this code or any other provision of law to the contrary, each governing board is hereby authorized to enter into an agreement with one or more private corporations, which agreement shall be for the benefit of the state institution of higher education, to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs and shall contain the following provisions, subject to further specification as is mutually agreed upon by the governing board and the corporation:

(1) On the effective date of the agreement, the corporation is charged with the responsibility of serving as the operational and fiscal agent for the athletics-related endeavors or other educational development activities as specified by the state institution of higher education.

(2) The corporation shall provide services for the benefit of the state institution of higher education as outlined in the agreement.

(3) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and personal property of all classes; may own membership or ownership interests in legal entities; and has all powers and authorities to undertake any activities allowable by corporations organized pursuant to §31E-1-101 *et seq.* of this code.

(4) The corporation has such additional responsibilities related to conducting operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs of the state institution of higher education, as are necessary or desirable.

(c) Upon termination of the agreement, the funds or grants paid or held by the corporation, and all other property held by the corporation, shall be transferred to the institution or its designee as the governing board directs.

(d) A corporation may utilize both corporation employees and personnel of the institution. The corporation may pay the costs incurred by the institution including personnel funded on grants and contracts, fringe benefits of personnel funded on grants and contracts, administrative support costs and other costs which may require reimbursement. The corporation may include as costs any applicable overhead and fringe benefit assessments necessary to recover the costs expended by the institution, pursuant to the terms of the agreement, and that a board may be reimbursed for expenses incurred by it pursuant to the agreement.

§18B-12-10. Assignment or transfer of property to certain corporations.

[Repealed.]

CHAPTER 100

(H. B. 2678 - By Delegates Gearheart, Canterbury, Hornby, Ellington, Brooks, Funkhouser, Drennan, Butler, Ridenour, and Dillon)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to speed restrictions; clarifying that school zones include private schools and public charter schools; incorporating technical corrections and updates; and clarifying that a certified abstract of a judgment for conviction of an offense of driving above the speed limit on a controlled access highway or interstate highway at 10 miles per hour or less above the speed limit may not be recorded by the Division of Motor Vehicles.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-1. Speed limitations generally; penalty.

(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be controlled as necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this section is lawful, but any speed in

excess of the limits specified in this subsection or established as authorized in this section is unlawful. The following speed limits apply:

(1) Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending 125 feet along the street or highway from the school grounds and, in the case of school property not abutting a street or highway but accessed through a right-of-way granted for entrance to school property, a school zone established by an engineering study conducted by the Division of Highways is all school property, including school grounds and any property within the access right-of-way, and extending 125 feet along the street or highway from the entrance to the access right-of-way. The West Virginia Division of Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a formal vote and a written request by a county board of education, governing board of a public charter school, or governing body of a private school to expand a school zone to a road that is adjacent to school property or from the entrance to an access right-of-way, the West Virginia Division of Highways shall expand the school zone by erecting new signage indicating the expanded school zone's location and speed limit within 90 days of receiving the request: *Provided*, That the school zone may not be expanded more than 125 feet along an adjacent road unless the division determines that the additional extension is needed and necessary for the safety of the school children. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways. For purposes of this subdivision, the term "school property" includes any public school, public charter school, and any private school that requests the Division of Highways to designate a school zone;

(2) Twenty-five miles per hour in any business or residence district; and

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

The speeds set forth in this section may be altered as authorized in §17C-6-2 and §17C-6-3 of this code.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than 55 miles per hour and the speed limits specified in subsection (b) of this section do not apply.

(e) Unless otherwise provided in this section, any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100; upon a second conviction within one year thereafter, shall be fined not more than $200; and, upon a third or subsequent conviction within two years thereafter, shall be fined not more than $500: *Provided*, That if the third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by 15 miles per hour or more, then upon conviction, shall be fined not more than $500 or confined in jail for not more than six months, or both fined and confined.

(f) Any person who violates the provisions of subdivision (1), subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500: *Provided*, That if the conviction is based upon a violation of the provisions of subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by 15 miles per hour or more in the presence of one or more children, then upon conviction, shall be fined not less than $100 nor more than $500 or

confined in jail for not more than six months, or both fined and confined: *Provided, however*, That if the signage required by subdivision (1), subsection (b) of this section is not present in the school zone at the time of the violation, then any person who violates said provision is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $25.

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled access highway or interstate highway and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above the speed limit, then, upon conviction thereof, that person shall be fined not more than $5, plus court costs.

(h) Any person operating a commercial motor vehicle engaged in the transportation of coal on the coal resource transportation road system who violates subsection (a), (b), or (c) of this section shall, upon conviction, be subject to fines in triple the amount otherwise provided in subsection (e) of this section.

(i) If an owner or driver is convicted under the provisions of this section for the offense of driving above the speed limit on a controlled access highway or interstate highway of this state and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above the speed limit, then notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on the conviction may not be transmitted to the Division of Motor Vehicles or, if transmitted, may not be recorded by the division: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter 17E of this code if the offense was committed while operating a commercial vehicle.

(j) If an owner or driver is convicted in another state for the offense of driving above the maximum speed limit on a controlled access highway or interstate highway and if the maximum speed limit in the other state is less than the maximum speed limit for a comparable controlled access highway or interstate highway in this state, and if the evidence shows that the motor vehicle was being

operated at 10 miles per hour or less above what would be the maximum speed limit for a comparable controlled access highway or interstate highway in this state, then notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on the conviction may not be transmitted to the Division of Motor Vehicles or, if transmitted, may not be recorded by the division, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter 17E of this code, if the offense was committed while operating a commercial vehicle.

CHAPTER 101

(Com. Sub. for H. B. 3166 - By Delegates Hornby, D. Smith, Kyle, J. Cannon, Willis, and Chiarelli)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §18-9F-10a, relating to requiring county boards to create standardized school safety mapping data; setting forth requirements for mapping data; setting forth the dissemination; requiring consultation and agreement of local enforcement; sets forth and cost parameters of data; sets an effective date; and exempting data from disclosure under the Freedom of Information Act.

Be it enacted by the Legislature of West Virginia:

§18-9F-10a. Standardized school safety mapping data.

(a) In addition to other requirements contained in this article, the Crisis Response Plan required by §18-9F-9 of this code, or the safety program required by §18-9F-10 of this code, each county board of education shall create standardized school safety mapping data that, at a minimum, requires that mapping data:

(1) Be in formats that conform to, integrate with, and are accessible within software platforms used in local public safety answering points and by the city, county, state, and federal public safety agencies that could provide emergency services at the school without requiring the purchase of additional software or payment of fees to access the data;

(2) Be in formats capable of being printed, shared electronically, and, if requested, digitally integrated into interactive mobile platforms in use;

(3) Be viewable and printable from open-source document or image viewers;

(4) Be oriented to true north and include a fixed grid with consistent "x" and "y" coordinates;

(5) Have its accuracy verified by the entity producing the data through an on-site walk-through of the school buildings and grounds;

(6) Include accurate floor plans overlaid on current, verified aerial imagery of the school

campus;

(7) Include site-specific labeling for school structures, such as room names, hallway

designations, exterior doors, stairwell numbers, and the locations of hazards, critical utility controls, key boxes, automated external defibrillators, and trauma kits and school grounds,

including parking areas, athletic fields, surrounding roads, and neighboring properties;

(8) Include the requirement that future updates or modifications to the school mapping data conform to and integrate with software platforms used by the relevant public safety agencies; and

(9) Be created, stored, and maintained exclusively within the United States for the entire duration of the mapping process and thereafter to ensure security of the data.

(b) The school safety mapping data set forth in subsection (a) shall be provided to the state board of education, Division of Homeland Security and Emergency Management, and local first response agencies including police, fire, emergency medical

services (EMS), and any other local entities the school's crisis response planning team determines should be consulted in accordance with this article. The data shall be provided at no cost beyond the initial cost of production and shall be made available to such entities permanently.

(c) Local school systems shall consult and receive approval from the primary law enforcement agency serving and supporting the district These shall include, but are not limited to county, city, or municipal police departments, or Sheriff's Department, prior to procurement to ensure school mapping data meets the requirements in this section.

(d) Subject to available funding each county board of education may receive not greater than $4500 per school for the purposes set out in this section.

(e) The school safety mapping requirements of this section shall be effective on September 1, 2026.

(f) Any data obtained and maintained pursuant to the provisions of this section shall not be subject to disclosure pursuant to the provisions of §29B-1-1 *et seq.* of this code.

CHAPTER 102

(Com. Sub. for H. B. 3209 - By Delegates Statler, Brooks, Criss, Ellington, Heckert, Cooper, Campbell, Stephens, Vance, Dittman, and Hanshaw (Mr. Speaker))

[Passed April 12, 2025; in effect 90 days from passage, July 1, 2025]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §18-5-18b of the Code of West Virginia, 1931, as amended, relating to requiring each county to employ two school counselors to each 1,000 students to net enrollment; clarifying that requirement cannot be construed to increase the number of eligible professional student support personnel positions to each 1,000 students in net enrollment provided for under the public school support program; and allowing counties to follow certain counselor to student ratios.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18b. School counselors in public schools.

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with §18A-1-1 of this code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional, and physical needs; including programs to identify and address the problem of potential school dropouts. The

school counselor also may provide consultant services for parents, teachers, and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American School Counselor Association. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel, shall spend at least 80 percent of work time in a direct counseling relationship with pupils, and shall devote no more than 20 percent of the workday to administrative activities: *Provided*, That such activities are directly related to their counseling duties: *Provided further*, That school counselors may not perform the following duties without a written agreement:

(1) Administering cognitive, aptitude, and achievement testing programs: *Provided*, That school counselors may administer make up tests and any tests that are required for virtual students, should no other person be available to administer the test;

(2) Routinely signing excuses for students who are tardy or absent;

(3) Performing disciplinary actions or assigning discipline consequences;

(4) Routinely covering classes when teachers are absent or to create teacher planning time;

(5) Maintaining student records: *Provided*, That school counselors may have access to student records;

(6) Computing grade-point averages: *Provided*, That school counselors may compute grade-point averages for the purpose of determining a student's eligibility for scholarships or post-secondary goals;

(7) Routinely supervising classrooms or common areas;

(8) Keeping clerical records: *Provided*, That school counselors may access clerical records;

(9) Coordinating Individual Education Plans: *Provided*, That this does not preclude school counselors from otherwise participating in Individual Education Plans when appropriate;

(10) Coordinating 504 Plans: *Provided*, That this does not preclude school counselors from otherwise participating in 504 Plans when appropriate; and

(11) Coordinating Student Assistance Teams: *Provided*, That this does not preclude school counselors from otherwise participating in Student Study Teams when appropriate.

(g) Beginning with the 2024—25 school year, school counselors shall participate in the training set forth below.

(1) At least once every two years, school counselors serving students in grades Pre-K through 12 shall participate in the School Counselors Conference, which shall address the following components:

(A) Career Counseling and Life Planning;

(B) Career awareness;

(C) Career and life planning;

(D) Career and life success;

(E) Opportunities with Career Technical Education available in West Virginia;

(F) Post secondary options;

(G) Academic Counseling and Personalized Planning;

(H) Academic motivation;

(I) Goal setting;

(J) Academic scheduling;

(K) Personalized Education Plans;

(L) Dual credit;

(M) Learning skills;

(N) Personal and Social Counseling;

(O) Decision making;

(P) Personal responsibility;

(Q) Conflict resolution; and

(R) Prevention.

(2) Every two years, school counselors serving students in grades seven through 12 shall receive training regarding building and trades and apprenticeship programs available to students in West Virginia. This training shall be administered by the department of education and provided at no cost to the counselors.

(h) Beginning August 1, 2025, each county shall employ two school counselors to each 1000 students to net enrollment: *Provided*, That this requirement may not be construed to increase the number of eligible professional student support personnel positions to each 1,000 students in net enrollment for which an allowance is required under subdivision (1), subsection (b) of §18-9A-8 of this code. The counties may follow the ratio of one counselor to every 400-450 students in elementary and middle

school and one counselor to every 250-300 students in high school. (i) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

CHAPTER 103

(Com. Sub. for S. B. 50 - By Senators Taylor, Deeds, Oliverio, Willis, Hamilton, and Rucker)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §3-1-29, §3-1-31, and §8-5-5 of the Code of West Virginia, 1931, as amended, relating to requiring municipal elections to be held on the same day as statewide elections; and requiring municipalities to amend existing ordinances or charters or adopt new ordinances or charters to require municipal elections to be held on the same day as statewide elections.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-29. Boards of election officials; definitions, composition of boards, determination of number and type.

(a) For the purpose of this article:

(1) The term "standard receiving board" means those election officials charged with conducting the process of voting within a precinct and consists of no less than five persons, to be comprised as follows:

(A) Each precinct shall have at least one team of poll clerks, one team of election commissioners for the ballot box, and one additional election commissioner; and

(B) At the discretion of the county clerk and county commission, any county may add additional teams of poll clerks and commissioners to any precinct, as necessary to fairly and efficiently conduct an election;

(2) The term "counting board" means those election officials charged with counting the ballots at the precinct in counties using paper ballots and includes one team of poll clerks, one team of election commissioners, and one additional commissioner.

(3) The term "team of poll clerks" or "team of election commissioners" means two persons appointed by opposite political parties to perform the specific functions of the office: *Provided,* That no team of poll clerks or team of election commissioners may consist of two persons with the same registered political party affiliation or two persons registered with no political party affiliation; and

(4) The term "election official trainee" means an individual who is 16 or 17 years of age who meets the requirements of subdivisions §3-1-28(2–6) of this code.

(b) For each primary and general election in the county, the county commission shall designate the number and type of election boards for the various precincts according to the provisions of this section. At least 84 days before each primary and general election the county commission shall notify the county executive committees of the two major political parties in writing of the number of nominations which may be made for poll clerks and election commissioners.

(c) Until July 1, 2032, for each municipal election held at a time when there is no county or state election:

(1) The governing body of the municipality shall perform the duties of the county commission as provided in this section; and

(2) The standard receiving board may, at the discretion of the official charged with the administration of election, consist of as few as four persons, including one team of poll clerks and one team of election commissioners for the ballot box.

§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 all local municipal elections shall be held concurrently with a regularly scheduled statewide primary or general election. In exercising this obligation, a municipality shall 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, which 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 the election at 6:30 in the morning and be closed at 7:30 in the evening.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 5. ELECTION, APPOINTMENT, QUALIFICATION AND COMPENSATION OF OFFICERS; GENERAL PROVISIONS RELATING TO OFFICERS AND EMPLOYEES; ELECTIONS AND PETITIONS GENERALLY; CONFLICT OF INTEREST.

§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 same day and in the same manner as prescribed by §3-1-31 of this code.

(b) Any city, town, or village whose charter requires elections to be held on a day and in a manner that conflicts with §3-1-31 of this code shall amend said charter to make the requirements set forth in §3-1-31 of this code effective by July 1, 2032.

(c) Any municipality which establishes its election date by charter provision shall comply with the provisions of this section.

(d) 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 shall indicate that the officers 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 shall indicate that the officers shall be elected for four-year terms if the proposition is approved.

(e) Municipalities may 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 shall be approved by a majority of the voters.

(f) By July 1, 2032, any municipality that has not previously adopted a municipal charter shall 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.

(g) The ordinance proposed pursuant to paragraph (f) 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.

(h) Municipalities are required to share in the administrative costs of holding elections with county commissions, but those 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 104

(Com. Sub. for S. B. 486 - By Senators Woodrum and Oliverio)

[Passed March 19, 2025; in effect 90 days from passage (June 17, 2025)]
[Approved by the Governor on March 26, 2025.]

AN ACT to amend and reenact §3-1-3 of the Code of West Virginia, 1931, as amended, relating to eligibility requirements to vote in West Virginia elections; describing eligibility requirements for persons to vote, including citizenship, age, and residency requirements; providing guidance on persons deemed ineligible to vote; providing for restoration of voting rights in certain circumstances; and clarifying when a person convicted of a disqualifying crime is not permitted to vote.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-3. Persons entitled to vote.

(a) Citizens of the state may vote at all elections held within the precincts of the counties and municipalities in which they respectively reside, but a person may not vote in a federal, state, county, municipal, or special election unless the person:

(1) Is registered to vote as required by law;

(2) Is 18 years of age, except that a person may vote in a primary election if he or she will reach the age of 18 years on or before the date of the next general election held after the primary election;

(3) Has not been determined by a final judgment of a circuit court exercising jurisdiction pursuant to §44A-1-2(c) of this code to be totally mentally incompetent.

(4) Has not been convicted of treason, a felony, or bribery in an election or, if convicted, has:

(A) Had his or her sentence fully discharged, including any term of incarceration, parole, supervision, or period of probation ordered by any court; or

(B) Been pardoned or otherwise formally released from the resulting disability to vote;

(5) Is a United States citizen; and

(6) Is a bona fide resident of the state, county, or municipality in which he or she offers to vote.

(b) For purposes of §3-1-3 (a)(3), a person is requalified to vote upon certification in writing by the clerk of the circuit court of an order or other official determination filed with his or her office that the person is no longer totally mentally incompetent: *Provided*, That a copy of the order or other official determination shall not be provided without further order by a court of competent jurisdiction or written permission signed by the person to whom the order or official determination pertains.

(c) For purposes of §3-1-3 (a)(4):

(1) A person convicted of a disqualifying crime may not vote from the date of adjudication of that crime, notwithstanding any pending sentencing order, post-trial motions, direct appeals, or other post-conviction requests for relief; and

(2) A person is not considered to have been convicted of a disqualifying crime where the criminal proceedings are deferred and there is no adjudication of guilt as to the disqualifying crime.

CHAPTER 105

(Com. Sub. for S. B. 487 - By Senator Woodrum)

[Passed March 17, 2025; in effect 90 days from passage (June 15, 2025)]
[Approved by the Governor on March 25, 2025.]

AN ACT to amend and reenact §3-2-25 of the Code of West Virginia, 1931, as amended, relating to systematic purging program and additional systematic confirmation procedure for the removal of ineligible voters from active voter rolls; removing obsolete reference to combined voter registration and licensing fund; and decreasing the period of voting inactivity from four to two years.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-25. Systematic purging program for removal of ineligible voters from active voter registration files; comparison of data records; confirmation notices; public inspection list.

(a) The systematic purging program provided in this section shall begin no earlier than October 1 of each odd-numbered year and shall be completed no later than February 1 of the following year. The clerk of the county commission shall transmit, or mail to the Secretary of State, a certification that the systematic purging program has been completed and all voters identified as no longer eligible to vote have been canceled in the statewide voter registration database in accordance with the law no later than February 15 in the year in which the purging program is completed.

(b) The Secretary of State shall provide for the comparison of data records of all counties. The Secretary of State shall, based on the comparison, prepare a list for each county which shall include

the voter registration record for each voter shown on that county's list who appears to have registered or to have updated a voter registration in another county at a subsequent date. The resulting lists shall be returned to the appropriate county and the clerk of the county commission shall proceed with the confirmation procedure for those voters as prescribed in §3-2-26 of this code.

(c) The Secretary of State may provide for the comparison of data records of counties with the data records of the Division of Motor Vehicles, the registrar of vital statistics, and with the data records of any other state agency which maintains records of residents of the state, if the procedure is practical and the agency agrees to participate. Any resulting information regarding potentially ineligible voters shall be returned to the appropriate county and the clerk of the county commission shall proceed with the confirmation procedure as prescribed in §3-2-26 of this code.

(d) The records of all voters not identified pursuant to the procedures set forth in subsections (b) and (c) of this section shall be combined for comparison with United States Postal Service change of address information, as described in section 8(c)(A) of the National Voter Registration Act of 1993 (42 U. S. C.§1973gg, *et seq.*). The Secretary of State shall contract with an authorized vendor of the United States Postal Service to perform the comparison. The cost of the confirmation notices, labels, and postage shall be paid for by the counties.

(e) The Secretary of State shall return to each county the identified matches of the county voter registration records and the postal service change of address records.

(1) When the change of address information indicates the voter has moved to a new address within the county, the clerk of the county commission shall enter the new address on the voter record and assign the proper precinct.

(2) The clerk of the county commission shall then mail to each voter who appears to have moved from the residence address shown on the registration records a confirmation notice pursuant to §3-2-26 of this code and of section 8(d)(2) of the National Voter

Registration Act of 1993 (42 U. S. C.§1973gg, *et seq*.). The notice shall be mailed, no later than December 31, to the new address provided by the postal service records or to the old address if a new address is not available.

(f) The clerk of the county commission shall indicate in the statewide voter registration database the name and address of each voter to whom a confirmation notice was mailed and the date on which the notice was mailed.

(g) Upon receipt of any response or returned mailing sent pursuant to the provisions of subsection (e) of this section, the clerk shall immediately enter the date and type of response received in the statewide voter registration database and shall then proceed in accordance with the provisions of §3-2-26 of this code.

(h) For purposes of complying with the recordkeeping and public inspection requirements of the National Voter Registration Act of 1993 (42 U. S. C.§1973gg, *et seq*.), and with the provisions of §3-2-27 of this code, the public inspection lists shall be maintained either: (1) In printed form kept in a binder prepared for such purpose and available for public inspection during regular business hours at the office of the clerk of the county commission; or (2) in read-only data format available for public inspection on computer terminals set aside and available for regular use by the general public. Information concerning whether or not each person has responded to the notice shall be entered into the statewide voter registration database upon receipt and shall be available for public inspection as of the date the information is received.

(i) Any voter to whom a confirmation notice was mailed pursuant to the provisions of subsection (e) of this section who fails to respond to the notice, or to update his or her voter registration address by February 1 immediately following the completion of the program, shall be designated inactive in the statewide voter registration database. Any voter designated inactive shall be required to affirm his or her current residence address on a form prescribed by the Secretary of State, upon appearing at the polls to vote.

(j) In addition to the preceding purging procedures, all counties using the change of address information of the United States Postal Service shall also, once each four years during the period established for systematic purging in the year following a presidential election year, conduct the same procedure by mailing a confirmation notice to those persons not identified as potentially ineligible through the change of address comparison procedure but who have not updated their voter registration records and have not voted in any election during the preceding two calendar years. The purpose of this additional systematic confirmation procedure shall be to identify those voters who may have moved without filing a forwarding address, moved with a forwarding address under another name, died in another county or state so that the certificate of death was not returned to the clerk of the county commission, or who otherwise have become ineligible.

CHAPTER 106

(S. B. 490 - By Senators Woodrum, Oliverio, Rucker, and Rose)

[Passed March 7, 2025; in effect 90 days from passage (June 5, 2025)]
[Approved by the Governor on March 18, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §3-1-52, relating to prohibiting ranked-choice voting in elections in West Virginia.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-52. Ranked-choice voting prohibited.

(a) Definitions:

"Local government" means any municipality, county, school district, special taxing district, or any other regional or local district or unit of government that is governed by one or more elected officials.

"Ranked-choice voting", "cumulative voting", or "instant-runoff voting" means a method of casting and tabulating votes in which:

(1) Voters rank candidates in order of preference;

(2) Tabulation proceeds in rounds such that in each round either a candidate or candidates are elected or the last-place candidate is defeated;

(3) Votes are transferred from elected or defeated candidates to the voters' next ranked candidate or candidates in order of preference; and

(4) Tabulation ends when a candidate receives the majority of votes cast or the number of candidates elected equals the number of offices to be filled.

(b) No state, county, or local elections office may use ranked choice voting or instant runoff voting to conduct an election or nomination of any candidate in this state for any local government, statewide, or federal elective office.

(c) Any existing or future ordinance enacted or adopted by a county, a municipality, or any other local government entity which is in conflict with this section is void.

CHAPTER 107

(S. B. 492 - By Senators Woodrum and Oliverio)

[Passed March 24, 2025; in effect 90 days from passage (June 22, 2025)]
[Approved by the Governor on April 1, 2025.]

AN ACT to amend and reenact §3-8-4a of the Code of West Virginia, 1931, as amended, relating to elections; and removing outdated provisions governing political committees terminated within three years of the effective date of the amendments made to this section during the regular session of the Legislature, 2002.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-4a. Termination of political committees.

(a) A political committee may terminate by filing a written request, in accordance with the provisions of section four of this article, and by stating in the request that it will no longer receive any contributions or make any disbursements and that it has no outstanding debts or obligations. At such time, any excess funds of the committee may be transferred to a political committee established by the same candidate pursuant to the provisions of §3-8-4 or §3-8-5e of this code.

(b) The provisions of this section may not be construed to eliminate or limit the authority of the Secretary of State, in consultation with the State Election Commission, to establish procedures for: (1) The determination of insolvency with respect to any political committee; (2) the orderly liquidation of an insolvent political committee and the orderly application of its assets for the reduction of outstanding debts; and (3) the termination of an insolvent political committee after such liquidation and application of assets.

CHAPTER 108

(Com. Sub. for Com. Sub. for S. B. 586 - By Senator Garcia)

[Passed April 12, 2025; in effect from passage]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend and reenact §3-10-3, §3-10-4, §3-10-5, §3-10-6, §3-10-7, §3-10-8, §8-5-10, and §50-1-6 of the Code of West Virginia, 1931, as amended, relating to requirements for filling vacancies in certain elected federal, state, county, and municipal offices; prohibiting the appointment of an individual to fill a vacant office if that person has not been a member of his or her registered political party for at least one year prior to the occurrence of the vacancy; providing that process to select candidates to fill state Senate and House of Delegates seats be governed by the party senatorial district executive committee or party delegate district executive committee, or in the case of a single-county senatorial or delegate district, by the county executive party, as applicable for the respective political party; authorizing the Governor to appoint an acting official to perform the duties of a constitutional officer until that office is filled by appointment; filling vacancies in the office of magistrate; providing that vacancies in the office of magistrate with an unexpired term of more than two years are filled by subsequent nonpartisan judicial election held concurrently with the primary or general election, whichever occurs first; excluding vacancies in the office of magistrate from certain other provisions relating to process for filling vacancies; authorizing prospective vacancy due to upcoming resignation or retirement of a magistrate to be filled by circuit judge or chief circuit judge; and requiring generally that partisan office appointments be made from the political party with which the individual vacating the office was affiliated at the time of the previous election for that office.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 10. FILLING VACANCIES.

§3-10-3. Vacancies in offices of state officials, justices, judges, and magistrates.

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, or in any office created or made elective to be filled by the voters of the entire state, is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by §3-10-1 of this code. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint, within five days thereafter, a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election: *Provided*, That any such person appointed by the Governor must have been affiliated with that political party for at least one year prior to the occurrence of the vacancy: *Provided, however*, That the Governor may appoint a temporary acting official in the event of a vacancy in the offices of Secretary of State, Auditor, Treasurer, Attorney General, or Commissioner of Agriculture to carry out the duties of said office until such vacancy is filled by appointment pursuant to this subsection: *Provided further,* That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3(c), §3-10-3(d), and §3-10-3(e) of this code.

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment and, if the unexpired term be for a period of more than three years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of this code. If an election is required under §3-10-3(d) of this code, the Governor, circuit court, or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by §3-10-1 of this code. The amendments to this subsection enacted during the regular session of the Legislature in the year 2022 shall be applicable to any vacancy existing at the date of passage of such amendments.

(c) Any vacancy in the office of magistrate is appointed according to the provisions of §50-1-6 of this code, and, if the unexpired term be for a period of more than two years, by a subsequent nonpartisan judicial election held concurrently with the primary or general election, whichever occurs first, to fill the remainder of the term.

(d)(1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of the circuit court, or judge of a family court, occurs after the 84th day before a general election, and the affected term of office ends on December 31 following the succeeding general election two years later, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election, and if the unexpired term be for a period of greater than three years, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than 84 days before the general election, and if the unexpired term be for a period of greater than three years, the vacancy shall be filled by election in a

nonpartisan judicial election held concurrently with the general election, and the appointment shall continue until a successor is elected and certified: *Provided*, That the provisions of this subsection (d) do not apply to a vacancy in the office of magistrate.

(e) When an election to fill a vacancy is required to be held at the general election, according to the provisions of §3-10-3(d) of this code, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, judge of the family court, or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than 77 days before the general election.

§3-10-4. Vacancies in representation in United States Congress.

(a) (1) If there is a vacancy in the representation from this state in the House of Representatives in the Congress of the United States, the Governor shall, within five days after the fact comes to his or her knowledge, issue a proclamation setting dates for a special general election that is not less than 84 nor more than 120 days from the date of the vacancy and requiring nomination of candidates as provided in §3-10-4(a)(2) of this code: *Provided*, That no such proclamation may be made nor may a special election be held if the vacancy occurs after the 84th day prior to the regularly scheduled general election for a new full term of the office. The election shall follow the requirements of §3-10-1 of this code that are not in conflict with this section.

(2) The party executive committees for the congressional district for which there is a vacancy shall each, within 30 days of the Governor's proclamation, nominate a candidate to stand at the general election required by §3-10-4(a)(1) of this code.

(b) If there is a vacancy in the representation from this state in the Senate of the United States Congress, the vacancy shall be filled by the Governor of the state by appointment. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political

party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint, within five days thereafter, a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office: *Provided,* That any such person appointed by the Governor must have been affiliated with that political party for at least one year prior to the occurrence of the vacancy.

Furthermore,

(1) If the vacancy occurs on or before the primary cutoff date, then an election shall be held pursuant to §3-10-1 of this code; or

(2) If the vacancy occurs after the primary cutoff date, but on or before the general cutoff date, then the Governor shall issue a proclamation providing for: (A) A special filing period; (B) a special primary election to be held in conjunction with the upcoming general election; and (C) a special general election to be held not less than 84 nor more than 120 days following the date of the special primary election. Each election shall follow the requirements of §3-10-1 of this code that are not in conflict with this section.

§3-10-5. Vacancies in state Legislature.

(a) Any vacancy in the office of state senator or member of the House of Delegates shall be filled by appointment by the Governor, from a list of three legally qualified persons submitted by the party senatorial district executive committee or party delegate district executive committee, or, in the case of a single-county senatorial or delegate district, the county executive party, as applicable, of the same political party with which the person holding the office

immediately preceding the vacancy was affiliated at the time of the previous election for that office. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office: *Provided*, That any such person appointed by the Governor must have been affiliated with that political party for at least one year prior to the occurrence of the vacancy.

(b) In the case of a member of the House of Delegates, if the member was elected to a multi-county delegate district, the list shall be submitted by the party executive committee of the delegate district in which the vacating member resided at the time of his or her election or appointment. If the member was elected to a delegate district situated entirely within a single county, the list shall be submitted by the county executive committee in which the vacating member resided at the time of his or her election or appointment. The appointment to fill a vacancy in the House of Delegates is for the unexpired term.

(c) In the case of a state senator, if the member was elected to a multi-county senatorial district, the list shall be submitted by the party executive committee of the state senatorial district in which the vacating senator resided at the time of his or her election or appointment. If the member was elected to a senatorial district situated entirely within a single county, the list shall be submitted by the county executive committee in which the vacating member resided at the time of his or her election or appointment. The appointment to fill a vacancy in the state Senate is for the unexpired term, unless §3-10-1 of this code requires a subsequent election to fill the remainder of the term, which shall follow the procedure set forth in said section.

(d) No person may be appointed to fill a vacancy in the office of state senator or as a member of the House of Delegates who has not for one year preceding the appointment been a resident within the district he or she will represent. Notwithstanding any provision of this code to the contrary, the process to compose and submit the list, which is required to be submitted by the political party under which the person holding the office immediately preceding the vacancy was elected, shall be governed by the rules of the state executive committee of that political party.

§3-10-6. Vacancy in office of circuit court clerk.

(a) When a vacancy occurs in the office of clerk of the circuit court, the circuit court by a majority vote of the judges shall fill the same within thirty days of the vacancy, for the period required by §3-10-1 of this code, by appointment of a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office: *Provided*, That any such person appointed by the circuit court must have been affiliated with that political party for at least one year prior to the occurrence of the vacancy.

(b) Notwithstanding any code provision to the contrary, the chief judge may appoint a temporary successor to the office of clerk of the circuit court until the requirements of this section have been met. The temporary successor may serve no more than 30 days from the date of the vacancy.

(c) If an election is necessary, the circuit court, or the chief judge thereof in vacation, is responsible for the proper proclamation, by order and notice required by section one of this article.

(d) Section one of this article shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in §3-5-19 of this code, as in the case of filling vacancies in nominations, and the

names of the persons, so nominated and certified to the clerk of the county commission of the county, shall be placed upon the ballot to be voted at the next general election.

§3-10-7. Vacancies in offices of county commissioner or councilor and clerk of county commission or council.

(a) Any vacancy in the office of county commissioner or councilor, or clerk of county commission or council shall be filled by appointment by the county commission or council. The appointee for the office of county commissioner or councilor must reside in a magisterial district in which no other member of the county commission or council resides. The appointee for either clerk of the county commission or council, or the office of county commissioner or councilor, must be a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office: *Provided*, That at the time of appointment, the appointee must have been a member of that political party for at least one year prior to the occurrence of the vacancy.

(b) If a quorum of the county commission or council fails to make an appointment within 30 days, the county executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office, shall submit a list of three legally qualified persons to fill the vacancy for a county having three elected commissioners, or shall submit a list of five legally qualified persons to fill the vacancy for a county having five elected commissioners or councilors. Within 15 days from the date on which the list is received, the county commission or council shall appoint a candidate from the list to fill the vacancy.

(1) In a county having three elected county commissioners, if the county commission or council fails to make the appointment within the specified time, then the county commissioner or councilor with the longest tenure shall eliminate one name from the submitted list, followed by the county commissioner or councilor with the second-longest tenure then eliminating one name from the submitted list. The name remaining after those two names have

been eliminated shall be deemed to be appointed by the county commission to fill the vacancy.

(2) In a county having five elected county commissioners or councilors, if the county commission or council fails to make the appointment within the specified time, then the county commissioners or councilors shall strike one name from the list, in turn, in the following order of precedence:

(A)(i) First, all county commissioners or councilors affiliated with the same political party from which the vacating commissioner, councilor, or clerk was elected shall strike a name from the list before those not affiliated with the vacating commissioner, councilor, or clerk's party;

(ii) Second, of the county commissioners or councilors affiliated with the same party from which the vacating commissioner, councilor, or clerk was elected, the commissioner or councilor with the longest tenure shall strike before those with lesser tenure; and

(iii) Third, if there be county commissioners or councilors with equal tenure affiliated with the same party from which the vacating commissioner, councilor, or clerk was elected, a drawing by lot shall be conducted within the timeframe required to fill the vacancy to determine which of them shall eliminate one name from the submitted list before the other commissioner or councilor with equal tenure.

(B) After the county commissioners or councilors affiliated with the same party from which the vacating commissioner, councilor, or clerk was elected make their strikes, the remaining county commissioners or councilors shall follow the same procedure in the same order of precedence provided herein. The name remaining after four names have been eliminated shall be deemed to be appointed by the county commission or council.

(c) If the number of vacancies in a county commission or council deprives that body of a quorum, the Governor shall make an appointment to fill any vacancy in the county commission or

council necessary to create a quorum, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office. The Governor shall make any appointments necessary, beginning with the vacancy first created, to create a quorum in accordance with the same procedures applicable to county commissions and councils under §3-10-7(a) of this code. Once a quorum of the county commission or council is reestablished by gubernatorial appointment, the authority to fill the remaining vacancies shall be filled in the manner prescribed in §3-10-7(a) of this code.

(d) An appointment made pursuant to this section is for the period of time provided in §3-10-1 of this code.

(e) Notwithstanding any code provision to the contrary, a county commission or council may appoint a temporary successor to the office of clerk of the county commission or council until the requirements of this section have been met. The temporary successor may serve no more than 30 days from the date of the vacancy.

(f) If an election is necessary under §3-10-1 of this code, the county commission or council, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by §3-10-1 of this code.

(g) §3-10-1 of this code shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in §3-5-19 of this code, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission or council of the county, shall be placed upon the ballot to be voted at the next general election.

(h) If the election for an unexpired term is held at the same time as the election for a full term for county commissioner or councilor,

the full term shall be counted first and the unexpired term shall be counted second. If the candidate with the highest number of votes for the unexpired term resides in the same magisterial district as the candidate with the highest number of votes for the full term, the candidate for the full term shall be seated. The candidate with the next highest number of votes for the unexpired term residing in a different magisterial district shall be seated for the unexpired term.

§3-10-8. Vacancies in offices of prosecuting attorney, sheriff, assessor, and surveyor.

(a) Any vacancy occurring in the office of prosecuting attorney, sheriff, assessor, or county surveyor shall be filled by the county commission within 30 days of the vacancy by appointment of a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for the office. The appointee must have been a member of that political party for at least one year prior to the occurrence of the vacancy. The appointed person shall hold the office for the period stated by section one of this article.

(b) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of prosecuting attorney, sheriff, assessor or county surveyor until the requirements of this section have been met. The temporary successor may serve no more than 30 days from the date of the vacancy.

(c) If an election is necessary under section one of this article, the county commission, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by section one of this article.

(d) Section one of this article shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in §3-5-19 of this code, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the

county commission of the county, shall be placed upon the ballot to be voted at the next general election.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 5. ELECTION, APPOINTMENT, QUALIFICATION AND COMPENSATION OF OFFICERS; GENERAL PROVISIONS RELATING TO OFFICERS AND EMPLOYEES; ELECTIONS AND PETITIONS GENERALLY; CONFLICT OF INTEREST.

§8-5-10. Vacancies in elective offices; how filled.

Unless otherwise provided by charter provision or ordinance, when a vacancy shall occur from any cause in any municipal elective office, the vacancy, until the next succeeding regular municipal election and until the qualification of an elected successor, shall be filled by appointment by the governing body from among the residents of the municipality eligible under this article, with a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election: *Provided*, That any such person appointed must have been affiliated with that political party for at least one year prior to the occurrence of the vacancy.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-6. Vacancy in office of magistrate.

(a) Subject to the provisions of §3-10-1 of this code, when a vacancy occurs in the office of magistrate, or upon the formal announcement by letter to the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, of an upcoming resignation or retirement that will result in the occurrence of a vacancy in the office of magistrate, including resignation of a magistrate-elect following the election of such magistrate-elect but prior to the magistrate-elect taking office in the

term for which he or she has most recently been elected, such judge or chief judge shall fill the same by appointment.

(b) At a nonpartisan judicial election in which a magistrate is elected for an unexpired term, the circuit judge, or the chief judge thereof if there is more than one judge of the circuit court, shall cause a notice of such election to be published prior to such 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 county involved.

CHAPTER 109

(H. B. 2709 - By Delegates Akers, Crouse, Leavitt, Petitto, Shamblin, Hall, Drennan, Jeffries, J. Cannon, and Hornby)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §3-1-41, §3-2-31, and §3-3-3 of the Code of West Virginia, 1931, as amended, relating to permitting a voter with a change of address within the same county to vote in his or her new precinct under certain circumstances without having to cast a provisional ballot.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-41. Challenged and provisional voter procedures; counting of provisional voters' ballots; ballots of election officials.

(a) It is the duty of the members of the receiving board, jointly or severally, to challenge the right of any person requesting a ballot to vote in any election:

(1) If the person's registration record is not available at the time of the election;

(2) If the signature written by the person in the poll book does not correspond with the signature purported to be his or hers on the registration record;

(3) If the registration record of the person indicates any other legal disqualification;

(4) If the person fails to present a valid identifying document pursuant to section 34 of this article; or

(5) If any other valid challenge exists against the voter pursuant to section 10, article three of this chapter.

(b) Any person challenged shall nevertheless be permitted to vote in the election. He or she shall be furnished an official ballot not endorsed by the poll clerks. In lieu of the endorsements, the poll clerks shall complete and sign an appropriate form indicating the challenge, the reason therefor, and the name or names of the challengers. The form shall be securely attached to the voter's ballot and deposited together with the ballot in a separate box or envelope marked "provisional ballots".

(c) At the time that an individual casts a provisional ballot, the poll clerk shall give the individual written information stating that an individual who casts a provisional ballot will be able to ascertain under the free access system established in this section whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted.

(d) Before an individual casts a provisional ballot, the poll clerk shall provide the individual written instructions, supplied by the board of ballot commissioners, stating that if the voter is casting a ballot in the incorrect precinct, the ballot cast may not be counted for that election: *Provided,* That if the voter is found to be in the incorrect precinct, then the poll worker shall attempt to ascertain the appropriate precinct for the voter to cast a ballot and immediately give the voter the information if ascertainable.

(e) Provisional ballots may not be counted by the election officials. The county commission shall, on its own motion, at the time of canvassing of the election returns, sit in session to determine the validity of any challenges according to the provisions of this chapter. If the county commission determines that the challenges are unfounded, each provisional ballot of each challenged voter, if otherwise valid, shall be counted and tallied together with the regular ballots cast in the election. The county commission, as the board of canvassers, shall protect the privacy

of each provisional ballot cast. The county commission shall disregard technical errors, omissions or oversights if it can reasonably be ascertained that the challenged voter was entitled to vote.

(f) Any person duly appointed as an Election Commissioner or clerk under the provisions of section 28 of this article who serves in that capacity in a precinct other than the precinct in which the person is legally entitled to vote may cast a provisional ballot in the precinct in which the person is serving as a commissioner or clerk. The ballot is not invalid for the sole reason of having been cast in a precinct other than the precinct in which the person is legally entitled to vote. The county commission shall record the provisional ballot on the voter's permanent registration record: *Provided,* That the county commission may count only the votes for the offices that the voter was legally authorized to vote for in his or her own precinct.

(g) The Secretary of State shall establish a free access system, which may include a toll-free telephone number or an Internet website, that may be accessed by any individual who casts a provisional ballot to discover whether his or her vote was counted and, if not, the reason that the vote was not counted.

(h) During the early in-person voting period, and in the case of a voter’s address change within the county, the voter may vote in the precinct serving their new address without casting a provisional ballot if the voter shows proof of new address and the change is completed in the state-wide voter registration system by the county clerk prior to canvass.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-31. Rules pertaining to voting after registration or change of address within the county.

(a) A voter who designates a political affiliation with a major party on a registration application filed no later than the close of voter registration before the primary may vote the ballot of that political party in the primary election. Political parties, through the

official action of their state executive committees, shall be permitted to determine whether unaffiliated voters or voters of other parties shall be allowed to vote that party's primary election ballot upon request.

(b) A voter whose registration record lists one residence address but the voter has since moved to another residence address within the precinct shall be permitted to update the registration at the polling place and vote without challenge for that reason.

(c) A voter whose registration record lists one residence address but the voter has since moved to another residence address in a different precinct in the same county shall be permitted to update the registration at the polling place serving the new precinct. The voter shall be permitted to vote as follows:

(1) The voter may cast a challenged or provisional ballot at the new polling place if the voter's registration is found on the registration records within the county during the canvass and no other challenge of eligibility was entered on election day, the challenge shall be removed and the ballot shall be counted;

(2) During the early in-person voting period, the voter may vote in the precinct serving their new address without casting a provisional ballot if the voter shows proof of new address and the change is completed in the state-wide voter registration system by the county clerk prior to canvass.

(d) A voter whose registration record has been placed on an inactive status or transferred to an inactive file and who has not responded to a confirmation notice sent pursuant to the provisions of section 24, 25, or 26 of this article and who offers to vote at the polling place where he or she is registered to vote shall be required to affirm his or her present residence address under penalty of perjury, as provided in section 36 of this article.

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-3. Early voting in person.

(a) The voting period for early in-person voting is to be conducted during regular business hours beginning on the 13th day before the election and continuing through the third day before the election. Additionally, early in-person voting is to be available from 9:00 a.m. to 5:00 p.m. on Saturdays during the early voting period.

(b) Any person desiring to vote during the period of early in-person voting shall, upon entering the election room, clearly state his or her name and residence to the official or representative designated to supervise and conduct absentee voting. If that person is found to be duly registered as a voter in the precinct of his or her residence, he or she is required to sign his or her name in the space marked "signature of voter" on the pollbook. If the voter is unable to sign his or her name due to illiteracy or physical disability, the person assisting the voter and witnessing the mark of the voter shall sign his or her name in the space provided. A ballot may not be given to the person until he or she signs his or her name on the pollbook.

(c) When the voter's signature or mark is properly on the pollbook, two qualified representatives of the official designated to supervise and conduct absentee voting shall sign their names in the places indicated on the back of the official ballot.

(d) If the official designated to supervise and conduct absentee voting determines that the voter is not properly registered in the precinct where he or she resides, the clerk or his or her representative shall challenge the voter's absentee ballot as provided in this article: *Provided*, That the clerk or his or her representative may not challenge the voter’s absentee ballot if the voter has had an address change within the county, shows proof of new address, and the address change is completed in the state-wide voter registration system by the county clerk prior to canvass.

(e) The official designated to supervise and conduct absentee voting shall provide each person voting an absentee ballot in person the following items to be printed as prescribed by the Secretary of State:

(1) In counties using paper ballots, one of each type of official absentee ballot the voter is eligible to vote, prepared according to law;

(2) In counties using punch card systems, one of each type of official absentee ballot the voter is eligible to vote, prepared according to law, and a gray secrecy envelope;

(3) In counties using optical scan systems, one of each type of official absentee ballot the voter is eligible to vote, prepared according to law, and a secrecy sleeve; or

(4) For direct recording election systems, access to the voting equipment in the voting booth.

(f) The voter shall enter the voting booth alone and there mark the ballot: *Provided,* That the voter may have assistance in voting according to the provisions of section four of this article. After the voter has voted the ballot or ballots, the absentee voter shall: Place the ballot or ballots in the gray secrecy envelope and return the ballot or ballots to the official designated to supervise and conduct the absentee voting: *Provided, however,* That in direct recording election systems, once the voter has cast his or her ballot, the voter shall exit the polling place.

(g) Upon receipt of the voted ballot, representatives of the official designated to supervise and conduct the absentee voting shall:

(1) Remove the ballot stub;

(2) Place punch card ballots and paper ballots into one envelope which shall not have any marks except the precinct number and seal the envelope; and

(3) Place ballots for all voting systems into a ballot box that is secured by two locks with a key to one lock kept by the president of the county commission and a key to the other lock kept by the county clerk

CHAPTER 110

(Com. Sub. for H. B. 3016 - By Delegates Moore, Akers, Jeffries, Rohrbach, B. Smith, Street, Phillips, Holstein, Funkhouser, Riley, and McGeehan)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §3-1-34 of the Code of West Virginia, 1931, as amended, all relating to identification required for voting; modifying the types of valid identifying documents by requiring a photograph on the identification presented by the voter; providing exception to requirement that valid identifying document contain photograph; eliminating certain types of identification as a valid identifying document for purposes of voting; and permitting use of an expired identifying document under certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-34. Voting procedures generally; identification; assistance to voters; voting records; penalties.

(a) A person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the person's name and residence in a clear and distinct tone of voice. The person desiring to vote shall present to one of the poll clerks a valid identifying document meeting the requirements of §3-1-34(a)(1) or §3-1-34(a)(2) of this code, and the poll clerk shall inspect and confirm that the name on the valid identifying document conforms to the name in the individual's voter registration record and that, if the valid identifying document contains a photograph, the image

displayed is truly an image of the person presenting the document. If that person is found to be duly registered as a voter at that precinct, he or she shall sign his or her name in the designated location provided at the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under the affixation. A ballot may not be given to the person until he or she signs his or her name on the designated location or his or her signature is affixed thereon.

(1) A document is a valid identifying document if it:

(A) Has been issued either by the State of West Virginia, one of its political subdivisions or instrumentalities, or by the United States Government;

(B) Contains the name of the person desiring to vote; and

(C) Contains a photograph of the person desiring to vote: *Provided,* That a driver's license or identification card issued in accordance with §17B-2-1(f)(4) of this code that does not contain a photograph of the person desiring to vote is a valid identifying document.

(2) Notwithstanding the provisions of §3-1-34(a)(1) of this code, the following documents, if they contain the voter's name, shall be considered valid identifying documents, and a person desiring to vote may produce any of the following:

(A) A valid West Virginia driver's license or valid West Virginia identification card issued by the West Virginia Division of Motor Vehicles, including a driver's license or identification card issued in accordance with §17B-2-1(f)(4) of this code.

(B) A valid driver's license issued by a state other than the State of West Virginia;

(C) A valid United States passport or passport card;

(D) A valid employee identification card with a photograph of the eligible voter issued by any branch, department, agency, or entity of the United States Government or of the State of West Virginia, or by any county, municipality, board, authority, or other political subdivision of West Virginia;

(E) A valid student identification card with a photograph of the eligible voter issued by an institution of higher education in West Virginia, or a valid high school identification card issued by a West Virginia high school;

(F) A valid military identification card issued by the United States with a photograph of the person desiring to vote; or

(G) A valid voter registration card that includes the voter's photograph issued by a county clerk in the State of West Virginia or the Secretary of State. The county clerk or the Secretary of State may not charge or collect a fee for the application or issuance of a voter registration card that includes the voter's photograph.

(3) Any expired document identified in §3-1-34(a)(2) of this code is a valid identifying document if presented by a registered voter 65 years of age or older: *Provided,* That the identifying document was not expired on the registered voter's 65th birthday.

(4) In lieu of providing a valid identifying document, as required by this section, a registered voter may be accompanied at the polling place by an adult known to the registered voter for at least six months. That adult may sign an affidavit on a form provided to clerks and poll workers by the Secretary of State, which states under oath or affirmation that the adult has known the registered voter for at least six months, and that in fact the registered voter is the same person who is present for the purpose of voting. For the affidavit to be considered valid, the adult shall present a valid identifying document with his or her name, address, and photograph.

(5) A poll worker may allow a voter, whom the poll worker has known for at least six months, to vote without presenting a valid identifying document.

(6) If the person desiring to vote is unable to furnish a valid identifying document, or if the poll clerk determines that the proof of identification presented by the voter does not qualify as a valid identifying document, the person desiring to vote shall be permitted to cast a provisional ballot after executing an affidavit affirming his or her identity pursuant to §3-1-34(a)(6)(B) of this code.

(A) The provisional ballot may be counted once the election authority verifies the identity of the individual by comparing that individual's signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

(B) The affidavit to be used for voting shall be substantially in the following form:

"State of West Virginia

County of.....

I do solemnly swear (or affirm) that my name is .....; that I reside at.....; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this..... day of ....., 20....

.....

Name of Election Official

.....

Signature of Election Official".

(7) A voter who votes in person at a precinct polling place that is located in a building which is part of a state licensed care facility where the voter is a resident is not required to provide proof of identification as a condition before voting in an election.

(8) The person entering voter information into the centralized voter registration database shall cause the records to indicate when a voter has not presented a valid identifying document and has executed a voter identity affidavit.

(9) If a voter participating in the Address Confidentiality Program established by §48-28A-103 of this code, executes a voter identity affidavit, the program participant's residential or mailing address is subject to the confidentiality provisions of §48-28A-108 of this code and shall be used only for those statutory and administrative purposes authorized by this section.

(10) The Secretary of State shall educate voters about the requirement to present a valid identifying document and develop a program to help ensure that all eligible voters are able to obtain a valid identifying document.

(b) The clerk of the county commission may, upon verification that the precinct at which a handicapped person is registered to vote is not handicap accessible, transfer that person's registration to the nearest polling place in the county which is handicap accessible. A request by a handicapped person for a transfer of registration must be received by the county clerk no later than 30 days prior to the date of the election. A handicapped person who has not made a request for a transfer of registration at least 30 days prior to the date of the election may vote a provisional ballot at a handicap accessible polling place in the county of his or her registration. If during the canvass the county commission determines that the person had been registered in a precinct that is not handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped person may vote in the precinct to which the registration was transferred only as long as the disability exists or the precinct from which the handicapped person was transferred remains inaccessible to the handicapped. To ensure confidentiality of the transferred ballot, the county clerk processing the ballot shall

provide the voter with an unmarked envelope and an outer envelope designated "provisional ballot/handicapped voter". After validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed with other approved provisional ballots prior to removal of the ballot from the unmarked envelope.

(c) When the voter's signature is properly marked and the voter has presented a valid identifying document, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side. The voter shall then retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in §3-6-5 of this code.

(d) A poll clerk shall, in the presence of the other poll clerk, indicate by a check mark, or by other means, inserted in the appropriate place on the registration record of each voter the fact that the voter voted in the election. In primary elections the clerk shall also insert on the registration record of each voter a distinguishing initial or initials of the political party for whose candidates the voter voted. If a person is challenged at the polls, the challenge shall be indicated by the poll clerks on the registration record, together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county commission.

(e) (1) A voter may not receive any assistance in voting unless, by reason of blindness, disability, advanced age, or inability to read and write, that voter is unable to vote without assistance. Any voter qualified to receive assistance in voting may:

(A) Declare his or her choice of candidates to an Election Commissioner of each political party who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner provided in this section and, on request, shall read to the voter the names of the candidates selected on the ballot;

(B) Require the Election Commissioners to indicate to him or her the relative position of the names of the candidates on the ballot. The voter shall then retire to one of the booths or compartments to prepare his or her ballot in the manner provided in this section;

(C) Be assisted by any person of the voter's choice, other than the voter's present or former employer or agent of that employer, the officer or agent of a labor union of which the voter is a past or present member or a candidate on the ballot or an official write-in candidate; or

(D) If he or she is handicapped, vote from an automobile outside the polling place or precinct by the absentee balloting method provided in §3-3-5(e) of this code in the presence of an Election Commissioner of each political party if all of the following conditions are met:

(i) The polling place is not handicap accessible; and

(ii) Voters are not voting or waiting to vote inside the polling place.

(2) The voted ballot shall then be returned to the precinct officials and secured in a sealed envelope to be returned to the clerk of the county commission with all other election materials. The ballot shall then be tabulated using the appropriate method provided in §3-1-8 of this code as it relates to the specific voting system in use.

(3) A voter who requests assistance in voting but who is believed not to be qualified for assistance under the provisions of this section shall be permitted to vote a provisional ballot with the assistance of any person authorized in this section to render assistance.

(4) One or more of the Election Commissioners or poll clerks in the precinct may challenge the ballot on the ground that the voter received assistance in voting if when in his, her or their opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such advanced age as to have been unable to vote without assistance. The Election Commissioner or poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and the reason for such challenge on the form and in the manner prescribed or authorized by §3-3-1 *et seq.* of this code.

(5) An Election Commissioner or other person who assists a voter in voting:

(A) May not in any manner request or seek to persuade or induce the voter to vote a particular ticket or for a particular candidate or for or against any public question and shall not keep or make any memorandum or entry of anything occurring within the voting booth or compartment and shall not, directly or indirectly, reveal to any person the name of a candidate voted for by the voter, which ticket he or she had voted, how he or she had voted on any public question, or anything occurring within the voting booth, compartment, or voting machine booth except when required by law to give testimony as to the matter in a judicial proceeding; and

(B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed by the Secretary of State stating that he or she will not override the actual preference of the voter being assisted, attempt to influence the voter's choice, or mislead the voter into voting for someone other than the candidate of voter's choice. The person assisting the voter shall also swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation. There is no requirement that a person providing assistance to a voter is required to sign an oath or affirmation where the reason for requesting assistance is the voter's inability to vote without assistance because of blindness as defined in §5-15-3 of this code and the inability to vote without assistance because of blindness is certified in writing by a physician of the voter's choice and is on file in the office of the clerk of the county commission.

(6) In accordance with instructions issued by the Secretary of State, the clerk of the county commission shall provide a form entitled "list of assisted voters", on a form as prescribed by the Secretary of State. The commissioners shall enter the name of each voter receiving assistance in voting the ballot, together with the poll slip number of that voter and the signature of the person or the commissioner from each party who assisted the voter. If no voter has been assisted in voting, the commissioners shall make and subscribe to an oath of that fact on the list.

(f) After preparing the ballot, the voter shall fold the ballot so that the face is not exposed and the names of the poll clerks on it are seen. The voter shall announce his or her name and present his or her ballot to one of the commissioners who shall hand the ballot to another commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the official one and properly signed. The Commissioner of Election may inspect every ballot before it is deposited in the ballot box to ascertain whether it is single, but without unfolding or unrolling it so as to disclose its content. When the voter has voted, he or she shall retire immediately from the election room and beyond the 60-foot limit and not return except by permission of the commissioners.

(g) Following the election, the oaths or affirmations required by this section from those assisting voters, together with the "list of assisted voters", shall be returned by the Election Commissioners to the clerk of the county commission along with the election supplies, records, and returns. The clerk of the county commission shall make the oaths, affirmations, and list available for public inspection and preserve them for a period of 22 months or until disposition is authorized or directed by the Secretary of State or court of record. The clerk may use these records to update the voter registration records in accordance with §3-2-18(d) of this code.

(h) Any person making an oath or affirmation required under the provisions of this section who knowingly swears falsely or any person who counsels, advises, aids, or abets another in the commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more

than $1,000 or confined in jail for a period of not more than one year, or both fined and confined.

(i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to require assistance in voting, is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned in a state correctional facility for a period of not less than one year nor more than five years, or both fined and imprisoned.

CHAPTER 111

(Com. Sub. for H. B. 2013 - By Delegates Hanshaw (Mr. Speaker) and Hornbuckle)

(By Request of the Executive)

[Passed April 8, 2025; in effect July 1, 2025]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §5F-2-9, relating to exempting new hires and employees who leave their positions within the Bureau of Senior Services, Department of Administration, Department of Environmental Protection, Department of Revenue, and Department of Veterans' Assistance from the classified civil service system and the state grievance procedures beginning on July 1, 2025; making legislative finding; providing that as of July 1, 2025, any new hire and any employee who leaves his or her position will be exempt from the classified civil service system and from the state grievance procedures; providing that any employee who is currently covered by civil service system and who currently has access to the state grievance procedures will continue to be covered and have access, so long as he or she remains in his or her current position; providing that chief administrative officers of bureau and departments may designate certain employees' status within the civil service system in order to comply with federal law or receive federal funds; and clarifying that this section does not affect any other employee protections found elsewhere in code.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-9. Transfer of New Hires and Promoted Employees Within the Bureau of Senior Services and Certain Departments to Classified Exempt System.

(a) The Legislature hereby finds that to attract and retain employees in the Bureau of Senior Services, Department of Administration, Department of Environmental Protection, Department of Revenue, and Department of Veterans' Assistance, the chief administrative officers of this bureau and these departments, and heads of the agencies, boards, and commissions therein require additional flexibility in the promotion, transfer, layoff, removal, discipline, and compensation of state employees within this bureau and these departments.

(b) Notwithstanding any provision of this code or any rule to the contrary, beginning on July 1, 2025, all employees of the Bureau of Senior Services, Department of Administration, Department of Environmental Protection, Department of Revenue, and Department of Veterans' Assistance shall be exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from the classified civil service system under §29-6-1 *et seq.* of this code except that:

(1) All employees of the Bureau of Senior Services, Department of Administration, Department of Environmental Protection, Department of Revenue, and Department of Veterans' Assistance who are currently members of the classified civil service system shall retain their status as long as they remain in their current position;

(2) All employees of this bureau and these departments who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(3) Any employee of this bureau and these departments that leaves his or her position and remains an employee within this bureau or any of these departments shall, at that time, be transferred to the classified exempt service system as defined in §29-6-2(g) of

this code and be exempted from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code.

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

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

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

CHAPTER 112

(Com. Sub. for H. B. 2014 - By Delegates Hanshaw (Mr. Speaker), Riley, Fehrenbacher, Anderson, Zatezalo, Akers and Hornbuckle)

(By Request of the Executive)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §5B-2-21, §24-2-1d, §24-2-1q, §24- 2-15, §24-2-19, and §24-2-21a of the Code of West Virginia, 1931, as amended; to amend the code by adding four new sections, designated §5B-2-21a, §5B-2-21b, §5B-2N-2a, and §11B-2- 33, and to amend the code by adding a new article, designated §11-6N-1, §11-6N-2, §11-6N-3, §11-6N-4, and §11-6N-5, all relating to the generation and consumption of electric power; establishing the certified microgrid development program; providing for microgrid certification requirements; providing for microgrid electric service requirements; providing for microgrid customer eligibility; providing for microgrid special contracts; prohibiting microgrids from participating in Pilot and tax increment financing programs; defining microgrid property subject to property tax; providing for microgrid letter of intent, notice period and negotiation; providing for microgrid special contracts; establishing the high impact data center program; providing for notification, certification, and recordkeeping; authorizing certain agencies to assist certified microgrid districts and certified high impact data centers; prohibiting local jurisdiction regulation of microgrid districts and high impact data centers; providing for payment of certain fees and taxes; providing for certain services to microgrid districts and certified high impact data centers; establishing the electric grid

stabilization and security fund and its purpose; creating new article relating to special method for valuation of certain high technology property; defining terms; providing for microgrid districts and certified high impact data centers property returns to be filed with Board of Public Works; providing for special rules for tax distribution; establishing certain funds to receive distributions; terminating article; establishing the personal income tax reduction fund and providing for purpose; providing for additional duties of public service commission 2 relating to future electric generating capacity, base fuel coal supply for electric grid resiliency, consumer rate relief bonds, and automatic adjustment clauses, price indexes, or fuel adjustment; providing for rulemaking; and providing that certain funds may not be used by a public utility to close or cease operations at an electric generating plant.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-21. Certified Microgrid Development Program.

(a) *Program established*. — The Certified Microgrid Development Program is hereby created and is to be administered as a program within the Division of Economic Development to encourage the continued development, construction, operation, maintenance, and expansion in West Virginia of high impact i plants and facilities, in certain circumstances where the availability of electricity generated is demonstrated to be necessary. In order to effectuate the purposes of this section, the Division of Economic Development, or any agency, division, or subdivision thereof, may propose for promulgation of legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

(b) *District certification*. — The Secretary of the Department of Commerce may identify and certify microgrid districts in this state upon a finding that the following requirements are met:

(1) Certification of the microgrid district and location of new or expanded businesses within the microgrid district will have a significant and positive economic impact on the state;

(2) Certification of the microgrid district is necessary to attract at least two businesses to locate or expand in this state;

(3) The area to be certified as a microgrid district shall be no greater than 2,250 acres and nearly contiguous;

(4) The electricity generated within the microgrid district will be used only within the microgrid district or delivered to the wholesale market;

(5) The information described in §5B-2-21(h) of this code has been provided to the Department of Commerce;

(6) The requirements of §5B-2-21(i) of this code have been satisfied; and

(7) The requirements of §5B-2-21(b)(5) and (6) of this code may not apply to microgrid districts certified on or before January 1, 2024;

(8) The requirements of subsections (d), (e), (g), (h), and (j) of this section enacted during the regular session of the Legislature, 2025, shall not apply to any microgrid district certified on or before January 1, 2024, or any special contract entered into and approved by the Public Service Commission on or before January 1, 2025. No amendments to this section enacted during the regular session of the Legislature, 2025, shall be interpreted to remove an existing microgrid district certification.

The Secretary of the Department of Commerce may not certify more than two microgrid districts: *Provided,* That this limit on certifying microgrid districts shall not apply to any microgrid district wherein greater than 70% of the electricity generated within

the microgrid district is consumed by one or more high impact data centers, as defined in §11-6N-2 of this code, or will be consumed by one or more high impact data centers, when such data centers are completed and fully operational. A designation made pursuant to this section by the secretary as to the certification of a microgrid district is final.

(c) *Providing electric service within a certified microgrid district*. — Within a microgrid district, any person, firm, corporation, or entity or their lessees and tenants seeking to provide electric service through the generation or distribution of electricity within the microgrid district to businesses locating within the microgrid district may:

(1) Not be subject to the jurisdiction of the Public Service Commission with respect to rates, obtaining a certificate of convenience and necessity, conditions of service or complaints pursuant to chapter 24 of this code;

(2) Not be subject to the net metering and interconnection standards as set forth in §24-2F-8 of this code;

(3) Elect to qualify as an exempt wholesale generator under federal law for purposes of furnishing electric service through the generation of electricity to a utility or regional transmission organization without being subject to the Public Service Commission's siting certificate requirements as set forth in §24-2-1(d), §24-2-11c, or §24-2-1o of this code;

(4) Provide any such electric service to businesses making a capital investment in a new or expanded facility located within the certified microgrid district;

(5) Not provide any such electric service for purposes of encouraging businesses already receiving electric service from a regulated utility in this state to relocate to the certified microgrid district; and

(6) Not deliver outside the microgrid district more than 10% of the electricity generated within the certified microgrid district and only delivered to the wholesale market.

(d) *Microgrid customers; eligibility*. — In order to take advantage of the provisions of this section, a plant or facility choosing to locate and operate within a microgrid district must constitute new electric load. Any owner, lessee, or tenant of a plant or facility that has not previously received electric service from a regulated public electric utility located within this state, or who is making a capital investment in a new facility within the microgrid district shall be considered eligible new electric load. Electric service to any such plant or facility shall be considered new electric load so long as any customer making a new capital investment within the microgrid district does not decrease the load of an existing facility outside the microgrid district in this state in conjunction with the new capital investment within the microgrid district, and regardless of whether or not a person or entity previously received service from a public electric utility at or near the same location prior to the certification of the microgrid district.

An eligible plant or facility choosing to locate and operate within a microgrid district is not required to connect with and use any public electric utility: *Provided,* That any connection with and use of a public electric utility for purposes of the initial construction and development within the microgrid district shall not impact a plant or facility's status as new electric load in order to take advantage of the provisions of this section.

(e) *Microgrid customers; special contracts and rates*. — After certification of a microgrid district, the Public Service Commission may approve special contracts for a a microgrid customer within the microgrid district. For purposes of this section, a "special contract" is:

(1) a written agreement between an electric utility and an eligible retail electric microgrid customer within the microgrid district that is filed with the Public Service Commission and that provides that an eligible retail electric microgrid customer will receive utility service on terms and conditions, including rates, that vary from the utility's tariff on file with the Public Service Commission, or

(2) electric utility service terms and conditions, including rates, ordered by the Public Service Commission that vary from the electric utility's tariff to be in effect between a utility and an eligible retail electric microgrid customer when the electric utility and the eligible retail electric microgrid customer are unable to negotiate a written agreement.

A microgrid customer seeking a special contract shall first enter into negotiations with the utility within whose service territory the microgrid district is located regarding the terms and conditions of a mutually agreeable special contract. If the negotiations result in an agreement between the microgrid customer and the utility within 120 days, the microgrid customer and the utility shall jointly file with the Public Service Commission the special contract. If the negotiations are unsuccessful in the 120-day period, the microgrid customer may file a petition with the Public Service Commission to consider establishing a special contract. The Public Service Commission shall consider all relevant factors in establishing a special contract. Upon the filing of a petition pursuant to this section, the Public Service Commission shall establish a special contract for the provision of requested service, including backup and supplemental service to a microgrid customer within the microgrid district. Microgrid customers' load within the microgrid district not covered by a contract for back up and supplemental service shall be considered non-firm and interruptible. The Public Service Commission shall establish a special contract upon the filing of a petition pursuant to this section and shall do so within 90 days of filing.

(f) *Electrical infrastructure costs.* — Regulated electric utility customers shall not bear any costs including, but not limited to, construction, operational, ancillary services, grid-related, energy-related, or capacity-related costs, associated with any electricity generation, transmission or distribution facilities that provide electrical service to a microgrid district. Any costs of this nature are to be borne by the generator or electricity consumers situated within the microgrid district.

(g)(1) *Payment In Lieu Of Taxes Electricity Generation and Distribution.* — Notwithstanding the provisions of §5D-1-14, §7-

5-13, §7-11B-3(b), §7-11B-8(c)(4), §7-11B-15(a)(7), §7-11B-15(a)(15), §7-11B-18, §8-19-4, §8-29A-7, §8A-12-12, §11-13-2p, §11-13C-5(l)(1)(A), §16-13A-21, §16-15-18(b)(6), §17-16A-16(b), §17-16B-20(b), §18-9A-12(c), § 31-21-5, and §31-21-15 of this code, or any other provision of this code, no payment in lieu of taxes shall be entered into with relation to the property of any electricity generating plant, facility, or generating unit or any property comprising, in whole or in part, any electricity distribution apparatus, equipment, lines or facilities (A) located in the county and (B) directly or indirectly dedicated to providing electric power to any plant, facility or property subject to this subsection. Nor shall any payment in lieu of taxes be entered into with relation to any leasehold interest or any other property interest related thereto.

(2) *Tax Increment Financing.* — Notwithstanding the provisions of §7-11B-1 *et seq.* of this code, or any other provision of this code, no tax increment financing project, plan or arrangement shall be entered into or undertaken with relation to any electricity generation or distribution property subject to this subsection.

(3) For purposes of this subsection, an electricity generating plant, facility, or generating unit or electricity distribution apparatus, equipment, lines, or facilities shall be deemed to be "dedicated" to providing electric power to any plant, facility, or property subject to this subsection if not less than 75% of the output of the electricity generation property or electricity distribution property, measured in kilowatt hours, are used to supply electricity to a facility, project, or series of related or integrated facilities within the county or counties subject to this subsection.

(4) For purposes of this section, property includes all real property, all buildings and structures affixed to land, and all tangible personal property, including, but not limited to equipment, inventories and mobile equipment, and also including property subject to special salvage valuation under §11-6A-1 *et seq*., §11-6E-1 *et seq*., §11-6H-1 *et seq*., §11-6J-1 *et seq*., §11-6F-1 *et seq*., and §11-6L-1 *et seq.* of this code, or any other special *ad valorem* property valuation provision of this code; *Provided,* That property subject to special valuation shall be allowed that special valuation

as authorized by law, for purposes of calculating and determining the *ad valorem* property tax imposed with relation thereto, notwithstanding being otherwise subject to the provisions of this section.

(h) *Microgrid District Development; Letters of Intent.* — To become a certified microgrid district under this section, the person or entity must present the Secretary of the Department of Commerce with a confidential letter of intent. The letter of intent shall include sufficient economic, financial, and engineering information concerning the proposed project with sufficient detail to adequately inform the department of the size, scope, and nature of the target customers of the project, including, without limitation, the approximate proposed acreage and location, estimated capital investment, evidence of financial capacity, estimated project completion date, major project milestones, estimated generation capacity, estimated power loading internal to the microgrid, estimated power, including backup power, needed from the local distribution electric utility, estimated power supplied to the wholesale market, and the types or sources of each electric power generation unit. The letter of intent and all supplied information shall be held in confidence pursuant to §5B-2-21a(e) of this code by the department.

(i) *Microgrid District Development; Notice Period and Negotiation.* — At least 120 days before submitting a letter of intent and other materials to the department, an applicant seeking a microgrid district certification must make good faith efforts to negotiate for the supply of all or part of its electricity needs for the project from the local distribution electric utility. The letter of intent must also include documentation evidencing the good faith efforts to negotiate. This time-period limitation and negotiation requirement does not apply to microgrid districts proposing to produce 300 megawatts or more of electricity or for microgrid districts that are proposing to not be connected in any way to the local distribution electric utility after completion of all construction.

(j) *Microgrid District Development; Special Contracts and Power Rates*. — (1) A certified microgrid district seeking a special

contract from a local distribution electric utility located in the state shall first enter negotiations for not more than 120 days with the local distribution utility regarding the terms and conditions of a special contract. The microgrid district shall provide reasonable access and terms to the local distribution utility to enable the electric utility's transmission and/or distribution facilities to tie into those of the microgrid district. The 120-day negotiation period required by this section may be satisfied by the precertification negotiation period required by §5B-2-21(i) of this code.

(2) If the negotiations result in a mutually agreeable special contract, the contracting parties shall jointly file the special contract pursuant to the rules of the commission.

(3) If negotiations for a special contract with the local distribution utility are unsuccessful, a certified microgrid district may file a petition with the commission to establish a special contract.

(4) The commission shall establish a special contract upon the filing of a petition pursuant to this section. The Public Service Commission shall consider all relevant factors in establishing special contracts. The Public Service Commission shall establish a special rate for the requested service, including backup and supplemental service to a microgrid district. The microgrid district's load not covered by a contract shall be considered non-firm and interruptible. The commission shall issue a final order determining the terms of a special contract within 90 days of filing of a petition.

§5B-2-21a. Data Centers.

(a) *Findings and purpose.* — The Legislature hereby finds and declares the following:

(1) Data centers represent a significant and growing sector of the economy, generating substantial economic activity, including jobs, infrastructure investments, and technological innovation.

(2) Data centers are critical national infrastructure that require abundant, low-cost energy to protect sensitive data, operate high-

level computation assets, and ensure the resilience of the digital economy.

(3) The People's Republic of China is positioning itself to be the global leader of data centers and is investing in technology to encourage the flow of data toward China instead of toward the United States.

(4) It is in the United States' national security interests to limit the flow of data to China and to protect the flow of data and maximize computational power inside the United States. The President has declared that it is the policy of the United States "to sustain and enhance America's global AI dominance in order to promote human flourishing, economic competitiveness and national security." Removing Barriers to American Leadership in Artificial Intelligence, Executive Order 14179 (Jan 23, 2025).

(5) As of early 2025, the highest concentration of high-level computational power and data centers in the world is located in Loudoun County, Virginia. This severe concentration of data centers in one location is a national security vulnerability because it invites the potential for cyberattacks and espionage against the Nation's critical data infrastructure.

(6) Data centers have historically obtained their electricity from the electric grid. Some data center developers now seek or require the use of microgrids to provide their primary and backup power.

(7) West Virginia is strategically positioned as the best location in the United States to place data centers due to: (A) its close proximity to Washington, D.C., and the federal government; (B) its close proximity to the majority of the Nation's population; (C) its low tax rates; (D) it having the least restrictive regulatory environment in the Nation; (E) its supply of abundant energy and natural resources to power the data centers; (F) its supply of resources, such as coal mine methane blended with natural gas, to assist data centers locating in West Virginia to meet their energy needs and environmental goals; and (G) its skilled and loyal workforce that has some of the lowest turnover rates in the Nation.

As such, the state has a significant interest in encouraging the development and expansion of data centers, which can serve as drivers of broader economic growth. The Legislature finds that these externalities transcend local borders, including environmental concerns, energy consumption, and regional economic growth. Additionally, the provisions in this section align with the Legislature's goal of fostering a competitive, forward-thinking economy that benefits all residents.

(b) *Program established*. — The High Impact Data Center Program is hereby created and is to be administered as a program within the Division of Economic Development to encourage the continued development, construction, operation, maintenance, and expansion in West Virginia of high impact data centers. In order to effectuate the purposes of this section, the Division of Economic Development, or any agency, division, or subdivision thereof, may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

(c) *Notification.* — Any data center shall compare its current or planned operations against the definition of "high impact data center" established in §11-6N-2 of this code and provide notification to the Division of Economic Development when the data center becomes aware that it will satisfy or has satisfied that definition. The notification will include information addressing the elements of that definition, including known or expected power consumption of the data center. This notification shall be made (1) within 30 days after the data center determines that it meets these requirements, or (2) when the data center reasonably anticipates that it will, at some future date, meet these requirements, in which case the data center may provide that anticipated future date in its notification.

(d) *Certification*. — The Secretary of the Department of Commerce shall identify and certify high impact data centers in this state upon a finding that a data center satisfies the requirements for the definition of "high impact data center" set forth in §11-6N-2 of this code. The Secretary shall issue confirmation of certification to a high impact data center within 14 days following

receipt of the notification from the data center required by this section.

(e) *Recordkeeping.* — Any information provided by a data center pursuant to this section that is identified by the data center as confidential business information shall be exempt from the Freedom of Information Act. The Secretary shall take reasonable and appropriate steps to protect this information. Notwithstanding the foregoing, the Secretary shall maintain a complete list of all certified high impact data centers and all relevant information that can be made available to the Governor and Legislature, removing specifically identifying information to ensure confidentiality of any such information as identified by any high impact data center.

§5B-2-21b. Authority to assist certified microgrid district projects and certified high impact data center projects; legislative findings.

(a) *Findings and purpose.* — The Legislature hereby finds and declares the following:

(1) The findings and purpose set forth in §5B-2-21a(a) (2025), except to the extent expressly modified herein, are hereby incorporated herein by reference with the same force and effect as though fully set forth herein.

(2) It is in the best interests of the state to induce and assist in development of these projects, in order to advance the public purposes of relieving unemployment by preserving and creating jobs, and preserving and creating new and greater sources of revenue for the support of public services provided by the state and local government.

(3) It is the intent of the Legislature to occupy the whole field of the creation and regulation of certified microgrid districts and certified high impact data centers. The stated purpose of this section is to promote uniform and consistent application of the act within the state.

(b) The Department of Commerce shall assist projects developing or operating a certified microgrid district pursuant to

§5B-2-21 of this code or a certified high impact data center pursuant to §5B-2-21a of this code. The Secretary of Commerce shall designate one of their personnel as "Data Economy Liaison" to serve as a single point-of-contact for certified microgrid districts and high impact data centers to assist coordinate and expedite their development and operation, including, but not limited to site selection and permitting. A "certified microgrid district" is a microgrid project, regardless of stage of development or operation, that has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21 of this code. A "certified high impact data center" is a data center project, regardless of stage of development or operation, that has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21a of this code.

(c) This section prohibits:

(1) Counties and municipalities, whether by ordinance, resolution, administrative act, or otherwise, from enacting, adopting, implementing, or enforcing ordinances, regulations, or rules which limit, in any way, the creation of, and acquisition, construction, equipping, development, expansion, and operation of any certified microgrid district or certified high impact data center project; and

(2) Counties and municipalities from imposing or enforcing local laws and ordinances concerning the creation or regulation of any certified microgrid district or certified high impact data center therein.

(d) In accordance with §5B-2-21(b) and §5B-2-21(c) of this code, and notwithstanding any provision of this code to the contrary, or any municipality’s home rule powers with respect to ordinances and ordinance procedures, including any authority pursuant to the Municipal Home Rule Program under §8-1-5a of this code, certified microgrid districts and certified high impact data centers may not be subject to the following:

(1) County or municipal zoning, horticultural, noise, viewshed, lighting, development, or land use ordinances, restrictions, limitations, or approvals;

(2) County or municipal building permitting, inspection, or code enforcement;

(3) County or municipal license requirements;

(4) The legal jurisdiction of the county or municipality in which the certified microgrid district or certified high impact data center is entirely or partially located, except as specifically provided in this article;

(5) Any requirement under state law for the consent or approval of the municipality in which a certified microgrid district or certified high impact data center is entirely or partially located of any state or county action pursuant to this code, specifically including, but not limited to, §7-11B-1 *et seq.* of this code, for formal consent of the governing body of a municipality for county or state action regarding the establishment of tax increment financing development or redevelopment districts or the approval of tax increment financing development or redevelopment plans.

(e) Notwithstanding the creation of a certified microgrid district or a certified high impact data center, the owner, operator, or manager, as applicable, and all tenants, lessees or licensees thereof, of a certified microgrid district or a certified high impact data center shall:

(1) Pay business and occupation tax, if applicable, pursuant to §8-13-5 of this code, to the municipality in the same manner as any other business or commercial venture located within the municipality;

(2) Collect and remit municipal sales and service tax and municipal use tax, if applicable, pursuant to §8-1-5a, §8-13C-4, and §8-13C-5 of this code, to the municipality in the same manner as any other business or commercial venture located within the municipality;

(3) Pay ad valorem real and personal property tax pursuant to the same millage rates as any other business or commercial venture located within the county and municipality;

(4) Pay all municipal service fees enacted pursuant to §8-13-13 of this code, including, but not limited to, fire, police, sanitation, or city service fees;

(5) Pay all utility rates, fees, and charges for utilities used or consumed during construction and operation of premises within the certified microgrid district or certified high impact data center, including, but not limited to, water, sewer, stormwater, and garbage and recycling collection: *Provided,* That (A) The rates, fees, and charges for such services shall be based on the cost of providing such service and the utility shall enter into a contract under the rules of the Public Service Commission for each such service with the developer and file the special contract with the Public Service Commission; and (B) the developer shall only be required to pay any capacity improvement fee or impact fee to the extent that capital additions, betterments, and improvements must be designed, acquired, constructed, and equipped by the utility to provide such service to the project; Utility customers outside of the microgrid district shall not bear any construction or operational costs associated with any new utility property built solely to provide service within a microgrid district;

(6) Be entitled to municipal police protection and municipal fire protection, if available, in the same manner as any other business or commercial venture located within the municipality; and

(7) Design, acquire, construct, and equip the certified microgrid district or certified data center pursuant to the State Building Code in accordance with §8-12-13 of this code and the corresponding State Rule 87 CSR 4.

(f) The Department of Commerce, Department of Environmental Protection, and Department of Transportation may take actions necessary in support of the development of any certified microgrid district or certified data center, including, but

not limited to, the development or improvement of such highways, roads, thoroughfares, and sidewalks within any county or municipality in which the certified microgrid district or certified data center is partially or entirely located.

(g) In order to effectuate the purposes of this section, the Department of Commerce, or any agency, division, or subdivision thereof, may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

ARTICLE 2N. GRID STABILIZATION AND SECURITY ACT OF 2023.

§5B-2N-2a. Creating the Electric Grid Stabilization and Security Fund.

(a) The Electric Grid Stabilization and Security Fund is hereby created. The fund shall be administered by the Department of Commerce and shall consist of all moneys made available for the purposes and from the sources set forth in this section of the code.

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

(1) All moneys received pursuant to §11-6N-4(b)(4)(C) of this code;

(2) All appropriations provided by the Legislature;

(3) Any moneys available from external sources; and

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

(c) The Department of Commerce shall use moneys in the fund to provide support for electric grid stabilization for regulated utilities and grid security, including development, efficiency, and environmental upgrades, but not decommissioning and replacement of existing facilities; maintenance of utility owned and operated coal and natural gas electric generation, regardless of unit or plant ownership by different regulatory jurisdictions; and

transmission resources which solely serve West Virginia rate payers.

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

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

(f) In order to effectuate the purposes of this section, the Department of Commerce may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

CHAPTER 11. TAXATION.

ARTICLE 6N. SPECIAL METHOD FOR VALUATION OF CERTAIN HIGH-TECHNOLOGY PROPERTY.

§11-6N-1. Legislative findings and purpose.

The Legislature hereby finds and declares the following:

The findings and purpose set forth in §5B-2-21a(a) (2025) (except to the extent expressly modified herein) are hereby incorporated herein by reference with the same force and effect as though fully set forth herein.

§11-6N-2. Definitions.

(a) *General* — When used in this article, words defined in §11-6N-2(b) of this code have the meanings ascribed to them in this section, except in those instances where a different meaning is provided in this article or the context in which the word is used clearly indicates that a different meaning is intended by the Legislature.

(b) *Definitions* — For purposes of this section, the following terms shall mean:

(1) "Affiliated group" means one or more chains of corporations, limited liability entities, or partnerships, or any combination thereof, connected through the ownership of stock or ownership interests with a common parent which is a corporation, limited liability entity, or partnership, but only if the common parent owns directly, or indirectly, a controlling interest in each of the members of the group.

(2) "Base assessed value" means the taxable assessed value of all data center property of a high impact data center as shown upon the landbooks and personal property books of the assessor on July 1 of the calendar year preceding certification as a high impact data center.

(3) "Current assessed value" means the annual taxable assessed value of all data center property of a high impact data center as shown upon the landbook and personal property records of the assessor.

(4) "Critical IT load" means that portion of electric power capacity, expressed in terms of megawatts, which is reserved solely for owners or tenants of a data center to operate their computer server and required supporting equipment.

(5) "Data center property" means property used exclusively at a data center to construct, outfit, operate, support, power, cool, dehumidify, secure, or protect a data center and any contiguous dedicated substations. The term includes, but is not limited to, construction materials, component parts, machinery, equipment, computers, servers, installations, redundancies, and operating or enabling software, including any replacements, updates and new versions, and upgrades to or for such property, regardless of whether the property is a fixture or is otherwise affixed to or incorporated into real property.

(6) "High Impact Data Center" means a facility or group of facilities that:

(A) Consists of one or more parcels in this state, along with the buildings, substations and other infrastructure, fixtures, and personal property located on the parcels;

(B) Is owned, operated, or leased by an entity or affiliated group of entities;

(C) Is used to house and operate equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data; or that is necessary for the proper operation of equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data;

(D) Has a critical IT load in the aggregate of 90 megawatts total or higher; and

(E) Is placed into service on or after July 1, 2025.

(7) "Incremental value", for any high impact data center, means the difference between the base assessed value and the current assessed value. The incremental value will be positive if the current value exceeds the base value, and the incremental value will be negative if the current value is less than the base assessed value.

(8) "Microgrid power generator" includes any entity supplying power under the rules provided in §5B-2-21 of this code to a high impact data center.

(9) "Microgrid power generator property" means and includes any and all property used by microgrid power generator within a certified microgrid district.

(10) “Situs county” means the county or counties in which any High Impact Data Center property subject to tax is located, in relative proportion to the amount of data center property located therein.

(11) "Tax increment" means the amount of regular levy property taxes attributable to the amount by which the current assessed value of real and tangible personal property that is data

center property of a high impact data center exceeds the base assessed value of the property.

§11-6N-3. Returns of property of high impact data centers to Board of Public Works.

(a) On or before May 1 in each year, a return in writing shall be filed with the Board of Public Works: By the owner or operator of any company holding data center property of a high impact data center or a microgrid power generator supplying microgrid power to a high impact data center.

(b) The words "owner or operator," as applied herein to high impact data centers, shall include any owner or operator of a high impact data center or microgrid power generator.

(c) The return shall be signed and sworn to by the owner or operator if a natural person, or, if the owner or operator shall be a corporation, shall be signed and sworn to by its president, vice president, secretary, or principal accounting officer.

(d) The return required by this section of every owner or operator shall cover the year ending on December 31, next preceding, and shall be made on forms prescribed by the Board of Public Works, which board is hereby invested with full power and authority and it is hereby made its duty to prescribe the forms required from any owner or operator herein mentioned information as in the judgment of the board may be of use to it in determining the true and actual value of the properties of the owners or operators.

(e) Except for the special rules for tax distribution provided in §11-6N-4 of this code, the provisions of this article are subject to the Assessment of Public Service Businesses, set forth in §11-6-1, *et seq.* of this code, as if the provisions thereof were set forth in extenso in this article.

§11-6N-4. Special Rules for Tax Distribution of High Impact Data Centers.

(a) On and after July 1, 2025, any property subject to valuation under §11-6N-3 of this code shall be subject to the rules on tax distribution provided under this section.

(b) The State Auditor shall maintain a separate and discrete accounting of each High Impact Data Center project regarding tax distribution provided in this section and any distribution to which a county is entitled as provided by this section shall be distributed directly to the situs county for each project.

(c) *Ad Valorem* Property Tax Distribution — The provisions of this subsection are applicable to all data center property of a high impact data center upon certification as a high impact data center per §11-6N-2 of this code.

(1) For so long as the high impact data center exists, the State Auditor shall divide the *ad valorem* property tax revenue collected, with respect to taxable data center property of a high impact data center as follows:

(A) The amount of *ad valorem* property tax revenue that should be generated by multiplying the assessed value of the property for the then current tax year by the aggregate of applicable levy rates for the tax year;

(B) The amount of *ad valorem* property tax revenue that should be generated by multiplying the base assessed value of the property by the applicable regular ad valorem levy rates for the tax year;

(C) The amount of *ad valorem* tax revenue that should be generated by multiplying the base assessed value of the property for the current tax year by the applicable levy rates for general obligation bond debt service for the tax year;

(D) The amount of *ad valorem* property tax revenue that should be generated by multiplying the current assessed value of the property for the current tax year by the applicable excess levy rates for the tax year; and

(E) The amount of *ad valorem* property tax revenue that should be generated by multiplying the incremental value by the applicable regular levy rates for the tax year.

(2) The State Auditor shall determine from the calculations set forth in subdivision (1) of this subsection the percentage share of total *ad valorem* revenue for each levying body according to paragraphs (B) through (D), inclusive, of said subdivision by dividing each of such amounts by the total *ad valorem* revenue figure determined by the calculation in paragraph (A) of said subdivision; and

(3) On each date on which *ad valorem* tax revenue is to be distributed to the levying bodies, such revenue shall be distributed by:

(A) Applying the percentage share determined according to paragraph (B), subdivision (1) of this subsection to the revenues received and distributing such share to the levying bodies entitled to such distribution pursuant to current law;

(B) Applying the percentage share determined according to paragraph (C), subdivision (1) of this subsection to the revenues received and distributing such share to the levying bodies entitled to such distribution by reason of having general obligation bonds outstanding;

(C) Applying the percentage share determined according to paragraph (D), subdivision (1) of this subsection to the revenues received and distributing such share to the levying bodies entitled to such distribution by reason of having excess levies in effect for the tax year; and

(D) Applying the percentage share determined according to paragraph (E), subdivision (1) of this subsection to the revenues received and distributing such share to a fund dedicated at the time of construction of a high impact data center.

(4) In each year for which there is a positive tax increment, the State Auditor shall remit that portion of the *ad valorem* property

taxes collected that consists of the tax increment and shall be distributed as follows:

(A) 50 percent of the increment shall be placed in the Personal Income Tax Reduction Fund provided in §11B-2-33 of this code;

(B) 30 percent of the increment to the situs county as defined in this article;

(C) 10 percent of the increment to all counties on a per capita basis according to the most recent census;

(D) 5 percent of the increment shall be placed Economic Enhancement Grant Fund administered by the Water Development Authority provided in §22C-1-6a; and

(E) 5 percent of the increment shall be placed in the Electric Grid Stabilization and Security Fund provided in §5B-2N-2a.

(5) (A) *Payment In Lieu Of Taxes, Increment Property* — Notwithstanding the provisions of §5D-1-14, §7-5-13, §7-11B-3(b), §7-11B-8(c)(4), §7-11B-15(a)(7), §7-11B-15(a)(15), §7-11B-18, §8-19-4, §8-29A-7, §8A-12-12, §11-13-2p, §11-13C-5(l)(1)(A), §16-13A-21, §16-15-18(b)(6), §17-16A-16(b), §17-16B-20(b), §18-9A-12(c), §31-21-5, and §31-21-15 of this code, or any other provision of this code, no payment in lieu of taxes shall be entered into with relation to any property subject to this section or any leasehold interest related thereto, or any other property interest related thereto.

(B) *Tax Increment Financing, Increment Property* — Notwithstanding the provisions of §7-11B-1 *et seq.* of this code, or any other provision of this code, no tax increment financing project, plan or arrangement shall be entered into or undertaken with relation to any property subject to this section.

§11-6N-5. Termination.

The provisions of this article shall sunset, expire, and be of no force and effect on or after December 31, 2055.

CHAPTER 11B. DEPARTMENT OF REVENUE

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-33. Personal Income Tax Reduction Fund.

(a) The personal income tax reduction fund is hereby established. The personal income tax reduction fund shall be funded continuously and on a revolving basis in accordance with this section, with all interest or other earnings on the moneys therein credited to the fund. The personal income tax reduction fund shall be funded as provided in §11-6N-4(b)(4) of this code. Moneys in the personal income tax reduction fund may be expended solely for the purposes set forth in this section.

(b) Notwithstanding any other provision of this code to the contrary, on or before the last day of any fiscal year, the net proceeds of the personal income tax reduction fund will be certified and included as a portion of adjusted general revenue fund collections under the provisions of §11-21-4h of this code for that fiscal year.

(c) Not later than 60 days following the certification, the Secretary of Revenue shall transfer the certified amount determined in subsection (b) of this section to the general revenue fund. The amounts transferred will not be included as a portion of adjusted general revenue fund collections under the provisions of §11-21-4h of this code for the fiscal year in which the money is transferred.

(d) The moneys in the income tax reduction fund shall be made available to the West Virginia Board of Treasury Investments and to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of §12-6C-1 *et seq.* of this code in such amounts as may be directed in the discretion of the Secretary of Revenue. Any balance of the income tax reduction fund, 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 income tax reduction fund for the purposes set forth in this section.

(e) Termination – Upon the certification of a reduction in the personal income tax under the provisions of §11-21-4h of this code that results in the elimination of the personal income tax, or if the personal income tax provided for under §11-21-1 *et seq.* is eliminated by separate enactment of the Legislature, this fund will be thereby eliminated and any monies dedicated thereto shall be dedicated to the general revenue of the state.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1d. Future electric generating capacity requirements.

(a) In order to maximize the use of electricity generated within the state by using coal or natural gas produced within the state, the Public Service Commission shall by order, no later than December 31, 1989, establish the schedule and amount of future electric generating capacity additions required by each West Virginia electric utility, for the next ten years, taking into account: (i) Projected load growth; (ii) existing generating capacity; (iii) existing contractual commitments to sell or purchase capacity; (iv) planned retirement and life extensions of existing capacity; (v) planned construction of capacity; (vi) availability of capacity from generating units of affiliated companies; (vii) capacity factors for existing generation; and (viii) such other reasonable factors as the commission may deem relevant and appropriate to consider. For purposes of this section, "capacity factor" shall mean the ratio of the actual energy produced by a power plant over a specific period to the maximum possible energy it could have produced if running at full capacity during that same period.

(b) If the commission determines after considering all such named and other relevant and appropriate factors that a utility will be required to purchase electric generating capacity beyond those agreements approved by the Federal Energy Regulatory Commission or the West Virginia Public Service Commission in order to serve its West Virginia customers, the amount of such required additional purchased capacity so identified by the

commission will for purposes of this section be referred to as the utility's "projected deficient capacity": *Provided,* That this subsection shall not include power generating facilities whose total production of electricity is sold outside the State of West Virginia.

(c) In the interests of: Keeping utility rates of residential customers as low as possible; keeping utility rates for commercial and industrial customers competitive with those of other states; attracting new industry for which electric power costs are a major factor in location determinations; and of not placing any greater cost burden on government than is absolutely necessary for its electric power needs, each utility shall acquire, if reasonable, its projected deficient capacity from electric generation situated in West Virginia which burns coal or gas produced in West Virginia and which will provide the most reliable supply of capacity and energy at the least cost to those customers of the utility who will be served by such electric generation: *Provided,* That all power purchase contracts executed prior to the effective date of this section which satisfy the following requirements, regardless of location, shall be considered, for the purposes of this subsection, as electric generation situated in West Virginia: (1) Said contracts were negotiated in accordance with procedures and priced according to methodologies of other contracts which the commission has ordered approved; (2) said contracts either guarantee or are substantially amended to guarantee for the life of the contract the use of an amount of West Virginia fuel which equals or exceeds the amount which would be required, on a percentage of output basis, to produce the amount of electric power to be consumed in West Virginia; and (3) said contracts meet the requirements for a qualifying facility established by the Federal Energy Regulatory Commission pursuant to the Public Utility Regulatory Policies Act of 1978.

(d) The commission shall evaluate each capacity auction conducted by PJM Interconnection, LLC, or its successor and, to the maximum extent permitted by law, encourage the coordination of the voluntary participation of every electric generating unit in the state in each capacity auction for the benefit of ratepayers in the state.

(e) In order to ensure the state's existing generating units can continue to meet future generation needs, the commission shall conduct a review of each generating unit's current consumer economic dispatch. Factors to be considered by the commission in reviewing consumer economic dispatch shall include, but not be limited to: (1) current capacity factors; (2) management of fuel supplies and contracts; (3) overall plant operation and maintenance; (4) placement of bids in the PJM Interconnection, LLC, or its successor's day-ahead and real-time energy markets; (5) utilization of the PJM Interconnection, LLC, or its successor's Reliability Pricing Model (RPM) or Fixed Resource Requirement (FRR); and (6) the utilization of automatic adjustment clauses, price indexes, or fuel adjustment clauses by the utilities. For purposes of this section, "consumer economic dispatch" shall mean the process of operating generation facilities to produce electricity at the lowest cost while reliably meeting consumer demand, considering the operational limits of generation and transmission facilities.

(f) Electric utilities shall be prepared to maximize the production of electricity from their generating units when such self-generation will result in reduced energy costs for West Virginia ratepayers. The commission shall require the utilities to maintain their thermal baseload generating units in a manner to allow them to be able to self-generate and achieve at least a sixty-nine percent capacity factor. Nothing herein shall require a utility to operate a generating unit at a sixty-nine percent capacity if doing so will cause an increase in the charge or charges for electric energy over and above the established and published tariff, rate, joint rate, charge, toll or schedule. The commission shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to carry out its duties and obligations as set forth herein.

§24-2-1q. Base fuel coal supply requirements for electric grid resiliency.

Recognizing that coal inventories at coal-fired power plants may increase and decrease over time, in order to ensure grid resiliency and homeland security, each generating public utility

shall plan incoming and outgoing coal so as to maintain an average annual minimum 30-day aggregate coal supply on site at each coal-fired power plant. The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to carry out its duties and obligations as set forth herein.

§24-2-15. Certain Automatic adjustment clauses, price indexes or fuel adjustment.

The commission shall not enforce, originate, continue, establish, change or otherwise authorize or permit an increase in the charge or charges for electric energy over and above the established and published tariff, rate, joint rate, charge, toll or schedule as the result of any automatic adjustment clause, fuel supply price index, or fuel adjustment clause. Automatic adjustment clauses, fuel supply contract price indexes, or fuel adjustment clauses that do not create a net increase in the charge or charges for electric energy over and above the established and published tariff, rate, joint rate, charge, toll, or schedule shall be permitted by the commission. For purposes of this section, a "net increase" in the charge or charges for electric service shall mean that for the calendar year in which the automatic adjustment clause, fuel supply contract price index, or fuel adjustment clause is utilized, the average charge or charges for electric energy are higher than they would have been if the adjustment clause, fuel supply contract price index, or fuel adjustment clause were not utilized. The commission shall encourage the use of permitted automatic adjustment clauses, fuel supply contract price indexes, or fuel adjustment clauses as a means of increasing the generation of coal-fired power plants within the state. The Commission shall promulgate procedural rules governing the utilization of automatic adjustment clauses, fuel supply contract price indexes, and fuel adjustment clauses.

§24-2-19. Integrated Resource Planning Required.

(a) Not later than March 31, 2015, the Public Service Commission shall issue an order directing any electric utility that does not have an existing requirement approved by the Public

Service Commission that provides for the future review of both supply side and demand side resources to develop an initial integrated resource plan to be filed not later than January 1, 2016, in conjunction with other similar deadlines required by other states or entities of the electric utilities. This order may include guidelines for developing an integrated resource plan.

(b)(1) Any electric utility that has an existing requirement approved by the Public Service Commission that provides for the future review of both supply side and demand side resources is exempt from this initial integrated resource plan filing until such time as that existing requirement has been satisfied. Thereafter, such electric utility is required to file an integrated resource plan pursuant to §24-2-19(a) of this code.

(2) Each electric utility that has filed the initial integrated resource plan shall file an updated plan at least every five years after the initial integrated resource plan has been filed. Any electric utility that was exempt from filing an initial integrated resource plan shall file an integrated resource plan within five years of satisfying any existing requirement and at least every five years thereafter. All integrated resource plans shall comply with the provisions of any relevant order of the Public Service Commission establishing guidelines for the format and contents of updated and revised integrated resource plans.

(c) The Public Service Commission shall analyze and review an integrated resource plan. The Public Service Commission may request further information from the utility, as necessary. Nothing in this section affects the obligations of utilities to obtain otherwise applicable commission approvals.

(d) The Commission may consider both supply-side and demand-side resources when developing the requirements for the integrated resource plans. The plan shall compare projected peak demands with current and planned capacity resources in order to develop a portfolio of resources that represents a reasonable balance of cost and risk for the utility and its customers in meeting future demand for the provision of adequate and reliable service to

its electric customers as specified by the Public Service Commission.

(e) The commission shall by order, entered no later than July 1, 2025, require all electric utilities operating in the state to supplement their existing integrated resource plans to include a detailed plant upgrade and maintenance plan, improvement compliance schedule, and cost estimate for ensuring the operation of each generating unit through their planned retirement date. The supplemental integrated resource plan shall also include an analysis of the action necessary to extend the life of each generating unit beyond their planned retirement date. Subject to notice and comment from interested parties, the commission may approve the supplemental integrated resource plan without modification or require modification of the supplemental plan before it is approved. The commission shall promulgate rules requiring the supplementation of integrated resource plans as required by this provision. The rules shall also provide a procedure for utilities to submit an independent evaluation of any modification required by the commission hereunder or to challenge such required modification.

§24-2-21a. Commission authority required when closing an electric generating plant and circumstances of closure in another jurisdiction.

(a) A public electric utility may not retire, abandon, close, or otherwise permanently render incapable of operating, any electric generating plant or unit without the prior consent and approval of the commission. No funds obtained from (1) the Grid Stabilization and Security Fund set forth in 5B-2N-2a, (2) an environmental control bond issued pursuant to 24-2-4e, (3) a consumer rate relief bond issued pursuant to 24-2-4f, (4) or a utility consumer rate relief bond issued pursuant to 24-2-4h shall be used by a public utility to retire, abandon, close, or otherwise permanently render incapable of operating, any electric generating plant or unit.

(b) If an electric utility serving customers in both West Virginia and in an area not subject to the jurisdiction of the commission is ordered to cease operations of a generating plant or unit by the

regulating authority of the other jurisdiction and the costs of the plant or unit had been shared through an allocation process for rate making purposes and after a commission proceeding and determination that a generating plant or unit should continue to operate, then the utility shall recover all of the capital, operating and maintenance costs of the electric generation plant or unit from its West Virginia customers to the extent that such costs are no longer allocable to the other jurisdiction, and all of the associated capacity, energy, and environmental attributes shall be assigned to its customers and operations in West Virginia.

CHAPTER 113

(Com. Sub. for S. B. 22 - By Senators Smith (Mr. President), Woelfel, and Hamilton)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on May 1, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §36-4-9c, relating to providing for enhanced damages for non-payment of royalties due from oil, natural gas, or natural gas liquids production under the terms of a lease or other agreement; providing for treble damages for unpaid royalties after non-payment for six months, unless there is a bona fide dispute or the damages are otherwise provided for in writing; providing for proper jurisdiction and venue for causes of action to resolve disputes; providing for the prevailing party to be awarded reasonable attorney's fees and costs; and providing that the section applies to disputes filed on or after July 1, 2025.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COVENANTS.

§36-4-9c. Penalties for nonpayment of royalties under the terms of oil and natural gas leases during production from conventional vertical wells.

(a) With regard to conventional vertical oil, natural gas wells, and derivative natural gas liquids only, permitted under §22-6-1 *et seq.* of this code, unless otherwise provided for in writing or unless there is a bona fide dispute between the parties, any lessee or operator of oil, natural gas, or natural gas liquids, or their successors or assigns, who fails to pay a royalty payment for mineral production to a lessor, or their successors and assigns,

under the terms of a lease or other agreement within six months after the date payment is due under the terms of the lease or other agreement, shall be liable to such lessor or landowner, or their successors or assigns, in an amount equal to three times the market value of the unpaid royalty for which payment is due.

(b) The provisions of subsection (a) of this section shall apply to all royalty payment disputes filed with a court of competent jurisdiction on or after July 1, 2025.

(c) Non-exclusive jurisdiction and venue are proper in the county in which the subject well and leasehold is located.

(d) The prevailing party may be awarded reasonable attorney's fees and costs in addition to and not withstanding any other rights, remedies, and penalties otherwise provided by law.

CHAPTER 114

(Com. Sub. for S. B. 823 - By Senator Rucker)

[Passed March 31, 2025; in effect 90 days from passage (June 29, 2025)]
[Approved by the Governor on April 8, 2025.]

AN ACT to amend and reenact §15-5B-3a and §15-5C-2 of the Code of West Virginia, 1931, as amended, relating to revising the statutes to clarify and separate duties identified in the code between the Division of Emergency Management and the West Virginia Department of Environmental Protection according to what each agency has the resources and expertise to fulfill; delegating the duties of investigation of industrial facility emergency events and emergency incidents by well and pipeline operators that are reported to the Division of Emergency Management; implementing fines and penalties imposed upon industrial facilities and well and pipeline operators to the Department of Environmental Protection; and establishing fund into which civil penalties are to be deposited.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5B. MINE AND INDUSTRIAL ACCIDENT RAPID RESPONSE SYSTEM.

§15-5B-3a. Industrial facility emergency event notification and access.

(a) *Definitions*. — Unless the context in which used clearly requires a different meaning, the following words and phrases as used in this section have the following meanings:

"Industrial facility" means:

(A) Any facility that is required to submit a risk management plan to the United States Environmental Protection Agency pursuant to regulations promulgated under Section 112(r) of the Clean Air Act of 1990, 42 U.S.C. §7412(r), including the property upon which the facility is located and any buildings appurtenant thereto or associated therewith, including storage facilities; or

(B) A facility which is a factory, mill, plant or refinery, other than a coal facility, including the property upon which a factory, mill, plant or refinery is located and any buildings appurtenant thereto or associated therewith, including storage facilities, found by the director to be of a type to have a reasonable potential to have an emergency event: *Provided,* That before any facility may be subject to the provisions of this section, the owner or operator of each facility shall be placed on actual written notice via certified mail, return receipt requested, of the facility's inclusion thereon, as well as the requirements imposed by the provisions of this section and any rules promulgated thereunder: *Provided, however*, That the list required by the provisions of this section shall be filed with the President of the Senate and the Speaker of the House of Delegates by the first day of the 2010 legislative session.

"Appropriate state and local officials" means the Governor or his or her representative, the Director of the Division of Emergency Management, a representative designated by the Secretary of the Department of Homeland Security who has been trained and qualified by the Federal Emergency Management Agency's (FEMA) National Incident Management System (NIMS) program and/or a representative of a local emergency management agency who has been trained and qualified by FEMA's NIMS program.

"Director" means the Director of the Division of Emergency Management.

"Emergency event" means an unplanned event, including, but not limited to, an explosion, a fire that cannot be contained within 15 minutes of discovery, the release of a reportable quantity, as specified in 40 C.F.R. §302 (2009) or its successor, of an extremely hazardous substance listed in the appendices to 40 C.F.R. §355 (2009) or its successor, loss of life or serious personal injury at an

industrial facility: *Provided*, That the director may, by promulgation of a legislative rule, establish a higher threshold report level for a particular extremely hazardous substance than is set in the aforementioned Code of Federal Regulations citation.

(b) *Reporting requirement*. —

(1) Within 15 minutes of the industrial facility ascertaining the occurrence of an emergency event at an industrial facility, the industrial facility shall contact the Mine and Industrial Accident Emergency Operations Center by telephone at the statewide telephone number established by the director or shall contact the local county 9-1-1 center, as defined in §24-6-1 *et seq.* of this code, by telephone at the number established by the system to communicate the occurrence of the emergency event: *Provided*, That if telephone communications fail for any reason, the industrial facility shall contact local emergency services in the most expeditious manner possible. The industrial facility shall provide the following information:

(A) The name and title of the individual making the report;

(B) The name and address of the facility; and

(C) Notification that an emergency event has occurred.

(2) If the caller has ready access to the following information, he or she shall also provide:

(A) Then-available information concerning the nature and extent of the emergency event, including any information that concerns the existence or nonexistence of potential threats to the public health;

(B) If there is an unplanned fire that cannot be contained within 15 minutes, explosion, or release as defined in this section, preliminary information regarding the type of substance involved and, if a release, the estimated amount released, if known; and

(C) The name, title, and contact information of the individual designated to serve as a contact person on behalf of the industrial facility.

(3) Any call made pursuant to this subsection may be recorded by the agency receiving the call. If an industrial facility contacts the local county 9-1-1 center to report an emergency event, the local county 9-1-1 center system shall immediately forward all information received to the Mine and Industrial Accident Emergency Operations Center.

(c) *Event communications*. — As soon as practicable after providing the notice required under subsection (b) of this section, the industrial facility shall implement a communications system designed to provide timely information to appropriate state and local officials. At a minimum, the industrial facility shall designate a person to serve as a contact for state and local emergency responders. Any person so designated shall, upon the request of an appropriate state or local official, provide such additional information known or subsequently known that may be necessary to assess the extent of the emergency or to provide appropriate public assistance.

(d) *Authorized access to public officials*. -— As soon as practicable after the occurrence of an emergency event, the industrial facility shall, upon request, provide appropriate state and local officials with timely authorized access to the person or persons charged with managing the event on behalf of the facility and the area(s) where the emergency event is being managed or the industrial facility's response to the emergency event is being coordinated. The industrial facility shall also provide appropriate state and local officials with timely authorized access to any areas affected by the emergency event: *Provided*, That the industrial facility has determined those areas to be reasonably safe: *Provided, however*, That within 30 minutes of obtaining information that affects the public health, safety, and welfare, state and local officials shall notify the public of any hazardous materials or events which may affect the area.

(e) *Civil penalties*. —

(1) The Department of Environmental Protection shall be responsible for investigating all matters relevant to this code section.

(2) The Secretary of the Department of Environmental Protection shall impose a civil penalty of up to $100,000 on the industrial facility if he or she determines that the industrial facility failed to comply with the reporting requirement of subsection (b) of this section at the conclusion of an investigation by the Department of Environmental Protection. Collection of the civil penalty will be the responsibility of the Department of Environmental Protection. No penalty may be imposed upon an industrial facility giving notice pursuant to this section for unintentionally providing inaccurate or incomplete preliminary information to the Mine and Industrial Accident Emergency Operations Center or the local county 9-1-1 center: *Provided*, That the industrial facility implemented reasonable efforts to provide the most accurate and complete preliminary information possible: *Provided, however*, That the industrial facility implemented reasonable efforts to correct inaccurate or incomplete preliminary information reported to the Mine and Industrial Accident Emergency Operations Center or the local county 9-1-1 center once such information was determined by the industrial facility to be inaccurate or incomplete.

(3) The Secretary of the Department of Environmental Protection shall impose a civil penalty on the operator or operators of an industrial facility if he or she determines that the industrial facility failed to comply with the communication or access requirements of subsections (c) and (d) of this section. Application of this subdivision and amounts levied as civil penalties by the director shall be determined in accordance with legislative rules promulgated pursuant to §29A-3-1 *et seq.* of this code and the collection of the civil penalty will be the responsibility of the Department of Environmental Protection at the conclusion of an investigation into the same.

(4) The Secretary of the Department of Environmental Protection may waive the imposition of a civil penalty imposed under this section: *Provided*, That he or she finds that the failure to

comply with the requirements of this section was caused by circumstances outside the control of the industrial facility at the conclusion of an investigation by the Department of Environmental Protection.

(5) All moneys collected pursuant to this section shall be deposited in the Hazardous Waste Emergency Response Fund, as established pursuant to §22-19-3 of this code.

(f) Nothing in this section may be construed to:

(1) Relieve an industrial facility from any other reporting or notification requirement imposed under state or federal law;

(2) Limit in any way the jurisdiction of state and local emergency responders;

(3) Limit the police power authority of the Governor; or

(4) Limit the authority of the state Fire Marshal.

(g) The director, working in cooperation with the Department of Environmental Protection, the state Fire Marshal, and the state Emergency Response Commission, shall promulgate legislative rules identifying a list of industrial facilities that are subject to the requirements of this section.

(h) The Department of Homeland Security, Division of Emergency Management, may promulgate rules, including emergency rules, pursuant to the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this section.

ARTICLE 5C. REPORTING OF EMERGENCY INCIDENTS BY WELL AND PIPELINE OPERATORS.

§15-5C-2. Reporting requirements.

(a) In addition to any other requirements imposed by law, all pipeline operators and well operators shall report incidents to the Department of Homeland Security, Division of Emergency Management, at the Mine and Industrial Accident Call Center at 1-866-987-2338, or other such number as may be identified by the

director within 15 minutes of ascertaining the occurrence of an incident at a well, well pad, or pipeline facility. Pipeline operators and well operators may satisfy this requirement by contacting the local county 9-1-1 center and orally reporting the information required by this section.

(b) Contents of report:

(1) The initial report shall include the following minimum information:

(A) The name, title, and business affiliation of the individual making the report;

(B) The identification and location of the well, well pad, or pipeline facility; and

(C) Notification that an incident has occurred.

(2) If the caller has ready access to the following information, he or she shall also provide:

(A) Then-available information concerning the nature and extent of the incident, including any information that concerns the existence or nonexistence of potential threats to the public health;

(B) If there is an unplanned fire that cannot be contained within 15 minutes, explosion, or release, preliminary information regarding the type of substance involved and, if a release, the estimated amount released, if known; and

(C) The name, title, business affiliation, and contact information of the individual designated to serve as a contact person on behalf of the pipeline operator or well operator.

(c) Any local county 9-1-1 center receiving an initial notification shall immediately forward all information received to the Department of Homeland Security, Division of Emergency Management, at the Mine and Industrial Accident Call Center at 1-866-987-2338, or other such number as may be identified by the director.

(d) All calls received by the Department of Homeland Security, Division of Emergency Management, at the Mine and Industrial Accident Call Center shall be recorded for documentation purposes. Recording of calls shall be automatic, and the recorded call information, including time of call and complete voice transcripts, shall be made available to the public upon receipt of a request to the Director in accordance with the West Virginia Freedom of Information Act, §29B-1-1 *et seq.* of this code.

(e) An investigation of these matters shall be conducted by the Department of Environmental Protection.

(f) The Secretary of the Department of Environmental Protection shall impose a civil administrative penalty of not less than $2,500 but not to exceed $50,000 on the pipeline operator or well operator if it is determined that the pipeline operator or well operator failed to give timely notice as required by this section at the conclusion of an investigation by the Department of Environmental Protection, with collection of the civil penalty being the responsibility of the Department of Environmental Protection: *Provided*, That the Secretary of the Department of Environmental Protection shall waive imposition of the civil administrative penalty if the failure to give the required notice:

(1) Occurred as a result of circumstances wholly outside the control of the pipeline operator or well operator;

(2) Occurred because the pipeline operator or well operator was attempting to stabilize the incident;

(3) Occurred because the pipeline operator or well operator was rendering emergency assistance; or

(4) Resulted from the incident occurring in a location with no or inadequate wireless communications coverage and notice was provided within 15 minutes of reestablishing communication.

(g) Any pipeline operator or well operator aggrieved by the imposition of a civil administrative penalty at the conclusion of an investigation by the Department of Environmental Protection may request within 30 days of receipt of a written communication

imposing a civil administrative penalty that the director reconsider the imposition or amount of the civil administrative penalty. If reconsideration is denied, the pipeline operator or well operator shall have a right of appeal to the Intermediate Court of Appeals.

(h) All moneys collected pursuant to this section shall be deposited in the Hazardous Waste Emergency Response Fund, as established pursuant to §22-19-3 of this code.

CHAPTER 115

(Com. Sub. for Com. Sub. for H. B. 2043 - By Delegates Burkhammer and Horst)

[Passed April 1, 2025; in effect 90 days from passage (June 30, 2025)]
[Approved by the Governor on April 8, 2025.]

AN ACT to amend and reenact §20-2-5j of the Code of West Virginia, 1931, as amended, relating to tracking of wounded animals; authorizing the use of unmanned aerial vehicles; authorizing the use of dogs while hunting; describing their use; and requiring licensure if operating on private property.

Be it enacted by the Legislature of West Virginia:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

Part I. Wildlife Management.

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

(a) Notwithstanding any provision of this chapter to the contrary, a person who is legally hunting and reasonably believes he or she has mortally wounded a deer, elk, turkey, wild boar, or bear may use a leashed dog or a unmanned aerial vehicles as defined in West Virginia Code §61-16-1(3) (hereafter "UAV") or both, to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter is also permitted to use a dog handler of a leashed dog and/or a licensed UAV operator to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter or the dog handler shall always maintain physical control of

the leashed dog. Only one leashed dog per handler may be used and, if the hunter is using a dog handler, the hunter may not handle additional dogs for the handler.

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

(c) Any dog handler or any UAV operator providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 of this code. Any UAV operator not operating on property they own or lease must be licensed according to FAA Part 107. The Director shall provide a list of licensed outfitters and guides who provide dog tracking or UAV tracking services pursuant to this section to the public prior to September 1st of each year.

CHAPTER 116

(Com. Sub. for H. B. 3336 - By Delegates Zatezalo, Anderson, Fehrenbacher, Street, and Eldridge)

[Passed April 11, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §22-6-24 of the Code of West Virginia, 1931, as amended, relating to methods of plugging a wells; defining the terms "modern well" and "non-modern well"; eliminating four and one-half inch casing for modern or later-day wells; eliminating the removal of intermediate or surface casings for non-modern or older wells; establishing requirements concerning plugs and casing perforations; establishing monitoring and documentation requirements; and exempting the removal of casing under certain defined circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION; ENFORCEMENT.

§22-6-24. Methods of plugging well.

Upon the abandonment or cessation of the operation of any well drilled for natural gas or petroleum, or drilled or converted for the introduction of pressure, whether liquid or gas, or for the introduction of liquid for the purposes provided for in §22-6-25 of this article or for the disposal of pollutants or the effluent therefrom the well operator, at the time of such abandonment or cessation, shall fill and plug the well in the following manner:

(a) Where the well does not penetrate workable coal beds, it shall either be filled with mud, clay or other nonporous material

from the bottom of the well to a point 20 feet above the top of its lowest oil, gas or water-bearing stratum; or a permanent bridge shall be anchored 30 feet below its lowest oil, gas or water-bearing stratum, and from such bridge it shall be filled with mud, clay or other nonporous material to a point twenty feet above such stratum; at this point there shall be placed a plug of cement or other suitable material which will completely seal the hole. Between this sealing plug and a point 20 feet above the next higher oil, gas or water-bearing stratum, the hole shall be filled, in the manner just described; and at such point there shall be placed another plug of cement or other suitable material which will completely seal the hole. In like manner the hole shall be filled and plugged, with reference to each of its oil, gas or water-bearing strata. However, whenever such strata are not widely separated and are free from water, they may be grouped and treated as a single sand, gas or petroleum horizon, and the aforesaid filling and plugging be performed as though there were but one horizon. After the plugging of all oil, gas or water-bearing strata, as aforesaid, a cement plug shall be placed approximately 10 feet below the bottom of the largest casing in the well; from this point to the surface the well shall be filled with mud, clay or other nonporous material, except that a final cement plug shall be installed from a point 100 feet below the surface to the surface. In case any of the oil or gas-bearing strata in a well shall have been shot, thereby creating cavities which cannot readily be filled in the manner above described, the well operator shall follow either of the following methods:

(1) Should the stratum which has been shot be the lowest one in the well, there shall be placed, at the nearest suitable point, but not less than 20 feet above the stratum, a plug of cement or other suitable material which will completely seal the hole. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, plugging in the manner specified shall be done at the nearest suitable point, but not less than 20 feet below and above the stratum shot; or

(2) When such cavity shall be in the lowest oil or gas-bearing stratum in the well, a liner shall be placed which shall extend from

below the stratum to a suitable point, but not less than 20 feet above the stratum in which shooting has been done. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, the liner shall be so placed that it will extend not less than 20 feet above, nor less than 20 feet below, the stratum in which shooting has been done. Following the placing of the liner in the manner here specified it shall be compactly filled with cement, mud, clay or other nonporous sealing material.

(b) Where the well penetrates one or more workable coal beds and a coal protection string of casing has been circulated and cemented into the surface, the well shall be filled and securely plugged in the manner provided in subdivision (a) of this section, except that expanding cement shall be used instead of regular hydraulic cement, to a point approximately 100 feet below the bottom of the coal protection string of casing. From the point the well shall be plugged according to the provisions in paragraph (1) or (2) below:

(1) A 200 foot plug of expanding cement shall be placed in the well. From this point, the well shall be filled with mud, clay or other nonporous material to a point 100 feet below the surface and a plug of cement shall be placed from the point 100 feet below the surface to the surface with a monument installed therein extending 30 inches above ground level.

(2) A 100 foot plug of expanding cement shall be placed in the well so that the top of such plug is located at a point just below the coal protection string of casing. After such plug has been securely placed in the well, the coal protection string of casing shall be emptied of liquid from the surface to a point 100 feet below the lowest workable coal bed or to the bottom of the coal protection string of casing, whichever is shallower. A vent or other device approved by the secretary shall then be installed on the top of the coal protection string of casing in such a manner that will prevent liquids and solids from entering the well but will permit ready access to the full internal diameter of the coal protection string of casing when required. The coal protection string of casing and the vent or other device approved by the secretary shall extend, when finally in place, a distance of not less than 30 inches above ground

level and shall be permanently marked with the well number assigned by the secretary;

(c) Where the well penetrates one or more workable coal beds and a coal protection string of casing has not been circulated and cemented into the surface, the well shall be filled and securely plugged in the manner provided in subsection (a) of this section to a point 50 feet below the lowest workable coal bed. Thereafter, a plug of cement shall be placed in the well at a point not less than 40 feet below the lowest workable coal bed. After the cement plug has been securely placed in the well, the well shall be filled with cement to a point 20 feet above the lowest workable coal bed. From this point the well shall be filled with mud, clay or other nonporous material to a point 40 feet beneath the next overlying workable coal bed, if such there be, and the well shall then be filled with cement from this point to a point 20 feet above such workable coal bed, and similarly, in case there are more overlying workable coal beds. After the filling and plugging of the well to a point above the highest workable coal bed, filling and plugging of the well shall continue in the manner provided in subsection (a) of this section to a point 100 feet below the surface, and a plug of cement shall be installed from the point 100 feet below the surface to the surface with a monument installed therein extending 30 inches above ground level;

(d)(1) Where the well penetrates one or more workable coal beds and a coal protection string of casing has not been circulated and cemented into the surface, a coal operator or coal seam owner may request that the well be plugged in the manner provided in subdivision (3) of this subsection rather than by the method provided in subsection (c) of this section. Such request (forms for which shall be provided by the secretary) must be filed in writing with the secretary prior to the scheduled plugging of the well, and must include the number of the well to be plugged and the name and address of the well operator. At the time such request is filed with the secretary, a copy of such request must also be mailed by registered or certified mail to the well operator named in the request.

(2) Upon receipt of such request, the secretary shall issue an order staying the plugging of the well and shall promptly determine the cost of plugging the well in the manner provided in subdivision (3) of this subsection and the cost of plugging the well in the manner provided in subsection (c) of this section. In making such determination, the secretary shall take into consideration any agreement previously made between the well operator and the coal operator or coal seam owner making the request. If the secretary determines that the cost of plugging the well in the manner provided in subsection (c) of this section exceeds the cost of plugging the well in the manner provided in subdivision (3) of this subsection, the secretary shall grant the request of the coal operator or owner and shall issue an order requiring the well operator to plug the well in the manner provided in subdivision (3) of this subsection. If the secretary determines that the cost of plugging the well in the manner provided in subsection (c) of this section is less than the cost of plugging the well in the manner provided in subdivision (3) of this subsection, the secretary shall request payment into escrow of the difference between the determined costs by the coal operator or coal seam owner making the request. Upon receipt of satisfactory notice of such payment, or upon receipt of notice that the well operator has waived such payment, the secretary shall grant the request of the coal operator or coal seam owner and shall issue an order requiring the well operator to plug the well in the manner provided in subdivision (3) of this subsection. If satisfactory notice of payment into escrow, or notice that the well operator has waived such payment, is not received by the secretary within fifteen days after the request for payment into escrow, the secretary shall issue an order permitting the plugging of the well in the manner provided in subsection (c) of this section. Copies of all orders issued by the secretary shall be sent by registered or certified mail to the coal operator or coal seam owner making the request and to the well operator. When the escrow agent has received certification from the secretary of the satisfactory completion of the plugging work and the reimbursable extra cost thereof (that is, the difference between the secretary's determination of plugging cost in the manner provided in subsection (c) of this section and the well operator's actual plugging cost in the manner provided in subdivision (3) of this

subsection), the escrow agent shall pay the reimbursable sum to the well operator or the well operator's nominee from the payment into escrow to the extent available. The amount by which the payment into escrow exceeds the reimbursable sum plus the escrow agent's fee, if any, shall be repaid to the coal owner. If the amount paid to the well operator or the well operator's nominee is less than the actual reimbursable sum, the escrow agent shall inform the coal owner, who shall pay the deficiency to the well operator or the well operator's nominee within thirty days. If the coal operator breaches this duty to pay the deficiency, the well operator shall have a right of action and be entitled to recover damages as if for wrongful conversion of personality, and reasonable attorney fees.

(3) Where a request of a coal operator or coal seam owner filed pursuant to subdivision (1) of this subsection has been granted by the secretary, the well shall be plugged in the manner provided in subsection (a) of this section, except that expanding cement shall be used instead of regular hydraulic cement, to a point approximately 200 feet below the lowest workable coal bed. A 100 foot plug of expanding cement shall then be placed in the well beginning at the point approximately 200 feet below the lowest workable coal bed and extending to a point approximately 100 feet below the lowest workable coal bed. A string of casing with an outside diameter no less than four and one-half inches shall then be run into the well to a point approximately 100 feet below the lowest workable coal bed and such string of casing shall be circulated and cemented into the surface: *Provided*, That if it is a modern well, then a four and one-half inch casing is not required, if the casing is perforated at the required plug intervals, the cement plugs are placed as necessary to seal the well properly, the cement plugs are tagged to ensure adequate fill within the casing, and plugging within the surface casing circulation will be monitored and information documented to ensure adequate fill within the casing. The casing shall then be emptied of liquid from a point approximately 100 feet below the lowest workable coal bed to the surface, and a vent or other device approved by the secretary shall be installed on the top of the string of casing in such a manner that it will prevent liquids and solids from entering the well but will permit ready access to the full internal diameter of the coal

protection string of casing when required. The string of casing and the vent or other device approved by the secretary shall extend, when finally in place, a distance of no less than 30 inches above ground level and shall be permanently marked with the well number assigned by the secretary. Notwithstanding the foregoing provisions of this subdivision, if under particular circumstances a different method of plugging is required to obtain the approval of another governmental agency for the safe mining through of said well, the secretary may approve such different method of plugging if he or she finds the same to be as safe for mining through and otherwise adequate to prevent gas or other fluid migration from the oil and gas reservoirs as the method above specified.

(e) Notwithstanding anything in this section to the contrary, where the well to be plugged is an abandoned well that has no known responsible party and the well operator is also a coal operator that intends to mine through the well, the well shall, at a minimum, be plugged as provided in subdivisions (1) and (2) of this subsection.

(1) The well will be cleaned out and prepared for plugging or replugging as follows:

(A) If the total depth of the well is less than 4,000 feet, the operator shall completely clean out the well from the surface to at least 200 feet below the base of the lowest workable coal bed, but the secretary may require cleaning to a greater depth due to excessive pressure within the well. If the total depth of the well is 4,000 feet or greater, the operator shall completely clean out the well from the surface to at least 400 feet below the base of the lowest workable coal bed. The operator shall provide to the secretary all information it possesses concerning the geological nature of the strata and the pressure of the well, and shall remove all material from the entire diameter of the well, wall to wall;

(B) The operator shall prepare down-hole logs for each well. The logs shall consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata, as well as the location for a bridge plug. The secretary may approve the use of a down-hole

camera survey in lieu of down-hole logs. In addition, the owner shall maintain a journal that describes the depth of each material encountered; the nature of each material encountered; the bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; the length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and any other pertinent information concerning cleaning and sealing the well. The operator shall maintain all invoices, work orders, and other records relating to all work on the well as part of the journal and provide to the secretary upon request;

(C) When cleaning, the operator shall make a diligent effort to remove all the casing in the well. If it is not possible to remove all the casing, then the operator shall take appropriate steps to ensure that the annulus between the casing and between the casings and the well walls are filled with expanding cement, with a minimum five tenths of one percent expansion upon setting, and contain no voids. If the casing cannot be removed, it must be cut or milled at all workable coal bed levels. Any casing which remains shall be perforated or ripped. If the total depth of the well is less than 4,000 feet, perforations or rips are required every 50 feet from 200 feet below the base of the lowest mineable coal bed up to one hundred feet above the uppermost workable coal bed. If the total depth of the well is 4,000 feet or greater, perforations or rips are required every 50 feet from 400 feet below the base of the lowest workable coal bed up to 100 feet above the uppermost workable coal bed. If the operator, using a casing bond log, demonstrates to the satisfaction of the secretary that all annuli in the well are already adequately sealed with cement, then the operator shall not be required to perforate or rip the casing. When multiple casing and tubing strings are present in the workable coal bed, any casing which remains shall be ripped or perforated and filled with expanding cement in accordance with this paragraph. The operator shall maintain a casing bond log for each casing and tubing string if used in lieu of ripping or perforating multiple strings;

(D) If the secretary concludes that the completely cleaned well emits excessive amounts of gas, the operator must place a

mechanical bridge plug in the well. If the total depth of the well is less than 4,000 feet, the mechanical bridge plug shall be placed in a competent stratum at least 200 feet below the base of the lowest workable coal bed, but above the top of the uppermost hydrocarbon-producing stratum. If the total depth of the well is 4,000 feet or greater, the mechanical bridge plug shall be placed in a competent stratum at least 400 feet below the base of the lowest mineable coal bed, but above the top of the uppermost hydrocarbon-producing stratum: *Provided,* That the secretary may require a greater distance to set the mechanical bridge plug, regardless of the total depth of the well, based upon excessive pressure within the well. The operator shall provide the secretary with all information the operator possesses concerning the geologic nature of the strata and pressure of the well. If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used; and

(E) If the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest workable coal bed, the operator shall properly place mechanical bridge plugs as described in paragraph (D) of this subdivision to isolate the hydrocarbon-producing stratum from the expanding cement plug. Nevertheless, if the total depth of the well is less than 4,000 feet, the operator shall place a minimum of 200 feet of expanding cement below the lowest workable coal bed. If the total depth of the well is 4,000 feet or greater, the operator shall place a minimum of 400 feet of expanding cement below the lowest mineable coal bed: *Provided,* That the secretary may require a greater distance to set the mechanical bridge plug, regardless of the total depth of the well, based upon excessive pressure within the well.

(2) After the well is completely cleaned pursuant to subdivision one of this subsection, the operator shall plug or replug the well to the surface as follows:

If the total depth of the well is less than 4,000 feet, the operator shall pump expanding cement slurry down the well to form a plug which runs from at least 200 feet below the base of the lowest workable coal bed to the surface. If the total depth of the well is 4,000 feet or greater, the operator shall pump expanding cement

slurry down the well to form a plug which runs from at least 400 feet below the base of the lowest workable coal bed to the surface: *Provided,* That the secretary may, regardless of the total depth of the well, require a lower depth based upon excessive pressure within the well. The expanding cement slurry will be placed in the well under a pressure of at least 200 pounds per square inch. Portland cement shall be used to fill the area from 100 feet above the top of the uppermost workable coal seam to the surface: *Provided,* That the secretary may require a higher distance based upon excessive pressure within the well;

(f) Any person may apply to the secretary for an order to clean out and replug a previously plugged well in a manner which will permit the safe mining through of such well. Such application shall be filed with the secretary and shall contain the well number, a general description of the well location, the name and address of the owner of the surface land upon which the well is located, a copy of or record reference to a deed, lease or other document which entitles the applicant to enter upon the surface land, a description of the methods by which the well was previously plugged, and a description of the method by which such applicant proposes to clean out and replug the well. At the time an application is filed with the secretary, a copy shall be mailed by registered or certified mail to the owner or owners of the land, and the oil and gas lessee of record, if any, of the site upon which the well is located. If no objection to the replugging of the well is filed by any such landowner or oil and gas lessee within 30 days after the filing of the application, and if the secretary determines that the method proposed for replugging the well will permit the safe mining through of such well, the secretary shall grant the application by an order authorizing the replugging of the well. Such order shall specify the method by which the well shall be replugged, and copies thereof shall be mailed by certified or registered mail to the applicant and to the owner or owners of the land, and the oil and gas lessee, if any, of the site upon which such well is located. If any such landowner or oil and gas lessee objects to the replugging of the well, the secretary shall notify the applicant of such objection. Thereafter, the director shall schedule a hearing to consider the objection, which hearing shall be held after notice by registered or

certified mail to the objectors and the applicant. After consideration of the evidence presented at the hearing, the secretary shall issue an order authorizing the replugging of the well if the secretary determines that replugging of the well will permit the safe mining through of such well. Such order shall specify the manner in which the well shall be replugged and copies thereof shall be sent by registered or certified mail to the applicant and objectors. The secretary shall issue an order rejecting the application if the secretary determines that the proposed method for replugging the well will not permit the safe mining through of such well;

(g) In addition to any other exception set forth in law, an operator will be exempted from the standard requirements for pulling production casing from the well when either of the following circumstances are met:

(1) Where intermediate and freshwater casing strings are not cemented to the surface, any uncemented production casing strings must be removed, but the remaining uncemented casing strings may remain in place and be perforated at depths where cement plugs are set according to existing requirements and standards, to allow for cement to enter the casing annulus as plugs are set. No more than two strings of casing will be perforated at once. Additional casing strings will be pulled when needed to prevent perforating more than two casing strings. Cement plugs must be tagged to ensure adequate fill within the casing. Plugging within the surface casing circulation will be monitored and information documented to ensure adequate fill within the casing.

(2) Where all freshwater and intermediate casing strings are cemented to the surface and production and conductor casing strings are uncemented to surface, production casing is not required to be pulled from the well. Production casing that is uncemented and left in place must be perforated at depths where cement plugs will be set according to existing requirements and standards as set forth in law, to allow for cement to enter the casing annulus as plugs are set. Cement plugs must be tagged to ensure adequate fill within the casing. Plugging within the surface casing circulation will be monitored and information documented to ensure adequate fill within the casing.

(h) All persons adversely affected, by a determination or order of the secretary issued pursuant to the provisions of this section shall be entitled to judicial review in accordance with the provisions of §29A-5-1 *et seq.* and §29A-6-1 *et seq.* of this code.

(i) For the purposes of this section, a "modern well" means a well where all casing strings, other than the production and conductor strings, are cemented to the surface. Any well that is not defined as a "modern well" shall be defined as a "non-modern well."

CHAPTER 117

(Com. Sub. for H. B. 3429 - By Delegate Riley)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section designated §22-2-11, relating to providing engineering services under the abandoned mine lands and reclamation act; requiring certain advertisements; establishing a prequalification process for hiring engineering firms; providing prequalification agreement requirements; and providing directives for project assignments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.

§22-2-11. Prequalification process for consultants; project assignments.

(a) For purposes of this section, "professional services" means engineering services provided by firms and includes those professional services of an engineering nature as well as incidental services that members of those professions and those in their employ may logically or justifiably perform.

(b) The secretary shall publish a Class II legal advertisement to solicit letters of interest for professional services used in engineering procurement. The advertisement:

(1) Shall comply with the Class II legal advertisement provisions of §59-3-1 *et seq.* of this code;

(2) State a time and place for submitting letters of interest and a description of the services required;

(3) Specify the secretary's right to reject any letter of interest; and

(4) Shall be published at least once in at least one daily newspaper published in the city of Charleston and in other journals or magazines as the secretary determines is advisable.

(c) The department shall evaluate any letter of interest received and generate from the letters received a list of all qualified firms, designated the "Prequalified List of Firms".

(d) Upon the department's recommendation, the Purchasing Division shall enter into a prequalification agreement with the qualified firms pursuant to §5A-3-10e of this code. The agreement shall cover the services defined in the letters of interest and have a one-year term, with an optional two-year extension if requested by the department.

(e) For all project assignments:

(1) The department shall issue an expression of interest for any project that needs to be solicited and deliver it to those prequalified firms with which the Purchasing Division has an active prequalification agreement;

(2) The department may review and consider responses only from prequalified consultants with active prequalification agreements;

(3) The department shall conduct discussions with three or more professional services firms solicited on the basis of known or submitted qualifications for the project prior to awarding a contract. If the secretary determines that special circumstances exist such that seeking competition is not practical, the department may, with the Director of Purchasing's prior approval, select a professional services firm on the basis of previous satisfactory performance and knowledge of the department's facilities and

needs. After selection, the department and firm shall develop the scope of services required and negotiate a contract;

(4) The department shall notify its procurement division and the Division of Purchasing of the firm that it selected;

(5) The department shall schedule and conduct a scope of work meeting with the selected firm within 45 days of selection;

(6) Within 60 days of selection, unless an extension is requested by both parties, the department and firm shall complete cost negotiations;

(7) The department shall provide to its own procurement division and the Purchasing Division information regarding the agreed upon costs and all required forms necessary to initiate a contract; and

(8) The department may issue an advanced notice to proceed, if requested by the firm.

CHAPTER 118

(H. B. 3503 - By Delegates Hornby, Howell, Anderson, and Zatezalo)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-11-31, relating to prohibiting the regulation by any county, municipality, or political subdivision of commercial horticulture within the subject matter of the Water Pollution Control Act; providing that such regulations are invalid and unenforceable; prohibiting any county, municipality, or political subdivision from bringing a cause of action within the subject matter of the Water Pollution Control Act against any commercial horticulture operation; and providing that any political subdivision may not enact an ordinance within the subject matter of the Water Pollution Control Act that is more stringent than any federal or state rule, regulation, program, or permitting regime.

Be it enacted by the Legislature of West Virginia:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-31. State pre-emption in favor of commercial horticulture under the Water Pollution Control Act.

(a) Notwithstanding the provisions of Chapter 7, Chapter 7A, Chapter 8, and Chapter 8A of the West Virginia Code or the West Virginia Code of State Rules promulgated thereunder to the contrary, no county, municipality, or political subdivision may

prohibit, regulate, permit, or license commercial horticulture by adopting any charter, law, rule, regulation, ordinance, or zoning provision concerning the size, placement, location, or operation of commercial horticulture within the subject matter of the Water Pollution Control Act, as provided in §22-11-1 *et seq.* of this code, and all such provisions in charters, laws, rules, regulations, ordinances, or zoning provisions are hereby invalid and unenforceable.

(b) No county, municipality, or political subdivision may bring a cause of action against a commercial horticulture operation for any activity within the subject matter of said Water Pollution Control Act, if the commercial horticulture operation is in material compliance of the Water Pollution Control Act, its rules, and federal laws and regulations.

(c) Any political subdivision of this state may not enact an ordinance within the subject matter of said Water Pollution Control Act that is more stringent than any federal or state rule, regulation, program, or permitting regime.

CHAPTER 119

(H. B. 2867 - By Delegates Roop, Drennan, Marple, Foggin, Pritt, Cooper, Brooks, Rohrbach, Kump, Canterbury, and Maynor)

[Passed April 10, 2025; in effect 90 days from passage (July 9,2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §44-1A-2 of the Code of West Virginia, 1931, as amended, relating to precluding an estate with probate real property or with an interest in probate real property from being processed as a small estate.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. WEST VIRGINIA SMALL ESTATE ACT.

§44-1A-2. Administration of a small estate upon affidavit and without appointment.

(a) Notwithstanding any provisions of this code to the contrary, the small estate of a decedent who dies domiciled in this state, without owning any probate real property or without owning any interest in probate real property, may be administered upon affidavit and without the appointment of a personal representative, and the small assets of the decedent may be paid or delivered to the authorized successor as provided in this article.

(b) Any successor of a decedent who dies domiciled in this state, without owning any probate real property or without owning any interest in probate real property, may execute and tender for recording to the clerk of the county commission, or the fiduciary supervisor of the clerk of the county commission, of the county in this state which would have jurisdiction over the probate concerning the estate and assets of the decedent an affidavit made

upon oath and under penalty of perjury concerning the small estate setting forth in substance:

(1) The name and current address of the affiant;

(2) The name of the decedent, the date of death of the decedent, and the address and residence of the decedent at his or her death;

(3) Whether the decedent had any known will, with the original of the known will to be attached to the affidavit and tendered for recording in the county as long as the will is in due and proper form for probate as a will in this state, or whether the decedent died intestate with no known will;

(4) A listing of the names, current addresses, and relationship to the decedent of any person nominated as a personal representative under the known will, together with a listing of the names, current addresses, and relationship to the decedent of the beneficiaries under the known will entitled to the estate or assets of the decedent. If there is no known will of the decedent, a listing of the names, current addresses, and relationship to the decedent of all of the intestate heirs-at-law and distributees of the decedent determined under the laws of intestate descent and distribution of this state;

(5) That the decedent's entire personal probate estate as of the date of the decedent's death, wherever located, consists only of small assets and the aggregate fair market value of all of the small assets does not exceed $50,000, together with a description or itemization of the small assets with an estimate of value, if known or ascertainable;

(6) That if the successor is nominated as a personal representative or executor under the provisions of the will of the decedent, at least 30 days have elapsed since the decedent’s date of death and no application for the appointment of a personal representative for the decedent is pending or has been granted in any jurisdiction. If the successor is not nominated as a personal representative or executor under the provisions of the will of the decedent, at least 60 days have elapsed since the decedent’s date of

death, no application for the appointment of a personal representative for the decedent is pending or has been granted in any jurisdiction, and no affidavit of small estate has been filed by a successor nominated as a personal representative or executor under the provisions of the will of the decedent; and

(7) That the affiant will faithfully administer the small assets of the decedent in accordance with the law and pay or deliver the small assets to the successor or successors so entitled, after paying any known or ascertainable creditors of the decedent.

(c) The clerk of the county commission, or the fiduciary supervisor of the clerk of the county commission, shall upon receipt of the affidavit review and inspect the affidavit, and if the county clerk or fiduciary supervisor determines the affidavit to be in completed form, the county clerk or fiduciary supervisor shall record and index the affidavit, together with the original of any will tendered with the affidavit, in the same manner and upon the same fees as wills and affidavits of beneficiaries or heirs are recorded and indexed in case of probate administration with appointment of a personal representative. The clerk of the county commission, or the fiduciary supervisor of the clerk of the county commission, may require a certified copy of the decedent's death certificate or other proof of death and residence prior to fulfilling the responsibilities under this article.

(d) A bond, security, or oath is not required when an appointment of a personal representative is not made for a small estate under the provisions of this article.

(e) A document substantially in the following form may be used as the affidavit provided in subsection (b) of this section with the effect as prescribed in this article:

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

RE: THE ESTATE OF _____

DOD: _____

AFFIDAVIT FOR SMALL ESTATE

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, being a Successor of the Decedent identified below, being first duly sworn, upon oath and under penalty of perjury, do depose and say to the best of my knowledge and belief as follows:

1. My name is _____, and my current address is _____ _____ _____.

2. The Decedent, _____, died on _____ (date of death), a resident of _____ County, State of West Virginia, with his/her usual residence being _____ _____ _____. A certified death certificate has been furnished herewith for filing in this County. I am a Successor of the decedent as _____ (state relationship).

3. TESTACY ( ) [Check if applies] or ( ) [Check if Not Applicable]

At the date of death, the Decedent died with an original Last Will and Testament of the Decedent dated _____, without any codicil thereto ( ) or with codicil(s) thereto dated _____ ( ) [Check if applies]. The aforesaid original Last Will and Testament of the decedent, together with any codicil(s), is furnished herewith for recording in this County as permitted by West Virginia Code § 44-1A-2(b).

Under the Last Will and Testament of the Decedent, the following person(s) is/are nominated to be the personal representative(s) of the Estate:

a.
Name:_____

Address: _____

_____

b. Name:_____

Address: _____

_____

Pursuant to the provisions of the above referenced Will of the Decedent, the following persons are the named beneficiaries of the estate of the Decedent:

a. Name: _____

Address: _____

_____

Relationship to Decedent: _____

Share or percentage or particular item: _____

b. Name: _____

Address: _____

_____

Relationship to Decedent: _____

Share or percentage or particular item: _____

c. Name: _____

Address: _____

_____

Relationship to Decedent: _____

Share or percentage or particular item: _____

d. Name: _____

Address: _____

_____

Relationship to Decedent: _____

Share or percentage or particular item: _____

e. Name: _____

Address: _____

_____

Relationship to Decedent: _____

Share or percentage or particular item: _____

(If more space is needed, attach additional page(s) to affidavit)

4. INTESTACY ( ) [Check if applies] or ( ) [Check if Not Applicable]

At the date of death, the Decedent died intestate with no known will. The Decedent left as his/her heirs-at-law and distributees in accordance with the laws of intestate descent and distribution of the State of West Virginia the following persons:

a. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

b. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

c. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

d. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

e. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

(If more space is needed, attach additional page(s) to affidavit)

5. The Decedent's entire personal probate estate, as of the date of the Decedent's death, wherever located, consists only of small assets and the aggregate fair market value of the small assets does not exceed $50,000. The small assets of the Decedent are described and itemized as follows:

	Description	Fair Market value
a.		

b.		
c.		
d.		
e.		
f.		
	Total	

(If more space is needed, attach additional page(s) to affidavit)

6. The Decedent did not ( ) die seized and possessed of any probate real estate or interests in probate real estate in the state of West Virginia.				

7. ( ) [Check if applies] or ( ) [Check if Not Applicable] If the affiant is a Successor who was nominated as a personal representative or executor under the provisions of the above Will of the Decedent, at least 30 days have elapsed since the Decedent's date of death and no application for the appointment of a personal

representative for the Decedent is pending or has been granted in any jurisdiction;

or

( ) [Check if applies] or ( ) [Check if Not Applicable] If the affiant is a Successor who was NOT nominated as a personal representative or executor under the provisions of the above Will of the Decedent or if the Decedent died intestate without a will, at least 60 days have elapsed since the Decedent's date of death and no application for the appointment of a personal representative for the Decedent is pending or has been granted in any jurisdiction, and no affidavit of Small Estate has been filed by a Successor nominated as a personal representative or executor under the provisions of the Will of the Decedent.

8. The undersigned Affiant will faithfully administer the small assets of the Decedent in accordance with the law and pay or deliver the same to the Successor or Successors so entitled.

Witness my hand and seal this ____ day of _____, 20___.

_____

Signature of Affiant/Successor

Taken, subscribed, and sworn to before me the undersigned authority by _____, this ____ day of _____, 20___.

{seal}

My Commission expires: _____

_____

Notary Public

(f) Upon acceptance and recording of the affidavit provided in this section, the county clerk or fiduciary supervisor shall mail a copy of the affidavit to the personal representative, if any is

nominated in an attached will, and the beneficiaries under the will when the decedent dies with a will or the heirs-at-law when the decedent dies without a will, all of whom are listed on the affidavit, and shall issue a certificate and authorization of a small estate to the authorized successor who completed the affidavit, authorizing the successor to be paid, transferred, and delivered the small assets of the decedent with authority to pay, transfer, and deliver the small assets to the successor or successors of the decedent entitled pursuant to the provisions of this article and the other laws of the state of West Virginia and with authority to faithfully perform the duties of the office necessary to collect and administer the small assets of the decedent including, but not limited to, making application for and executing receipts, assignments, transfers, releases, waivers, applications, claims, claims for refunds, and federal, state, or local tax returns of the decedent concerning the small assets, pursuing litigation for or against the decedent or the decedent's estate, and paying or settling the funeral expenses or the claims of creditors of the decedent.

(g) If within 30 days after the mailing of a copy of the affidavit by the county clerk or fiduciary supervisor any interested person in the estate of the decedent files a written objection with the county clerk or fiduciary supervisor upon good and proper grounds, the county clerk or fiduciary supervisor shall refer the objection to a fiduciary commissioner for determination, report, and recommendation which may, among other things, revoke the certificate and authorization of small estate and require full and complete probate administration of the estate of the decedent in accordance with the other applicable provisions of this article. Upon any revocation of the certificate and authorization of small estate, the authorized successor shall provide an accounting and report of all payments or deliveries made of the small assets of the decedent.

(h) The authorized successor may act under the certificate and authorization of small estate issued under the provisions of this article for a period of six months from the date of the original issuance of the certificate and authorization but may, upon a showing of good cause in an application made to the county clerk

or fiduciary supervisor, be granted an extension of an additional time period not to exceed six months upon issuance of an extended certificate and authorization of small estate to be issued by the county clerk or fiduciary supervisor.

(i) If at any time after the original issuance of the certificate and authorization by the county clerk or fiduciary supervisor, the authorized successor or an interested person determines that the probate estate of the decedent does not qualify as a small estate because the aggregate values of all of the small assets of the decedent exceed the values provided in this article, upon application by an interested person the county clerk or fiduciary supervisor shall rescind the certificate and authorization of the small estate and shall mail a written order of rescission to the authorized successor and other interested persons, and a probate under the other provisions of this article shall be commenced by an interested person.

CHAPTER 120

(Com. Sub. for H. B. 2961 - By Delegates Ridenour, Maynor, Ward, Butler, Hillenbrand, Mallow, Roop, Jennings, Petitto, Akers, and Phillips)

[Passed April 12, 2025; in effect 90 days from passage (July 10, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended by adding a new article, designated §37-3A-1, §37-3A-2, §37-3A-3, §37-3A-4, and §37-3A-5, relating to prohibiting ownership and possession of real property by foreign adversaries; providing definitions; prohibiting the People's Republic of China and its citizens who are not resident aliens or citizens of the United States from acquiring, owning, or transferring any real estate or mineral interests in West Virginia; prohibiting foreign governments, entities, and individuals that have been identified by a majority of Governor, Treasurer, Agriculture Commissioner, Auditor, Attorney General, and Secretary of State, in consultation with the Secretary of Homeland Security, as hostile to the interests of the United States or the State of West Virginia from owning real estate or mineral interests in the state; providing Governor with tie-breaking vote; requiring forbidden entities that own real estate on effective date of article to divest within six months; requiring prohibited businesses that acquire property in violation of article to divest that property within six months; designating judicial sale process to force sale of illegally owned real estate; requiring notice of judicial sale; and establishing good faith protections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3A. PREVENTING FOREIGN ADVERSARIES FROM OWNING REAL ESTATE IN WEST VIRGINIA.

§37-3A-1. Ownership of real estate in West Virginia.

Except as otherwise provided in this article, any resident alien or citizen may acquire, hold, and transfer real estate in this state by deed, will, or other instrument, including in fee simple or any lesser estate.

§37-3A-2. Definitions.

As used in this article:

"Control" means the power, direct or indirect, whether or not exercised, to determine, direct, or decide important matters affecting an entity, including but not limited to through ownership of at least 20 percent of the total outstanding voting interest, board representation, the ability to appoint or remove board members, proxy voting rights, special shares, contractual arrangements, legal obligations, or other formal or informal mechanisms to act in concert.

"Controlling interest" means an ownership interest of 50 percent or more in the aggregate.

"Owned or operated in whole or in part" means:

(A) For a publicly traded company, the person or entity has the ability to control the company, access any material nonpublic technical information in the possession of the company, or exercise any other rights or involvement in substantive decision-making beyond those of a retail investor holding an equivalent ownership share;

(B) For a privately held company, the person or entity possesses any ownership interest.

"People's Republic of China" means all provinces and autonomous regions of the People's Republic of China, including

the Hong Kong Special Administrative Region and the Macao Special Administrative Region, but does not include Taiwan.

"Prohibited foreign party" means:

(A) A citizen or resident of the People's Republic of China who is not a resident alien or citizen of the United States;

(B) The government of the People's Republic of China or any of its political subdivisions;

(C) Any party other than an individual or government:

(i) Created or organized under the laws of any state or foreign country; and

(ii) In which a significant interest or substantial control is held directly or indirectly by:

(I) A person described in paragraph (A) of this subdivision;

(II) A government described in paragraph (B) of this subdivision;

(III) Any combination of the above; or

(IV) An agent, trustee, fiduciary, or other entity acting on behalf of any of the foregoing;

(D) Any foreign government, entity, or individual identified by a majority of the Governor, Treasurer, Agriculture Commissioner, Auditor, Attorney General, and Secretary of State, in consultation with the Secretary of Homeland Security, as hostile to the interests of the United States or the State of West Virginia: *Provided*, That in the event of a tie, the Governor's vote shall serve as the tie-breaking vote.

"Prohibited foreign-party-controlled business" means a corporation, company, association, firm, partnership, joint-stock company, trust, estate, or other legal entity in which a controlling interest is owned or operated, in whole or in part, by a prohibited foreign party.

§37-3A-3. Prohibition on Ownership by Prohibited Foreign Parties.

(a) A prohibited foreign-party-controlled business may not acquire or own, directly or indirectly, any interest in any real estate in this state, including mineral rights.

(b) A person may not hold any interest in real estate as an agent, trustee, or fiduciary on behalf of a prohibited foreign-party-controlled business.

(c) Any interest in any real estate that is held on the effective date of this article shall be divested within six months of the effective date of this article.

§37-3A-4. Enforcement; Judicial Sale.

(a) A prohibited foreign-party-controlled business that acquires real estate in violation of this article shall divest that interest within six months of acquisition.

(b) If the business fails to divest, the Attorney General shall file a civil action in the circuit court of the county where the real estate is located.

(c) Upon a circuit court finding by a preponderance of the evidence that a violation of the provisions of this article have occurred, the circuit court shall order the real estate to be sold through judicial sale under terms and conditions that are to be set by the circuit court.

(d) Proceeds of the sale shall first be distributed to lienholders according to priority, excluding liens that remain on the real estate under the terms of the sale, and any remaining funds shall be remitted to the prohibited foreign party. Lienholders may credit bid at the sale.

(e) If there are no liens against the property, then the full proceeds shall be remitted to the prohibited foreign party.

(f) The Attorney General shall promptly file in the office of the county clerk where the real estate is located the following:

(1) A notice of the pending action in the county in which the real estate is located upon commencement of the civil action filed pursuant to this article; and

(2) Once all appellate rights have been exhausted by the parties, the circuit court's final order that directs the sale of the real estate.

§37-3A-5. Good-Faith Protections.

(a) Title to real estate is not rendered invalid or subject to divestiture solely due to a prior violation of this article by a previous owner.

(b) A person who is not subject to the prohibitions contained in this article is not required to investigate whether another person or entity is subject to the prohibitions contained in this article.

CHAPTER 121

(H. B. 3162 - By Delegates Flanigan and Roop)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 29, 2025.]

AN ACT to amend and reenact §46A-2-122 and §55-7-8a of the Code of West Virginia, 1931, as amended, all relating to consumer credit and protection actions; amending definitions; and clarifying that any action for a violation of Chapter 46A of this code shall survive the death of the person entitled to recover or the death of the person liable.

Be it enacted by the Legislature of West Virginia:

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-122. Definitions.

For the purposes of this section and sections one hundred twenty-three, one hundred twenty-four, one hundred twenty-five, one hundred twenty-six, one hundred twenty-seven, one hundred twenty-eight, one hundred twenty-nine and one hundred twenty-nine-a of this article, the following terms shall have the following meanings:

(a) "Consumer" means any natural person obligated or allegedly obligated to pay any debt and includes any duly appointed personal representative of the estate of a natural person obligated or allegedly obligated to pay any debt.

(b) "Claim" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or service which is the subject of the transaction is primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment.

(c) "Debt collection" means any action, conduct or practice of soliciting claims for collection or in the collection of claims owed or due or alleged to be owed or due by a consumer.

(d) "Debt collector" means any person or organization engaging directly or indirectly in debt collection. The term includes any person or organization who sells or offers to sell forms which are, or are represented to be, a collection system, device or scheme, and are intended or calculated to be used to collect claims. The term excludes attorneys representing creditors provided the attorneys are licensed in West Virginia or otherwise authorized to practice law in the state of West Virginia and handling claims and collections in their own name as an employee, partner, member, shareholder or owner of a law firm and not operating a collection agency under the management of a person who is not a licensed attorney.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-8a. Actions which survive; limitations; law governing such actions.

(a) In addition to the causes of action which survive at common law, causes of action for injuries to property, real or personal, injuries to the person and not resulting in death, deceit or fraud, or any violations of §46A-1-101 *et. seq.* of this code, also survive; and such actions may be brought notwithstanding the death of the person entitled to recover or the death of the person liable.

(b) If any action is begun during the lifetime of the injured party, and within the period of time permissible under the applicable statute of limitations as provided by §55-2-1 *et seq.* of

this code and §55-2A-1 *et seq.* of this code, (either against the wrongdoer or his or her personal representative), and the injured party dies pending the action it may be revived in favor of the personal representative of the injured party and prosecuted to judgment and execution against the wrongdoer or personal representative.

(c) If the injured party dies before having begun an action and it is not at the time of his or her death barred by the applicable statute of limitations under the provisions of §55-2-1 *et seq.* of this code and §55-2A-1 *et seq.* of this code the action may be begun by the personal representative of the injured party against the wrongdoer or personal representative and prosecuted to judgment and execution against the wrongdoer or his or her personal representative. Any action shall be instituted within the same period of time that would have been applicable had the injured party not died.

(d) If an action mentioned in the subsections (a), (b) and/or (c) of this section have been begun against the wrongdoer and he or she dies during the pendency thereof, it may be revived against the personal representative of the wrongdoer and prosecuted to judgment and execution.

(e) The applicable provisions of §56-8-1 *et seq.* of this code govern the actions hereinabove mentioned, with reference to their abatement, revival, discontinuance, reinstatement, and substitution of parties.

(f) Nothing contained in this section shall be construed to extend the time within which an action for any other tort shall be brought, nor to give the right to assign a claim for a tort not otherwise assignable.

CHAPTER 122

(Com. Sub. for H. B. 2491 - By Delegates Crouse, D. Smith, Jennings, Moore, Horst, Heckert, Phillips, Hornby, Street, and Kyle)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amending and reenacting §47-21A-1, §47-21A-2, §47-21A-3, §47-21A-4, §47-21A-5, §47-21A-8, and §47-21A-13 of the Code of West Virginia, 1931, as amended, relating to establishing that legislative intent that institutions of higher education have a need for raising funds and granted the privilege of holding online raffles, relating to amending and adding definitions relating to the allowance that institutions of higher education are subject to this article, relating to allowing institutions of higher education to be authorized to conduct certain online raffles without a license, relating to designating that an institution of higher education may hold an online raffle, apply for a license including an annual license, relating to striking the requirement that online charitable raffle licensees utilize a geo-location or geo-fencing technology licensee, relating to striking language that required a licensee to maintain in the state of West Virginia its servers used to transmit information for the purposes of patron participation, relating to providing that charitable online raffle occasions are not considered as a sports wagering activity or an interactive wagering activity, relating to gross proceeds from an institution of higher educations' charitable online raffle occasion shall be exempt from certain taxes, relating to the expanded and other information that institutions of higher education must provide in an application for a license to conduct charitable online raffle occasions, and relating to the net proceed disbursement that

must occur for proceeds generated by an online charitable raffle occasion conducted by an institution of higher education.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21A. ONLINE CHARITABLE RAFFLES.

§47-21A-1. Legislative intent.

The Legislature, in recognition of the need for charitable and public service organizations, and institutions of higher education, to have a practicable way of raising funds by means of the internet, declares its intent to grant the privilege of holding online raffles to those organizations as provided in this article.

§47-21A-2. Definitions.

For purposes of this article, unless specified otherwise:

"Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Contributing to educational or religious purposes;

(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;

(3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;

(4) Making them aware of, or educating them about, issues of public concern so long as the activity or endeavor is not aimed at supporting or participating in the campaign of any candidate for public office;

(5) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people;

(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled;

(7) Providing or supporting nonprofit cultural or artistic activities;

(8) Providing or supporting any political party executive committee; or

(9) Fostering national, collegiate, or international amateur sports competition.

"Charitable or public service organization" means a bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary, incorporated or unincorporated association, or organization; or a volunteer fire department, rescue unit, or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any single candidate for public office.

"Commissioner" means the State Tax Commissioner.

"Conduct" means to direct the actual holding of an online raffle by activities including, but not limited to, selling tickets, collecting money, drawing or arranging for the drawing of the winning numbers or names, announcing the winning numbers or names, posting the winning numbers or names, verifying winners, and awarding prizes.

"Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of an online raffle occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-21A-13 of this code.

"Gross proceeds" means all moneys collected or received from the conduct of an online raffle held by a licensee during a license period.

“Institution of higher education” has the same meaning as contained in §21A-1A-21 of this code: *Provided,* That for purposes of this article an institution of higher education must have an athletic department that is governed by the National Collegiate Athletic Association (NCAA) and are designated by the NCAA as having a Division I or Division II athletics department.

“Institution of higher education’s athletics department activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by providing broad financial support to an institution of higher education’s athletics department including all affiliated and associated nonprofit corporations or other entities, trusts, or Name Image Likeness (NIL) collectives.

"Licensee" means any institution of higher education, or charitable or public service organization or association granted an annual or limited occasion license pursuant to the provisions of this article.

"Net proceeds" means all moneys collected or received from the conduct of an online raffle or online raffles at occasions held by a licensee during a license period after payment of the online raffle expenses authorized by §47-21A-11, §47-21A-12, and §47-21A-13 of this code.

"Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

"Patron" means any individual who participates in an online raffle by purchasing an online raffle ticket other than an individual who is participating in the conduct of the online raffle.

"Platform provider" means any third-party entity that contracts by written agreement with a licensee to host, conduct, or otherwise administer an online raffle by using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, incorporated or unincorporated association

or organization which is organized exclusively for charitable or public services activities or endeavors.

"Online Raffle" has the same meaning as "raffle" as defined in §47-21-2 of this code but conducted using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Online raffle occasion" or "occasion" means a single online session at which a series of one or more successive online raffles is conducted by a single licensee.

"Tax-exempt association or organization" means an association or organization which is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under subsection 527(a) of that code.

“Virtually Present” means live, real-time availability by online or other electronic means and includes, but is not limited to, audio or video appearance or by an instant, live chat or messaging program.

§47-21A-3. Authorizing the conduct of certain online raffles without a license.

Notwithstanding any other provisions of this article to the contrary, any charitable or public service organization, or institution of higher education, which has been in existence in this state for at least one year may conduct online raffles without compliance with the licensing provisions of this article: *Provided*, That any prize awarded in any single online raffle in an online raffle occasion may not exceed in $4,000 value: *Provided, however*, That the cumulative gross proceeds derived from the conduct of online raffle occasions by the charitable or public service organization, or institution of higher education, may not exceed $15,000 during any calendar year: *Provided further*, That

the charitable or public service, or institution of higher education, is not subject to the record keeping provisions of §47-21A-14 of the code but shall maintain a separate accounting for the operation of online raffles. All records required by this section shall be maintained for at least three calendar years and shall be available for reasonable inspection by the commissioner.

§47-21A-4. Who may hold online raffles; application for license; licenses not transferable.

(a) Except as provided in §47-21A-3 of this code, only persons who are residents of this state and who are active members of any charitable or public service organization, or is employed, or contracted, by an athletic department of an institution of higher education, which has been in existence in this state for at least two years prior to filing an application for an online raffle license issued pursuant to §47-21A-5 and §47-21A-6 of the code may hold online raffle occasions in accordance with the provisions of this article and only during the time it holds a valid license.

(b) A charitable or public service organization, or an institution of higher education, may apply for an online raffle license to the Tax Commissioner and the application shall be on a form supplied by him or her. The application shall contain the information required by §47-21A-8 of the code and any other information which the commissioner considers necessary. An online raffle may not be held and online raffle tickets may not be sold pursuant to this article until the online raffle application has been approved by the Tax Commissioner and the license has been received by the applicant: *Provided*, That an online raffle occasion may not be held and online raffle tickets may not be sold until a 60-day filing period, which is that time period between the receipt of that application by the Tax Commissioner and the first online raffle occasion, has expired: *Provided, however*, That the Tax Commissioner shall send the applicant its license within five days after the application is approved. If the 60-day filing period has expired and the application has not been denied and the online raffle license has not been received by the applicant, the applicant may consider the application approved and begin to sell tickets for the online raffle or hold the online raffle occasion. The Tax

Commissioner shall send the applicant its license within five days after the expiration of the filing period if the application has not been otherwise denied.

(c) An online raffle license issued pursuant to this article may not be transferred.

§47-21A-5. Annual license; online raffle occasion not considered a sports wagering activity; online raffle occasion not considered an interactive wagering activity; conditions on holding of online raffles.

(a) A charitable or public service organization, or institution of higher education, or any of its auxiliaries, affiliated nonprofit corporations or other entities, trusts, collectives, or other organizations otherwise affiliated with it, may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or public service organization, or institution of higher education, and all of its auxiliaries, affiliated nonprofit corporations or other entities, trusts, collectives, or other associations or organizations otherwise affiliated with it: *Provided*, That for purposes of this section, the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, to provide for the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the one license allowed under this section is granted. An annual license is valid for one year from the date of issuance. Charitable or public service organizations, or institution of higher education, may not hold a joint online raffle occasion under any annual licenses.

(b) Any online raffle occasion, conducted by a licensee which holds an annual license and is an institution of higher education, shall not be considered as a sports wagering activity as contemplated in §29-22D-1 *et seq.* of this code.

(c) Any online raffle occasion, conducted by a licensee which holds an annual license and is an institution of higher education, shall not be considered as an interactive wagering activity as contemplated in §29-22E-1 *et seq.* of this code.

(d) The Tax Commissioner shall provide on his or her website a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide a conspicuous hyperlink on any online raffle ticket that is purchased by a patron to the Tax Commissioner's website. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

§47-21A-6. Limited occasion license; conditions on holding of online raffles.

(a) Two or more charitable or public service organizations, or institutions of higher education, may hold a joint online raffle occasion provided each participating organization has been granted a limited occasion online raffle license for the jointly held occasion: *Provided*, That a licensee which holds an annual license may not obtain more than one limited occasion license.

(b) A limited occasion license is valid only for the time period specified in the application and entitles only the licensee to hold two online raffle occasions during the specified time period which may not exceed six months from the date of issuance of the limited occasion license.

(c) Subject to the limitations set forth in this section for charitable or public service organization, or an institution of higher education having an annual license, a charitable or public service organization, or an institution of higher education and all of its auxiliaries or other associations or organizations otherwise affiliated with it, including but not limited to any affiliated nonprofit corporations or other entities, trusts, collectives, may be granted only three limited occasion licenses per year in the aggregate. For purposes of this section the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered

affiliates or auxiliaries of each other. The commissioner shall by rulemaking provide the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the three licenses allowed under this section are granted.

(d) The Tax Commissioner shall provide a hyperlink on its website that will display a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide this hyperlink on any online raffle ticket that is purchased by a patron. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

§47-21A-7. License fee and exemption from taxes.

(a) A license fee shall be paid to the Tax Commissioner for annual licenses in the amount of $500. A license fee shall be paid to the Tax Commissioner for a limited occasion license in the amount of $50. All revenue from the license fees shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory activities provided for in that section. The license fee imposed by this section is in lieu of all other license or franchise taxes or fees of this state and a county or municipality or other political subdivision of this state may not impose a license or franchise tax or fee on any online raffle or online raffle occasion.

(b) The gross proceeds derived from the conduct of an online raffle occasion are exempt from state and local business and occupation taxes, income taxes, excise taxes, and all special taxes. Any charitable or public service organization, or institution of higher education conducting an online raffle occasion pursuant to the provisions of this article is exempt from payment of consumers sales and service taxes, use taxes, and all other taxes on all purchases for use or consumption in the conduct of an online raffle occasion and is exempt from collecting consumers sales taxes on any admission fees and sales of online raffle tickets.

§47-21A-8. Information required in application.

An application for an online raffle license shall include the following information:

(a) The name of the applicant and the name and headquarter's address of any state or national organization of which the applicant is a local branch or lodge;

(b) The address and telephone number of the applicant organization, or institution of higher education, if any, and if the applicant organization has no telephone, then the address and telephone number of the person applying on behalf of the organization shall be supplied;

(c) For a limited occasion license, the names and addresses of two or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded: *Provided,* That an application submitted by an institution of higher education shall contain the names and addresses of two or more employees of the institution of higher education, or two or more persons contracted by the institution of higher education who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses of the highest elected officer of the licensee, if any, and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; for an annual license, the names, addresses and telephone numbers of three or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and

verified and present when the prizes are awarded: *Provided,* That an application submitted by an institution of higher education shall contain the names and addresses of three or more employees of the institution of higher education, or three or more persons contracted by the institution of higher education who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses and telephone numbers of the highest elected officer of the licensee, if any, and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers and names are drawn, announced, posted, and verified and present when the prizes are awarded;

(e) The address and the location of any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet. A copy of all written agreements between the licensee and the platform provider providing these services shall specifically provide a statement of all costs and fees to be incurred by the licensee for receiving these services by the platform provider. A copy of any written agreements shall be provided to the Tax Commissioner;

(f) Information required by the commissioner to satisfy him or her that the applicant meets the requirements of:

(1) Being a charitable or public service organization, or an institution of higher education as defined by this article; and

(2) Being in existence in this state for at least one year prior to filing an application for an online raffle license.

(g) Designate the date or dates and the time or times when the online raffle occasions will be held: *Provided,* That in addition to

these initial disclosures of online raffle occasions an institution of higher education shall provide to the commissioner a written list of online raffle occasions that will occur each month, included in this list shall be a designation of the date or dates and the time or times when the raffle occasions will be held;

(h) State whether the applicant has ever had a previous application for any online raffle or raffle license refused, or whether any previous online raffle license or raffle license has been revoked or suspended;

(i) State the charitable or public service, or institution of higher education's athletics department's purpose, purposes, activity or endeavor for which the online raffle proceeds will be expended;

(j) Provide statements to the effect that the individuals specified in subdivision (c) of this section and the officers of the applicant understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct the online raffle;

(2) That they are required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and that a violation of the provisions may result in suspension or revocation of the online raffle license or other raffle license and denial of applications for subsequent online raffle licenses or raffle licenses;

(k) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(l) Provide a list and description of estimated expenses to be incurred in connection with the holding of the online raffle occasions and the name and address of each payee;

(m) A list of the names and addresses of all officers and members of the board of directors, governors or trustees, and any employees of an institution of higher education's athletics department directly involved with online raffle occasions, if any, of an applicant; and

(n) Any other necessary and reasonable information which the commissioner may require.

§47-21A-13. Payment of reasonable expenses from proceeds; net proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of online raffle occasions, not to exceed 40 percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of the online raffle, including, but not limited to:

(1) Rent paid for the use of any premises: *Provided*, That a copy of the rental agreement was filed with the online raffle license application with any modifications to the rental agreement to be filed within 10 days of being made: *Provided, however*, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost to the licensee organization for equipment and supplies used to conduct the online raffle occasion;

(3) The cost to the licensee organization for advertising the online raffle occasion;

(4) The costs involved in the licensee using technology, Internet service providers, servers, or other necessary infrastructure by which to advertise and conduct the online raffle or online raffle occasion;

(5) The costs relating to any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from

the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in §47-21A-11 of the code, may be paid out of the gross proceeds of the conduct of an online raffle.

(c) The licensee shall expend all net online raffle proceeds and any interest earned on the net online raffle proceeds for the purposes stated in the application of an institution of higher education, or for the purposes stated in the application of a charitable or public service organization, within one year after the expiration of the license under which the online raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for an online raffle license for permission to apply any or all of its net proceeds to directly support a charitable or public service, or an institution of higher education's athletics department, activity or endeavor which it sponsors.

(d) Gross proceeds from any online raffle occasion may not be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, or improvement, of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subsection (a) of this section.

(e) The Tax Commissioner may disapprove any contract for sale of goods or services to any online raffle licensee for use in or with relation to any online raffle operation or occasion, or any lease of real or tangible personal property to any online raffle licensee for use in or with relation to any online raffle operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Disapproved contracts or leases shall be considered to be in contravention of this article, and are void. Any attempt by any online raffle licensee to engage in transactions under the terms of any disapproved lease or contract is grounds for revocation or suspension of the online raffle license or other charitable raffle

license and for refusal by the Tax Commissioner to renew the online raffle license or raffle license.

(f) Any licensee which, in good faith, finds itself unable to comply with the requirements of subsections (a) through (e) of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service, or institution of higher education purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than 60 days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose or for an institution of higher education's athletics department purpose, the licensee shall file periodic reports with the commissioner as directed until the proceeds are expended.

CHAPTER 123

(H. B. 2511 - By Delegates Linville, Hillenbrand, Sheedy, Clay, Butler, Hite, Ridenour, D. Smith, and Roop)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 28, 2025.]

AN ACT to amend and reenact §47-20-2 of the Code of West Virginia, 1931 as amended; relating to charitable bingo and alcohol or nonintoxicating beer sales and consumption while such bingo is taking place; adding an exemption for the consumption or sale of alcohol or nonintoxicating beer at bingo games conducted on the premises of a fraternal beneficiary society, domestic fraternal society, veteran's organization, or volunteer fire department.

Be it enacted by the Legislature of West Virginia:

ARTICLE 20. CHARITABLE BINGO.

§47-20-2. Definitions.

For purposes of this article, unless specified otherwise:

(a) "Bingo" means the game wherein participants pay consideration for the use of one or more paper or virtual cards bearing several rows of numbers in which no two cards played in any one game contain the same sequence or pattern. When the game commences, numbers are selected by chance, one by one, and announced. The players cover or mark those numbers announced as they appear on the card or cards which they are using. The player who first announces that he or she has covered a predetermined sequence or pattern which had been preannounced for that game is, upon verification that he or she has covered the predetermined sequence or pattern, declared the winner of that game. Bingo, as

authorized by this article, may be operated and played virtually over the Internet using an online bingo software system or web application.

(b) "Bingo occasion" or "occasion" means a single gathering or session at which a series of one or more successive bingo games is conducted by a single licensee.

(c) "Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Assisting them to establish themselves in life as contributing members of society through education or religion;

(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;

(3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;

(4) Making them aware of, or educating them about, issues of public concern so long as the activity or endeavor is not aimed at influencing legislation or supporting or participating in the campaign of any candidate for public office;

(5) By lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people;

(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled; or

(7) Providing or supporting nonprofit cultural or artistic activities.

(d) "Charitable or public service organization" means a bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary incorporated or unincorporated association or

organization; or a volunteer fire department, rescue unit, or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office.

An organization or association is tax-exempt if it is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code.

(e) "Commissioner" means the State Tax Commissioner.

(f) "Concession" means any stand, booth, cart, counter, or other facility, whether stationary or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other tobacco products, newspapers, souvenirs, or any other items are sold to patrons by an individual operating the facility. Notwithstanding anything contained in §60-7-12(a)(2) of this code to the contrary, "concession" includes beverages which are regulated by, and are subject to, the provisions of chapter 60 of this code: *Provided*, That in no case may the sale or the consumption of alcoholic beverages or nonintoxicating beer be permitted in any area where bingo is conducted: *Provided however,* That the sale or the consumption of alcoholic beverages or nonintoxicating beer may be permitted in an area where bingo is conducted on the premises of a fraternal society or veteran's organization that is:

(1) A fraternal beneficiary society that is exempt from federal income tax under section 501(c)(8) of the Internal Revenue Code of 1986, as amended;

(2) A domestic fraternal society that is exempt from federal income tax under section 501(c)(10) of the Internal Revenue Code of 1986, as amended;

(3) A veterans' organization that is exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code of 1986, as amended; or

(4) A volunteer fire department, as defined in §11-13JJ-2 of this code.

(g) "Conduct" means to direct the actual playing of a bingo game by activities including, but not limited to, handing out bingo cards, collecting fees, drawing the numbers, announcing the numbers, posting the numbers, verifying winners, and awarding prizes.

(h) "Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of a bingo occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-20-15 of this code.

(i) "Gross proceeds" means all moneys collected or received from the conduct of bingo at all bingo occasions held by a licensee during a license period; this term does not include any moneys collected or received from the sale of concessions at bingo occasions.

(j) "Joint bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is conducted by two or more licensees.

(k) "Licensee" means any organization or association granted an annual, limited occasion, or state fair bingo license pursuant to the provisions of this article.

(l) "Net proceeds" means all moneys collected or received from all the conduct of bingo at bingo occasions held by a licensee during a license period after payment of expenses authorized by §47-20-10, §47-20-13, §47-20-15, and §47-20-22 of this code; this term does not include moneys collected or received from the sale of concessions at bingo occasions.

(m) "Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

(n) "Patron" means any individual who attends a bingo occasion other than an individual who is participating in the conduct of the occasion or in the operation of any concession, whether or not the individual is charged an entrance fee or plays any bingo games.

(o) "Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, as defined in subdivision (d) of this subsection, incorporated or unincorporated association or organization which is organized and functions exclusively to directly benefit a number of people as provided in paragraphs (1) through (7), inclusive, subdivision (c) of this subsection. "Qualified recipient organization" includes, without limitation, any licensee which is organized and functions exclusively as provided in this subdivision.

(p) "Venue" means the location in which bingo occasions are held.

CHAPTER 124

(H. B. 2444 - By Delegates Criss and Maynor)

[Passed April 9, 2025; in effect 90 days from passage (July 8, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §29-22B-1406 of the Code of West Virginia, 1931, as amended, relating to limiting financial records of limited video lottery permittees that are subject to examination by Lottery Commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22B. LIMITED VIDEO LOTTERY.

Part XIV. Net Terminal Income and Distribution of Revenues.

§29-22B-1406. Examination of permittee books and records.

The commission has the right to examine all accounts, bank accounts, financial statements, and records in a permittee's possession for only the limited video lottery business that is under the permittee's control or in which the permittee has an interest and the licensed permittee shall authorize all third parties in possession or in control of the accounts or records to allow examination of any of those accounts or records by the commission.

CHAPTER 125

(Com. Sub. for S. B. 443 - By Senator Tarr)

[Passed March 13, 2025; in effect from passage]
[Approved by the Governor on March 24, 2025.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §30-32-11a, relating to authorizing the West Virginia Board of Examiners for Speech-Language Pathology and Audiology to conduct criminal background checks on applicants seeking initial compact privilege; requiring applicants seeking initial privilege to submit to national and state criminal record background check as condition of eligibility for compact privilege; mandating such applicants to submit fingerprints and authorize board, West Virginia State Police, and Federal Bureau of Investigation to use records submitted to screen applicants; prohibiting release of background check results; providing for exceptions; establishing that background check records are not public records; obligating applicants to complete background check immediately after application for privilege to practice; requiring applicants to pay costs of fingerprinting and background check; and authorizing rulemaking and emergency rulemaking.

Be it enacted by the Legislature of West Virginia:

ARTICLE 32. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

§30-32-11a. Criminal history record checks.

(a) The West Virginia Board of Examiners for Speech-Language Pathology and Audiology may require state and national criminal history record checks for the purpose of issuing licenses. The West Virginia Board of Examiners for Speech-Language Pathology and Audiology shall require an applicant for initial

privilege to practice in a remote state under the Speech-Language Pathologists and Audiologists Compact, including speech-language pathologists, audiologists, and speech-language pathology and audiology assistants, to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code.

(e) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for privilege to practice.

(f) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(g) The board may propose rules or amendments to existing rules for legislative approval, pursuant to the provisions of §29A-3-1 *et seq.* of this code, or may promulgate emergency rules, pursuant to §29A-3-15 of this code, to comply with the provisions of this section.

CHAPTER 126

(Com. Sub. for S. B. 485 - By Senators Woodrum and Oliverio)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 30, 2025.]

AN ACT to amend and reenact §5A-3-1 of the Code of West Virginia, 1931, as amended, relating to the Purchasing Division; exempting the Secretary of State from the competitive bidding process for specific purchases of securing, facilitating, or supporting critical election infrastructure; requiring the Secretary of State to provide certain documents related to exempt purchases to the Director of the Purchasing Division for posting on the division's website; and providing an exception to the requirement to provide certain documents to the director.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-1. Division created; purpose; director; applicability of article; continuation.

(a) The Purchasing Division within the Department of Administration is continued. The underlying purposes and policies of the Purchasing Division are:

(1) To serve as a source of expertise in procurement methods and practices for the various state agencies, and to assist and facilitate state agencies in procurement matters, including for travel services;

(2) To simplify, clarify, and modernize the law governing procurement by this state;

(3) To permit the continued development of procurement policies and practices;

(4) To make as consistent as possible the procurement rules and practices among the various spending units;

(5) To provide for increased public confidence in the procedures followed in public procurement;

(6) To ensure the fair and equitable treatment of all persons who deal with the procurement system of this state;

(7) To provide increased economy in procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds;

(8) To foster effective broad-based competition within the free enterprise system;

(9) To provide safeguards for the maintenance of a procurement system of quality and integrity; and

(10) To obtain in a cost-effective and responsive manner the commodities and services required by spending units for those spending units to better serve this state's businesses and residents.

(b) The provisions of this article apply to all of the spending units of state government, except as otherwise provided by this article or by law.

(c) The provisions of this article do not apply to:

(1) The judicial branch;

(2) The West Virginia State Police;

(3) The West Virginia Office of Laboratory Services;

(4) The legislative branch;

(5) Purchases of stock made by the Alcohol Beverage Control Commissioner;

(6) Purchases of textbooks, instructional materials, digital content resources, instructional technology, hardware, software, telecommunications, and technical services by the State Board of Education for use in and in support of the public schools; and

(7) Purchases of voter registration systems, voting systems, electronic pollbooks, election results reporting systems, and other technologies used to register, maintain, or process voters or used in the conduct of an election by the West Virginia Secretary of State, which are critical election infrastructure protected by 42 U.S.C. § 5195c: *Provided*, That when any purchase or procurement has been made pursuant to this subdivision, the Secretary of State shall submit all bids, quotes, requested specifications, and contracts related to the purchase or procurement, as well as any subsequent change orders and amendments and addenda to contracts related to the purchase or procurement, to the director to be posted and publicly accessible on the division's website: *Provided, however*, That the Secretary of State is not required to submit to the director any document or portion of a document that would be exempt from disclosure if the document or portion of a document were requested pursuant to §29B-1-1 *et seq.* of this code.

(d) The provisions of this article do not apply to any contract, agreement, or memorandum of understanding between a spending unit of state government and West Virginia School of Osteopathic Medicine, West Virginia University, or Marshall University for services, except that any contract entered into under §9-2-6(5) of this code for the provision of Medicaid services by a risk-bearing entity is not exempt from the provisions of this article.

(e) Notwithstanding any other provisions of this article, commodities and services may be purchased by a spending unit in the open market for immediate delivery in emergencies: *Provided*, That the purchase and a description of the circumstances warranting such emergency purchase are timely reported by the agency head or other authorized agent of the spending unit under the provisions of § 5A-3-4(a)(2) of this code.

(f) The provisions of this article apply to every expenditure of public funds by a spending unit for commodities and services irrespective of the source of the funds, except as otherwise provided by this article or by law.

CHAPTER 127

(Com. Sub. for S. B. 500 - By Senators Chapman and Deeds)

[Passed April 7, 2025; in effect 90 days from passage (July 6, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §8-15-7a of the Code of West Virginia, 1931, as amended, relating to transferring audit authority for volunteer fire companies to the Legislative Auditor.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-7a. Audit or financial examination of volunteer fire companies.

The West Virginia Legislative Auditor (Legislative Auditor) shall have the authority and the duty to make a regular review of the finances of each volunteer fire company constituted under the provisions of this article. Audits or financial examinations are not required to be conducted on an annual basis, but shall be scheduled as to complete a review of each volunteer fire company at least once every five years: *Provided*, That nothing in this section shall prevent the Legislative Auditor from conducting more than one financial examination or audit of a volunteer fire company within the five-year period if the Legislative Auditor has cause to believe that loss, mismanagement, misuse, or waste of the funds of the company that may occur or is occurring. The scope of the Legislative Auditor's examination or audit shall include all income of the voluntary fire company, regardless of the source of funds, the assets, liabilities, and all expenditures of the company: *Provided, however*, That the Legislative Auditor shall implement

internal policies to ensure that any costs associated with an audit under this section of the code may be carried by the Legislative Auditor. The Legislative Auditor, upon discovering any concerning or suspicious financial transactions, shall request the State Auditor to investigate and pursue correction or prosecution, as appropriate, of any misconduct, mismanagement, misuse, or waste.

CHAPTER 128

(Com. Sub. for Com. Sub. for S. B. 587 - By Senator Jeffries)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to amend and reenact §5-22-1, §5-22-2, and §5-22-4 of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new article, designated §5-22B-1, §5-22B-2, §5-22B-3, §5-22B-4, §5-22B-5, §5-22B-6, §5-22B-7, §5-22B-8, §5-22B-9, §5-22B-10, §5-22B-11, §5-22B-12, §5-22B-13, §5-22B-14, §5-22B-15, §5-22B-16, §5-22B-17, §5-22B-18, and §5-22B-19, relating to government contracting; increasing the minimum competitive bid threshold from $25,000 to $50,000; providing for a bid validity period; clarifying factors for considering when bids exceed budgeted amount; enacting the Government Construction Management At-Risk Contracts Act; providing a short title; defining terms; authorizing the state and/or its subdivisions to engage in construction management at-risk contracts for projects with a total estimated cost of $20 million or greater; requiring the state and/or its subdivisions adopt policies and procedures for use in construction management at-risk contract; requiring the state and/or its subdivisions using construction management at-risk delivery method provide notice; requiring the state and/or its subdivisions issue request for qualifications; requiring the state and/or its subdivisions issue requests for proposals; establishing a standardized format for a proposal; establishing the criteria a request for proposal must contain; providing standards and criteria for the evaluation of proposals; providing for prequalification of firms; requiring a proposal evaluation committee; establishing suggested membership of a proposal evaluation committee; providing evaluation criteria and weight for aspects of proposals; setting forth process to determine best

value; authorizing the state and/or its subdivisions to amend contracts after acceptance; providing exceptions for special maintenance projects; making documents public in some instances; providing for rulemaking; required reporting; setting forth a sunset date; and making technical and conforming amendments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.

§5-22-1. Bidding required; government construction contracts to go to lowest qualified responsible bidder; procedures to be followed in awarding government construction projects; penalties for violation of procedures and requirements debarment; exceptions.

(a) This section and the requirements in this section may be referred to as the West Virginia Fairness in Competitive Bidding Act.

(b) As used in this section:

(1) "Alternates" means any additive options or alternative designs included in a solicitation for competitive bids that are different from and priced separately from what is included in a base bid.

(2) "Construction project" means a specifically identified scope of work involving the act, trade, or process of building, erecting, constructing, adding, repairing, remodeling, rehabilitating, reconstructing, altering, converting, improving, expanding, or demolishing of a building, structure, facility, road, or highway. Repair and maintenance of existing public improvements that are recurring or ongoing in nature and that are not fully identified or known at any one time shall be considered a construction project and procured according to this article on an open-ended basis, so long as the work to be performed under the contract falls into a generally accepted single class, or type, and

bidders are notified of the open-ended nature of the work in the solicitation: *Provided*, That no open-ended repair or maintenance contract may exceed $500,000. A construction project does not include a design-build project as set forth in §5-22A-1 *et seq.* of this code or a construction management at-risk project as set forth in §5-22B-1 *et seq.* of this code.

(3) "Lowest qualified responsible bidder" means the bidder that bids the lowest price and that meets, at a minimum, all the following requirements in connection with the bidder's response to the bid solicitation. The bidder shall certify that it:

(A) Is ready, able, and willing to timely furnish the labor and materials required to complete the contract;

(B) Is in compliance with all applicable laws of the State of West Virginia; and

(C) Has supplied a valid bid bond or other surety authorized or approved by the contracting public entity.

(4) "The state and/or its subdivisions" means the state of West Virginia, every political subdivision thereof, every administrative entity that includes such a subdivision, all municipalities, and all county boards of education.

(5) "State spending unit" means a department, agency, or institution of the state government for which an appropriation is requested, or to which an appropriation is made by the Legislature.

(c) The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding $50,000 in total cost.

(1) If a solicitation contains a request for any alternates, the alternates shall be listed numerically in the order of preference in the solicitation.

(2) A vendor who has been debarred pursuant to §5A-3-33b through §5A-3-33f of this code may not bid on or be awarded a contract under this section.

(d) All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions.

(e) Following the solicitation of bids, the construction contract shall be awarded to the lowest qualified responsible bidder who shall furnish a sufficient performance and payment bond. The state and its subdivisions may reject all bids and solicit new bids on the project.

(f) Any solicitation of bids shall include no more than five alternates. Alternates, if accepted, shall be accepted in the order in which they are listed on the bid form. Any unaccepted alternate contained within a bid shall expire 90 days after the date of the opening of bids for review.

Determination of the lowest qualified responsible bidder shall be based on the sum of the base bid and any alternates accepted.

(g) The apparent low bidder on a contract valued at more than $250,000 for the construction, alteration, decoration, painting, or improvement of a new or existing building or structure with a state spending unit shall submit a list of all subcontractors who will perform more than $25,000 worth of work on the project including labor and materials. This section does not apply to other construction projects such as highway, mine reclamation, water, or sewer projects. The list shall include the names of the bidders and the license numbers as required by §30-42-1 *et seq.* of this code. This information shall be provided to the state spending unit within one business day of the opening of bids for review prior to the awarding of a construction contract. If the apparent low bidder fails to submit the subcontractor list, the state spending unit shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the subcontractor list within one business day of the request. Failure to submit the subcontractor list within one business day of receiving the request shall result in disqualification of the bid. A subcontractor list may not be required if the bidder provides notice in the bid submission or in response to a request for a subcontractor list that no subcontractors who will

perform more than $25,000 worth of work will be used to complete the project.

(h) Written approval must be obtained from the state spending unit before any subcontractor substitution is permitted. Substitutions are not permitted unless:

(1) The subcontractor listed in the original bid has filed for bankruptcy;

(2) The state spending unit refuses to approve a subcontractor in the original bid because the subcontractor is under a debarment pursuant to §5A-3-33d of this code or a suspension under §5A-3-32 of this code; or

(3) The contractor certifies in writing that the subcontractor listed in the original bill fails, is unable, or refuses to perform the subcontract.

(i) The contracting public entity may not award the contract to a bidder which fails to meet the minimum requirements set out in this section. As to a prospective low bidder which the contracting public entity determines not to have met one or more of the requirements of this section or other requirements as determined by the public entity in the written bid solicitation, prior to the time a contract award is made, the contracting public entity shall document in writing and in reasonable detail the basis for the determination and shall place the writing in the bid file. After the award of a bid under this section, the bid file of the contracting public agency and all bids submitted in response to the bid solicitation shall be open and available for public inspection.

(j) The contracting public entity shall not award a contract pursuant to this section to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees. Any governmental entity may submit to the Division of Purchasing information which identifies vendors that qualify as being in default on a monetary obligation to

the entity. The contracting public entity shall take reasonable steps to verify whether the lowest qualified bidder is in default pursuant to this subsection prior to awarding a contract.

(k) A public official or other person who individually or together with others knowingly makes an award of a contract under this section in violation of the procedures and requirements of this section is subject to the penalties set forth in §5A-3-29 of this code.

(l) No officer or employee of this state or of a public agency, public authority, public corporation, or other public entity and no person acting or purporting to act on behalf of an officer or employee or public entity may require that a performance bond, payment bond, or surety bond required or permitted by this section be obtained from a particular surety company, agent, broker, or producer.

(m) All bids shall be open in accordance with the provisions of §5-22-2 of this code, except design-build projects which are governed by §5-22A-1 *et seq.* of this code and are exempt from these provisions.

(n) Nothing in this section applies to:

(1) Work performed on construction or repair projects by regular full-time employees of the state or its subdivisions;

(2) Prevent students enrolled in vocational educational schools from being utilized in construction or repair projects when the use is a part of the student's training program;

(3) Emergency repairs to building components, systems, and public infrastructure. For the purpose of this subdivision, the term "emergency repairs" means repairs that if not made immediately will seriously impair the use of building components, systems, and public infrastructure or cause danger to persons using the building components, systems, and public infrastructure; and

(4) A situation where the state or subdivision thereof reaches an agreement with volunteers, or a volunteer group, in which the governmental body will provide construction or repair materials,

architectural, engineering, technical, or other professional services, and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body.

§5-22-2. Designation of time and place for opening of bids; right to reject or withdraw bid; bid resubmission; bid validity date.

(a) The public entity accepting public contract bids shall, in its resolution providing for the contract or purchase and for the advertisement for bids, designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud. No public entity may accept or take any bid, including receiving any hand-delivered bid, after the time advertised to take bids. No bid may be opened on days which are recognized as holidays by the United States Postal Service. No public entity may accept or consider any bids that do not contain a valid bid bond or other surety approved by the state of West Virginia or its subdivisions.

(b) The provisions and requirements of this section, §5-22-1 of this code, the requirements stated in the advertisement for bids, and the requirements on the bid form may not be waived by any public entity. The public entity may only reject an erroneous bid after the opening if all of the following conditions exist: (1) An error was made; (2) the error materially affected the bid; (3) rejection of the bid would not cause a hardship on the public entity involved, other than losing an opportunity to receive construction projects at a reduced cost; and (4) enforcement of the bid in error would be unconscionable. If a public entity rejects a bid, it shall maintain a file of documented evidence demonstrating that all the conditions set forth in this subdivision existed. If the public entity determines the bid to be erroneous, the public entity shall return the bid security to the contractor.

(c) A contractor who withdraws a bid under the provisions of this section may not resubmit a bid on the same project. If the bid withdrawn is the lowest bid, the next lowest bid may be accepted.

(d) The provisions of a bid shall remain valid and legally binding for a period of 90 calendar days. The 90 days begin to run from the date of the bid opening as prescribed by the public entity bid solicitation. The 90-day period as set forth in this section may be extended by mutual agreement of the contractor and the public entity. Any extension shall be in writing.

§5-22-4. Negotiation when all bids exceed budgeted amount.

(a) The state and its subdivisions may establish a maximum budgeted amount for each construction project. In the event the bids for a construction project exceed the funds available, the contracting public agency may negotiate with the lowest qualified responsible bidder pursuant to the provisions of this section.

(b) To utilize the provisions of this section, the contracting public agency shall:

(1) Establish a maximum budgeted amount;

(2) Maintain confidentiality of the maximum budgeted amount prior to the award of a contract; and

(3) Not proceed with a negotiated award if that results in more than a 10 percent change in cost from the original base bid.

(c) A negotiated award made pursuant to the provisions of this section shall be made within 60 calendar days of the original bid opening date.

(d) Negotiations under this section shall be completed in the following manner:

(1) If only one responsive and responsible bidder responds to a solicitation the contracting agency may negotiate an award based solely on the specifications contained within the original solicitation;

(2) If more than one bidder responds to a solicitation, the contracting public agency may negotiate with the apparent lowest qualified responsible bidder, as defined in §5-22-1 of this code:

Provided, That any such negotiation must be based on the specifications contained within the original solicitation;

(3) The contracting public agency shall make available for public inspection all negotiated contracts; and

(4) The contracting public agency shall memorialize any change to the original project specifications that occur as a result of a negotiated award made pursuant to the provisions of this section.

(e) The provisions of this section are permissive and not mandatory for any contracting public agency.

(f) An award of a negotiated contract pursuant to the provisions of this section may not be made to a bidder who fails to meet the other qualifications set forth in this article.

(g) For the purposes of this section, "construction project" does not mean the construction of a road, bridge, or highway.

(h) The provisions of this section expire and shall have no force and effect after December 31, 2029.

ARTICLE 22B. GOVERNMENT CONSTRUCTION MANAGEMENT AT-RISK CONTRACTS.

§5-22B-1. Short title; applicability of article.

This act shall be known as the Government Construction Management At-Risk Contracts Act. The provisions of this article may be used to select construction managers at-risk for authorized public construction projects as set forth in this article. Notwithstanding the provisions of §5-22-1 *et seq.* and §5-22A-1 *et seq.* of this code, construction management at-risk contracts shall be awarded pursuant to the provisions of this article: *Provided*, That a construction management at-risk contract shall not be authorized for a construction project of less than $20 million in estimated total cost.

§5-22B-2. Definitions.

The following terms shall have the following meaning:

"Best value" means a selection process in which proposals contain both pricing and performance components, an award is based upon a combination of pricing and performance considerations to determine the offer deemed most advantageous and of the greatest value to the state spending authority.

"Construction fee" means a combination of home office overhead and profit for services provided during the construction phase of the project, as defined in the contract documents.

"Construction management at-risk contract" means a contract by which a construction manager:

(1) Assumes the legal responsibility to deliver a construction project within a contracted price;

(2) Acts as a construction consultant to the state and/or its subdivision during the design development phase of the project when the state and/or its subdivisions architect or engineer designs the project; and

(3) Is the builder during the construction phase of the project;

"Construction manager" means the legal entity that proposes to enter into a construction management at-risk contract pursuant to this article;

"General conditions" means materials, services, and equipment necessary to perform the work but that are not incorporated into the project as defined in the contract documents;

"Letter of interest" means a statement indicating interest to enter into a construction management at-risk contract for a public project pursuant to this article;

"Lowest qualified responsible bidder" shall have the same meaning as that term is used in §5-22-1(b) of this code;

"Preconstruction fee" means a combination of home office overhead and profit for services provided during the preconstruction phase of the project, as defined in the contract documents;

"Proposal" means an offer in response to a request for proposals by a construction manager to enter into a construction management at-risk contract for a project pursuant to the provisions of this article;

"Request for qualifications" means the documentation or publication by which a state and/or its subdivisions solicits letters of interest detailing a firm's qualifications for a specific project;

"Request for proposals" means the documentation by which a state and/or its subdivisions solicits proposals;

"The state and/or its subdivisions" means the state of West Virginia, every political subdivision thereof, every administrative entity that includes such a subdivision, all municipalities, and all county boards of education.

§5-22B-3. Authorization of construction management at-risk contracts for public construction projects.

(a) Notwithstanding any other provision of this code to the contrary, the state and/or its subdivisions who comply with the provisions of this article may solicit and execute a construction management at-risk contract.

(b) The execution of a construction management at-risk contract between the state and/or its subdivisions and a construction manager is optional. The use of a construction management at-risk contract is at the discretion of the state and/or its subdivisions. If the state and/or its subdivisions opt not to execute a construction management at-risk contract the provisions of §5-22-1 *et seq.* of this code shall apply to the selection and management of the bidding process of the project.

(c) Prior to entering into a construction management at-risk contract, the state and/or its subdivisions shall adopt policies for

utilization of a construction management at-risk contract. The policies shall require that such contracts include, at a minimum, the following:

(1) Procedures for the preparation and content of requests for qualifications and requests for proposals;

(2) Procedures for preparing and submitting proposals;

(3) Procedures for evaluating proposals in accordance with §5-22B-12 of this code;

(4) Procedures for negotiations between the state and/or its subdivisions and the construction managers submitting proposals prior to the acceptance of a proposal if any such negotiations are contemplated; and

(5) Procedures for filing and acting on formal protests relating to the solicitation or execution of construction management at-risk contracts.

(d) The state and/or its subdivisions may require supplemental conditions to a construction management at-risk agreement and any modifications to the agreement will be communicated to all parties prior to the execution of the contract.

§5-22B-4. Construction management at-risk contract required procedures.

(a) The state and/or its subdivisions shall utilize a two-step process for every construction manager at-risk project. The first phase shall be the qualifications phase and the second shall be a request for proposal phase. For each construction manager at-risk project, it shall be the responsibility of the state and/or its subdivisions to:

(1) Identify the qualifications criteria required for the project in accordance with subsection (b) of this section and determine how the qualifications criteria shall be evaluated in the qualifications phase of the selection;

(2) Identify if there are any minimum or mandatory technical requirements for the project; and

(3) Establish a process for maintaining records of decisions made at all stages of the selection process.

(b) Prior to the announcement of the qualifications phase, the state and/or its subdivisions shall establish criteria for the evaluation of a firm's qualifications subject to the provisions of §5-22B-12 of this code. The state and/or its subdivisions shall include the following as part of its qualifications criteria:

(1) Competence to perform the required management services as indicated by the technical training, education, and experience of the construction manager at-risk's personnel, especially the technical training, education, and experience of the construction manager at-risk's employees who would be assigned to perform the services;

(2) Ability in terms of workload and the availability of qualified personnel, equipment, and facilities to perform the required management services competently and expeditiously, and experience working on similar types of projects;

(3) Past performance as reflected by the evaluation of previous clients with respect to factors such as control of costs, quality of work, dispute resolution, administration of subcontractors, and meeting of deadlines;

(4) Financial responsibility including evidence of the capability to provide a surety letter; and

(5) Other qualifications that are consistent with the scope and needs of the project including, but not limited to, knowledge of the local area and working relationships with local subcontractors and suppliers.

§5-22B-5. Evaluation committee.

(a) The state and/or its subdivisions shall convene an evaluation committee. The composition of the committee is at the

discretion of the state and/or its subdivisions; however, the composition of the committee shall not consist of enough members of a public body to constitute a quorum. The state and/or its subdivisions may permit the project's architectural or professional design firm if selected, or other independent advisors to support the evaluation committee or advise it on technical and pricing issues. The architectural or professional design firm or independent advisors shall not participate as a voting member of the committee.

(b) Membership on the evaluation committee may include, but is not required to include:

(1) Procurement officer: Who is responsible for the procurement and ensuring compliance with relevant laws and policies;

(2) Technical and administrative personnel: Members with technical and administrative expertise;

(3) User department staff: Members from the department that will use the product or service;

(4) Specialists: Members with expertise in specific areas, such as finance, database design, or business; and

(5) Other knowledgeable people: Individuals from the organization who can bring special expertise to the process.

§5-22B-6. Request for qualifications phase.

(a) Following the determination of qualifications and establishment of the evaluation team, the state and/or its subdivisions shall prepare a request for qualifications for construction manager at-risk contract proposals in accordance with the provisions of this article. The request for qualifications shall describe the project in sufficient detail to permit a construction manager to submit a letter of interest detailing their qualifications.

(b) The request for qualifications shall be:

(1) Published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code for at least 30 days prior to the deadline for receiving letters of interest; and

(2) Sent by first-class mail to any construction manager upon request.

(c) The state and/or its subdivisions shall answer any questions from interested firms in writing and make all questions and answers available to all interested firms.

§5-22B-7. Prequalified firms.

(a) When the state and/or its subdivisions receive responses to the request for qualifications, the evaluation committee shall evaluate the responses based on the information submitted to the state and/or its subdivisions in response to a request for qualifications and select no fewer than three firms that it considers most qualified to provide the required services: *Provided,* That the evaluation committee shall select fewer than three firms when it determines in writing that fewer than three qualified construction managers at risk are available. The firms selected in the qualifications phase shall be referred to as the "prequalified firms" in the request for proposal phase.

(b) Prior to the submission of proposals, the state and/or its subdivisions may meet individually with each prequalified listed firm to permit them to clarify any ambiguities in the qualifications of the prequalified firm and allow the prequalified firm to ask questions regarding the proposal requirements.

§5-22B-8. Request for proposal phase.

(a) The second phase shall be the request for proposals. Following the selection of prequalified firms, the state and/or its subdivisions shall prepare a request for proposal for construction manager at-risk contract proposals. The request for proposal shall consist of two portions.

(1) Pricing criteria: As part of its preparation for the pricing component of the request for proposal phase, the state and/or its

subdivisions shall establish pricing criteria which shall contain the following components:

(A) Preconstruction fee;

(B) Construction fee; and

(C) General conditions.

(2) Performance criteria: As part of its preparation for the technical component of the proposal phase, the state and/or its subdivisions shall establish performance criteria which may include an evaluation of a firm's proposed:

(A) Schedule;

(B) Approach to the work, including any anticipated self-performed work;

(C) Work sequencing;

(D) Performance history;

(E) Approaches to performance specifications when used;

(F) Plan for anticipated procurement difficulties;

(G) Plan for additional considerations which may include technical design, technical approach, quality of proposed personnel, and management plan.

(b) Once the evaluation committee has selected the prequalified firms, the state and/or its subdivisions shall prepare a request for proposals for each construction management at-risk contract in accordance with the provisions of this article. At least 30 days prior to the deadline for receiving and opening proposals, notice of the request shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code; and sent by first-class mail to any construction manager upon request.

(c) The request for proposals shall contain, at a minimum, the following elements:

(1) The identity of the state and/or its subdivision for which the project will be built and the name of the state agency or subdivision that will execute the contract;

(2) The proposed terms and conditions of the construction manager at-risk contract, including any terms and conditions that are subject to further negotiation. The proposed general terms and conditions shall be consistent with nationally recognized model general terms and conditions which are standard in the design and construction industry in West Virginia. The proposed terms and conditions may set forth an initial determination of the manner by which the construction manager selects any subcontractor;

(3) Any bonds and insurance required by law or as may be additionally required by the state and/or its subdivisions;

(4) General information about the project which will assist the state and/or its subdivisions in its selection of the construction manager, including a project statement that contains information about the scope and nature of the project, the project site, and the project schedule;

(5) The criteria for evaluation of proposals;

(6) Estimated construction budget; and

(7) A description of any other information the state and/or its subdivisions may require.

§5-22B-9. Proposal format.

A proposal submitted by a firm in response to a request for proposal as set out in this article shall be submitted in the following format:

(1) Signed cover page;

(2) Offeror profile;

(3) Staffing plan and key personnel;

(4) Similar project examples from prior 10 years;

(5) Conflict of interest statement;

(6) Proof of insurance;

(7) Cost summary which shall include reconstruction costs, construction fees, and general conditions;

(8) Additional attachments from the request for proposal that require input from offeror (if any);

(9) Surety letter demonstrating the bond capacity of the construction manager; and

(10) West Virginia contractor license.

§5-22B-10. Determination of best value.

(a) The evaluation committee shall interview each prequalified firm that submits a proposal. The purpose of the interview is to allow each prequalified firm an opportunity to clarify and respond to questions related to its proposal. The state and/or its subdivisions may provide a list of questions to the short-listed firms in advance of each interview. The interview will not be scored or included in the scoring of the proposal. Should a state and/or its subdivisions find any major discrepancy or irregularity in the proposal, the state and/or its subdivisions shall notify the affected firm in writing to address the concern at the interview and require the firm to provide its response in writing no later than the date of the interview. This interview may be done in person or electronically.

(b) The evaluation committee shall evaluate each proposal utilizing the criteria established by the state and/or its subdivisions and as set out in this article.

(c) The committee shall rank the prequalified firms based on the final evaluation of each proposal to determine the best value.

(d) The state and/or its subdivisions shall announce the firm determined to be the best value and shall enter into negotiations for a construction management contract.

§5-22B-11. Evaluation of proposals; selection of construction managers.

(a) The state and/or its subdivisions shall evaluate proposals for a construction management at-risk contract in accordance with the provisions of this article.

(b) The state and/or its subdivisions shall evaluate and rank each proposal on the basis of best meeting the criteria in the request for proposals and taking into consideration the recommendation of the evaluation committee pursuant to the provisions of this article.

(c) The state and/or its subdivisions shall attempt to negotiate a construction management at-risk contract with the highest ranked construction manager and may execute a construction management at-risk contract after negotiations. The negotiations shall include a final determination of the manner by which the construction manager selects each subcontractor. If the state and/or its subdivisions are unable to negotiate a satisfactory contract with the highest ranked construction manager, the state and/or its subdivisions may terminate negotiations with that construction manager. Only after negotiations have been terminated with the highest ranked construction manager may the state and/or its subdivisions undertake negotiations with the second highest ranked construction manager and may execute a construction management at-risk contract after negotiations. Only after negotiations have been terminated with the second highest ranked construction manager may the state and/or its subdivisions undertake negotiations with the third highest ranked construction manager, if any, and may execute a construction management at-risk contract after negotiations.

(d) If the state and/or its subdivisions are unable to negotiate a satisfactory contract with any of the prequalified and ranked construction managers, the state and/or its subdivisions may either

revise the request for proposals and solicit new proposals or cancel the construction management at-risk process.

§5-22B-12. Criteria for evaluation.

(a) The evaluation committee shall evaluate proposals taking into consideration the criteria set out in this section with the maximum percentage of total points for evaluation which may be assigned to each criterion as set forth in this section. The following criteria shall be evaluated, when applicable:

(1) The financial resources of the construction manager to complete the project, 10 percent;

(2) The ability of the proposed personnel of the construction manager to perform, 20 percent;

(3) The character, integrity, reputation, judgment, experience, and efficiency of the construction manager, 20 percent;

(4) The quality of performance on previous projects, 20 percent;

(5) The ability of the construction manager to perform within the time specified, 10 percent;

(6) The previous and existing compliance of the construction manager with laws relating to the contract, 10 percent; and

(7) Such other information as may be secured having a bearing on the selection, 10 percent.

(b) The records of the evaluation committee in evaluating proposals and making recommendations shall be considered public records for purposes of §29B-1-1 *et seq.* of this code.

§5-22B-13. Amendments to construction management at-risk contract after acceptance.

A construction management at-risk contract may be conditioned upon later refinements in scope and price and may permit the state and/or its subdivisions in agreement with the

construction manager to make changes in the project without invalidating the contract. Later refinements to a contract pursuant to the provisions of this section shall not exceed the scope of the project statement contained in the request for proposals.

§5-22B-14. Public records.

(a) Records that are maintained by the state and/or its subdivisions during the qualifications phase and proposal phase are public, to the extent permitted by §29B-1-1 *et seq.* of this code, and shall be available for inspection only after the announcement of the state and/or its subdivisions set forth in §5-22B-10(d) of this code.

(b) Nothing in this article affects a state and/or its subdivisions' right to accept or reject any or all proposals in whole or in part.

§5-22B-15. No effect on bonding and insurance requirements.

Nothing contained within the provisions of this article shall be construed to limit or reduce existing statutory or regulatory requirements regarding bonding or insurance.

§5-22B-16. Specialty maintenance projects.

(a) The state and/or its subdivisions shall not use a construction management at-risk contract for a construction project with locations on parcels of land which are not contiguous except for specialty maintenance projects.

(b) For purposes of this section:

(1) A specialty maintenance project is a construction project for the maintenance of an existing facility with a specialty contractor, including, but not limited to, an electrical contractor or plumbing contractor; and

(2) Parcels are considered contiguous if they would be contiguous but for the existence of a public road.

§5-22B-17. Rulemaking.

The Division of Purchasing shall propose rules for legislative approval in accordance with the procedures of §29A-3-1 *et seq.* of this code to develop standardized forms for use in construction management at-risk contracting. These forms shall include:

(1) An offeror required information form;

(2) A signed contract form; and

(3) A conflict of interest statement form.

§5-22B-18. Reporting.

The Division of Purchasing shall report to the Joint Committee on Government and Finance by December 31, 2025, and annually thereafter until the provisions of this article have no further force or effect on the usage of the provisions of this article including, but not limited to:

(1) The number of contracts processed as a construction manager at-risk contract during that year;

(2) The number of contracts that could have been processed as a construction manager at-risk contract but were processed instead pursuant to the provisions of §5-22-1 *et seq.* of this code*;*

(3) A list of state entities or subdivisions of the state that have awarded contracts pursuant to the provisions of this article;

(4) Any suggested changes to this article to make the process of construction manager at-risk contracts more useful and effective; and

(5) Any other information that the Division of Purchasing finds informative and probative.

§5-22B-19. Sunset date.

This article shall have no further force or effect and no construction manager at risk contract shall be authorized on or after July 1, 2030, unless further reenacted by the Legislature.

CHAPTER 129

(S. B. 738 - By Senator Rucker)

[Passed April 10, 2025; in effect 90 days from passage (July 9, 2025)]
[Approved by the Governor on April 24, 2025.]

AN ACT to repeal §5A-1A-1, §5A-1A-2, §5A-1A-3, §5A-1A-4, and §5A-1A-5 of the Code of West Virginia, 1931, as amended, relating to the Employee Suggestion Award Board.

Be it enacted by the Legislature of West Virginia:

§1. Repeal of article creating the Employee Suggestion Award Board.

That §5A-1A-1, §5A-1A-2, §5A-1A-3, §5A-1A-4, and §5A-1A-5 of the Code of West Virginia, 1931, as amended, are repealed.

CHAPTER 130

(S. B. 837 - By Senator Rucker)

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]
[Approved by the Governor on April 25, 2025.]

AN ACT to amend and reenact §5A-1-11 of the Code of West Virginia, 1931, as amended, relating to continuing the position of State Equal Opportunity Coordinator; establishing qualifications for the position; setting forth how the State Equal Opportunity Coordinator is selected; outlining scope of responsibilities; and making other technical changes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-11. State of West Virginia Equal Opportunity Coordinator.

(a) There is continued within the Department of Administration the position of the State Equal Opportunity Coordinator, who shall be appointed by the Secretary of the Department of Administration.

(b) The coordinator must be an employee of the Department of Administration and possess an in-depth working knowledge of the federal Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1977, Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008. The coordinator shall also have an in-depth working knowledge of the challenges facing West Virginians covered under these Acts.

(c) The coordinator shall:

(1) Advise the Director of Personnel in the development of comprehensive policies and programs for the development, implementation, and monitoring of a statewide program to assure compliance with 42 U.S.C. §12101, *et seq.,* the federal Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1977, Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008;

(2) Assist in the formulation of rules and standards relating to the review, investigation, and resolution of complaints of discrimination in employment, education, housing, and public accommodation;

(3) Consult and collaborate with state and federal agency officials to develop compliance programs;

(4) Consult, train, and collaborate with, state agencies and state employees on the federal Equal Employment Opportunity Act, Americans with Disabilities Act, and related issues;

(5) Represent the state on local, state, and national committees and panels related to the Americans with Disabilities Act and the Equal Employment Opportunity Act;

(6) Advise the Governor and agency heads on federal Americans with Disabilities Act and Equal Employment Opportunity Act issues;

(7) Consult with state agencies on the hiring and employment of persons with disabilities; and

(8) Be available to inspect and advise the Real Estate Division, General Services Division, and the Purchasing Division on physical properties owned or leased by the State of West Virginia for compliance with 42 U.S.C. §12101, *et seq.,* the federal Americans with Disabilities Act.